

SUBJECT: Modifying public school financing

COMMITTEE: Public Education — committee substitute recommended

VOTE: *After recommitted:*

7 ayes — Dutton, Lozano, Allen, Buckley, M. González, Huberty, K. King

0 nays

6 absent — Allison, K. Bell, Bernal, Meza, Talarico, VanDeaver

WITNESSES: *March 23 public hearing:*

For — (*Registered, but did not testify:* Mike Meroney, Academic Language Therapy Association; Lindsay Munoz, Greater Houston Partnership; Amanda List, Hunton Andrews Kurth; Justin Yancy, Texas Business Leadership Council; Suzi Kennon, Texas PTA; Michelle Wittenburg, Texas Public Charter Schools Association; Dale Craymer, Texas Taxpayers and Research Association; Julie Linn, The Commit Partnership)

Against — None

On — Josh Sanderson, Equity Center; Greg Smith, Fast Growth School Coalition; Bruce Gearing, Leander ISD; Jesus H. Chavez, South Texas Association of Schools; Barry Haenisch, Texas Association of Community Schools; Michael Lee, Texas Association of Rural Schools; Kevin Brown, Texas Association of School Administrators; Amanda Brown, Texas Association of School Business Officials; Alycia Castillo, Texas Criminal Justice Coalition; Kyle Lynch, Texas School Coalition; Greg Gibson, Texas Association of Midsize Schools; (*Registered, but did not testify:* Steven Aleman, Disability Rights Texas; Chloe Latham Sikes, IDRA (Intercultural Development Research Association); Kristin McGuire, Texas Council of Administrators of Special Education; Von Byer, Leonardo Lopez, Eric Marin, and Melody Parrish, Texas Education Agency; Dee Carney, Texas School Alliance; Paula Clark)

**BACKGROUND:** The 86th Legislature in 2019 enacted HB 3 by Huberty, which increased school funding by revising formulas that determine how much revenue a district or charter school is entitled to receive from the state.

**DIGEST:** CSHB 1525 would revise certain Education Code provisions relating to local taxation and revenue, the level of recapture paid to the state by certain property wealthy districts, funding allotments for students taking career and technology education courses and those enrolled in fast-growth schools, early literacy training requirements for educators, and the teacher incentive allotment.

**Local property taxes.** CSHB 1525 would revise certain laws governing school district tax rates.

*Tax swap.* The bill would specify that a school district could not impose a school maintenance and operations tax at a rate intended to create a surplus in maintenance tax revenue for the purpose of paying the district's debt service. It would require the Texas Education Agency (TEA) to develop a method to identify districts that may have adopted such a tax rate, which must include a review of data over multiple years, and investigate each identified district to determine whether it had adopted such a tax rate.

If TEA determined that a district had adopted a prohibited tax rate, the agency would have to order the district into compliance by not later than three years after the date of the order. The agency would have to assist the district in developing a corrective action plan that, to the extent feasible, did not result in a net increase in the district's total tax rate. The implementation of a corrective action plan would not prohibit a district from increasing its total tax rate as necessary to achieve other legal purposes.

If a district failed to take action under a corrective action plan, the commissioner could impose any accountability interventions or sanctions the commissioner deemed appropriate. A conservator or management

team imposed on the district on those grounds would be exempted from the statutory prohibition against a conservator or management team setting a tax rate for the district.

*Tax compression.* The bill would change the district taxable property value used to calculate a district's maximum compressed tax rate (MCR) from the value determined by the comptroller's study to a value determined by TEA rule using locally determined property values adjusted for certain exemptions and deductions. Local appraisal districts, school districts, and the comptroller would have to provide any information necessary for TEA to implement the provisions. A school district could appeal to the commissioner the education agency's determination of a district's taxable property value.

The bill would specify that a district whose MCR is otherwise more than 10 percent below the rate in another district would have an MCR equal to 90 percent of the other district's MCR.

*Excessive taxation.* The bill would specify that the education commissioner would have to reduce a district's state aid or adjust the limit on local revenue in excess of entitlement when a district levied a tax that exceeded the allowable tax rate.

**Recapture districts.** CSHB 1525 would revise provisions related to certain property wealthy districts that are required to pay a portion of their local property tax revenue to the state to improve funding for districts with lower property wealth.

*Teacher incentive allotment.* The bill would provide for an adjustment to a district's funding for certain districts subject to recapture to preserve the district's full entitlement under the teacher incentive allotment. This adjustment would expire September 1, 2025.

*Recapture offset.* The bill would establish that only the Foundation School Program (FSP) operations funding that was allocated to a district from the available school fund could not be used to offset a district's local revenue

in excess of entitlement, or recapture. The district's other Tier 1 funding entitlements and all of its Tier 2 entitlements could be used for such an offset.

*Notice of excess revenue.* If the commissioner determined that a district had a local revenue level in excess of entitlement after the date for notifying districts of their status, the commissioner would have to include the amount of the excess revenue in the following school year's review of the district's local revenue levels.

*Consolidated district.* A consolidated district created by agreement to reduce local revenue in excess of entitlement would be eligible for certain incentive aid that, for a maximum of 10 years, preserved any FSP funding entitlements that were lost to the consolidating districts through the consolidation process.

**Teachers.** The bill would remove a requirement that a teacher must be certified to be designated by a school district or charter school as a master, exemplary, or recognized teacher. It would extend until the 2023-2024 school year the deadline for a classroom teacher in kindergarten through third grade to attend a teacher literacy achievement academy or demonstrate proficiency in the science of teaching reading on a certification examination.

The Texas School for the Deaf and the Texas School for the Blind and Visually Impaired would be entitled to the teacher incentive allotment. The commissioner could use the average point value assigned for students' home districts for purposes of calculating the high needs and rural factor.

The bill would include increased compensation paid to a teacher by a school district under the teacher incentive allotment as salary and wages for purposes of teacher retirement benefit computations.

**Students.** The commissioner by rule could allow a former student to take at state cost a college preparation assessment if circumstances existed that prevented the student from taking the assessment before the student

graduated from high school. The education agency would have to negotiate a price for each assessment with an approved vendor and reimburse a school district for the negotiated amount.

**Accountability.** An annual graduate who earned an associate degree while attending high school or during a time period established by commissioner rule would be considered to have demonstrated college readiness for purposes of the college, career, or military readiness outcomes bonus.

**Funding adjustments and allotments.** CSHB 1525 would revise certain student-based allotments for which schools are entitled to receive funding.

*Compensatory education allotment.* Districts would receive the compensatory education allotment for students who met a federal definition of being a homeless child or youth. The allotment would be equal to the basic allotment multiplied by the highest weight provided for the allotment.

*CTE allotment.* The bill would change the basis of the career and technology education (CTE) allotment for applicable districts to the sum of the basic allotment and the district's small or mid-sized district allotment. It would replace the 1.35 funding multiplier with a three-tiered rate multiplier as follows:

- 1.0 for a student in CTE courses not in an approved program of study;
- 1.28 for a student in levels one and two CTE courses in an approved program of study; and
- 1.48 for a student in levels three and four CTE courses in an approved program of study.

The bill would define "approved career and technology education program" as a sequence of CTE courses authorized by the State Board of Education and qualifying for high school credit. It would define "approved program of study" as a course sequence that provided students

with the knowledge and skills necessary for success in the students' chosen careers and approved by TEA for purposes of the federal Strengthening Career and Technical Education for the 21st Century Act.

*Fast growth allotment.* CSHB 1525 would make a district eligible for the fast growth allotment if its student enrollment during the school year immediately preceding the current school year exceeded its enrollment during the school year three years preceding the current school year by more than 50 students.

In temporary provisions set to expire September 1, 2025, the amount of the multiplier and total amount of allotments to which districts would be entitled would change depending on the school year as follows:

- for the 2021-2022 school year, 0.72 and a statewide cap of \$270 million;
- for the 2022-2023 school year, 0.84 and a statewide cap of \$310 million; and
- for the 2023-2024 school year, 0.85 and a statewide cap of \$315 million.

Beginning with the 2024-2025 school year, the amount of the multiplier to which districts would be entitled would be 0.86, and the statewide cap on the total amount that could be used to provide allotments would be \$320 million.

The bill would require TEA to provide to each district that received a fast growth allotment for the 2019-2020 school year but would not be entitled to one for the 2021-2022 school year an amount equal to the amount provided for the 2019-2020 school year. Funding for this provisions could not exceed \$40 million.

**Charter schools.** The bill would require the commissioner of education, to ensure compliance with a federal requirement to maintain the level of state funding for special education from one fiscal year to the next, to make the following adjustments to open-enrollment charter school

funding:

- if necessary, increase the amount of a charter school's special education allotment to the amount of the school's entitlement for the 2018-2019 school year; and
- reduce the amount of the charter school's small and mid-sized district allotment by the amount of any special education allotment increase.

The adjustment requirement would expire September 1, 2025.

**Attendance and dropout reporting.** The bill would add requirements for districts and charter schools to report information, disaggregated by campus and grade, about:

- the number of students who failed to meet certain compulsory attendance requirements;
- the number of students for whom the district initiated a truancy prevention measure; and
- the number of parents against whom an attendance officer had filed a complaint for contributing to a student's non-attendance.

The bill also would add reporting requirements related to certain students who had not previously been reported to TEA as dropouts and who had enrolled in a high school equivalency program, a dropout recovery school, or certain adult education programs.

**Regional service centers.** Regional education service centers would be entitled to state aid for staff salaries of \$500 for certain full-time employees and \$250 for certain part-time employees.

The bill would take effect September 1, 2021, and would prevail over another act of the 87th Legislature to the extent there was a conflict.

SUPPORTERS  
SAY:

CSHB 1525 would improve education in Texas by revising the school finance system, resulting in an estimated \$333 million in increased

funding for public schools through the biennium ending August 31, 2023. The comprehensive rewrite of school finance laws last session in HB 3 by Huberty had unintended revenue consequences for certain districts. CSHB 1525 would ensure equitable funding for all districts to help their students succeed.

**Tax swap.** HB 3 ended a practice known as "swap and drop" that had been used by some school districts to move taxable pennies from the portion of the property tax rate that pays for facilities to the portion that pays for school operations. Districts used this as a way to lower their tax rate while increasing the revenue generated from some of the pennies. CSHB 1525 requires the Texas Education Agency (TEA) to identify those districts and bring them into compliance. Concerns that the tax rate changes could put some districts in danger of defaulting on their debt could be addressed by a floor amendment.

**CTE allotment.** After HB 3 made changes to the funding adjustment for small and midsize districts and the funding allotment for CTE students, some smaller districts did not get the same revenue boost from the CTE allotment as larger districts. CSHB 1525 would address this disparity and strengthen CTE programs by giving a greater weight to high school courses that are more likely to lead to a certification.

**Fast-growth allotment.** CSHB 1525 would help additional districts qualify for the fast-growth allotment by measuring growth in the number of enrolled students rather than by a percentile.

**Teacher incentives.** The bill would remove a requirement that teachers must be certified in order to participate in the teacher incentive bonus program created by HB 3. Allowing all teachers to participate would broaden the program to more charter school teachers and CTE teachers who come from industry.

CRITICS  
SAY:

CSHB 1525, while attempting to correct unintended consequences from HB 3, would create some winners and losers by changing certain tax and funding provisions. While the bill is designed to adequately fund certain



education programs, it would grow state spending when it has not been established that higher spending leads to better student outcomes.

**Tax swap.** The bill would create uncertainty for school districts that had used a so-called "swap and drop" tax rate change before it was prohibited. Some districts could be at risk of defaulting on their debt if their interest and sinking fund tax raised insufficient revenue after being recalculated.

**Recapture payments.** While the bill lowers recapture overall, one provision could create a costly catch-up payment for certain districts that were not notified that they had become a recapture district in time to seek voter approval to send a portion of their tax collections to the state. The practice at TEA has been to allow such districts to wait until the following year to begin their recapture payments. CSHB 1525 would require these districts to pay revenue from the initial year of recapture in the subsequent year, effectively resulting in a district paying two years of recapture in a single year.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of \$333.2 million to general revenue related funds through fiscal 2023.

The bill's author plans to offer a floor amendment to limit the reduction in funding for a district that used a tax swap to lower its property tax rate. The amendment would authorize the education commissioner to reduce the amount of state and local funding by an amount equal to the difference between:

- the amount of state and local funding the district received as a result of adopting a maintenance tax rate in violation of the tax swap prohibition; and
- the amount of state and local funding it would have received if it had not adopted such a tax rate.

Under the proposed amendment, a district would not be prohibited from using a surplus in maintenance tax revenue to pay its debt service if its

interest and sinking fund tax revenue were insufficient to pay the debt service and the use of the surplus maintenance tax was necessary to prevent a default on the district's debt.