

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1206
By: Bivins
Education
4-18-97
Committee Report (Substituted)

DIGEST

Currently, no state law exists that relates to the creation of a public education scholarship pilot program for children assigned to attend certain low-performing public schools. Students attending a public school at which fewer than 50 percent of the students passed any reading, writing, or math section of the TAAS test and not chosen to attend school districts under the Public Education Grant may be targeted for the Public Education Scholarship program. This bill creates a public education scholarship pilot program for children assigned to attend certain low-performing schools.

PURPOSE

As proposed, C.S.S.B. 1206 creates a public education scholarship pilot program for children assigned to attend certain low-performing schools.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of education in SECTION 1 (Sections 29.362(c), 29.365(b) and 29.367, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. PUBLIC EDUCATION SCHOLARSHIP PILOT PROGRAM

Sec. 29.351. **DEFINITIONS.** Defines "free school," "parent," and "private school."

Sec. 29.352. **ELIGIBILITY OF CHILD FOR PUBLIC EDUCATION SCHOLARSHIP.** Provides that a child is eligible for a public education scholarship if certain qualifications are met. Provides that after a student has used a public education scholarship, the student remains eligible for the scholarship until the student again enrolls in a public school. Defines "alternative education campus."

Sec. 29.353. **PARENTAL CHOICE.** Requires a school district to notify the parent of each child assigned to attend a campus described by Section 29.352(a)(2) of a child's eligibility for a public education grant. Provides that if the parent chooses another district under Section 29.201 and the district rejects the child under Section 29.203, the child is eligible to attend a free school as provided by this subchapter. Provides that a child may attend private school but prohibits the child from receiving funding from state and local sources for purposes under this subchapter.

Sec. 29.354. **FINANCING.** Provides that each school district is entitled to receive state funding as provided by Chapter 42 and other law. Provides that a child meeting eligibility requirements under Section 25.001 but who attends a free school registered with the district under this subchapter is to be considered in determining the district's average daily attendance (ADA) under Section 42.005. Requires the commissioner of education (commissioner) to adopt a procedure that a free school shall use to report the ADA of any student for whom the free school is receiving public education scholarship funds under this subchapter.

Sec. 29.355. PUBLIC EDUCATION SCHOLARSHIP. Sets forth the formula for the determination of a child's public education scholarship. Requires the commissioner to adjust the amount of the public education scholarship determined under Subsection (a) so that the amount of the scholarship is not less than the statewide average expenditure for a special education student with similar disabilities, for a student who is eligible for special education services under Section 29.003. Requires a district a child attending a free school under this subchapter would otherwise attend on the basis of residence to pay 80 percent of the child's public education scholarship to the free school. Prohibits a free school from sharing with, refunding to, or rebating to the parent or child in any manner the child's public education scholarship. Provides that the school district the child would otherwise attend is entitled to the remainder of the child's public education scholarship funds.

Sec. 29.356. TRANSPORTATION BY DISTRICT. Requires a school district to offer each child attending a free school free transportation to and from the public school the child would otherwise attend to the extent the district would be required to provide if the child were attending that public school.

Sec. 29.357. CONDITIONS FOR RECEIPT OF FUNDS BY FREE SCHOOLS. Requires the free school selected for or by a child to certify to the comptroller that the school has complied with the conditions imposed by Sections 29.358-29.365 to receive a child's public education scholarship funds.

Sec. 29.358. ACCREDITATION. Requires a free school included in the public education pilot program to be accredited by a private organization recognized by the commissioner under certain exceptions. Prohibits a newly established free school that is not accredited before the second anniversary of the date the school begins operation from participating in the public education scholarship pilot program.

Sec. 29.359. ADMISSIONS. Prohibits a free school from refusing to enroll a child on the basis of the child's residence, race, national origin, ethnic background, religion, physical or mental ability or disability, or academic achievement. Prohibits a free school from considering athletic ability or the amount of a public education scholarship in any admission process. Authorizes a free school to refuse to enroll a child who has been expelled from a school district during the term of alternative education program placement or expulsion. Requires a free school having more applicants than available positions to give priority to students at risk of dropping out of school as defined by Section 29.081 and to fill other positions by lottery, except as provided by Subsection (e). Requires a free school to declare the number of available positions and conduct the lottery for the next school year by July 1 of each year. Authorizes a free school to give preference over at-risk students to enrolled students and other persons residing in the household or siblings of enrolled students for the convenience of parents of those children, to achieve continuity in education.

Sec. 29.360. SPECIAL EDUCATION SERVICES. Requires a free school to comply with requirements related to special education under Subchapter A in the same manner as a school district.

Sec. 29.361. BILINGUAL EDUCATION SERVICES. Requires a free school to comply with requirements related to bilingual education under Subchapter B in the same manner as a school district.

Sec. 29.362. LUNCH; TRANSPORTATION. Requires a free school to use a portion of the public education scholarship funds it receives to provide lunch for each eligible child attending the school under this subchapter, to the same extent that a school district is required by law to provide lunch for the child. Requires a free school to use a portion of the public education scholarship funds it receives to provide transportation. Provides that transportation is required only from the public school the child would otherwise attend. Provides that a free school is not required to provide transportation for a student other than a special education student from a point that is more than 20 miles from the free school, measured along the shortest route that may be traveled on public roads. Authorizes a free school to apply for

and, on application, to be entitled to receive an amount equal to 80 percent of the maximum state allotment per mile for transportation of eligible special education students, for transportation costs under this subsection. Requires the commissioner to adopt rules for reimbursing free schools.

Sec. 29.363. **TUITION; ADDITIONAL CHARGES AND FEES.** Prohibits a free public school from charging or assessing certain fees for eligible children attending free public schools.

Sec. 29.364. **EXPULSION OF STUDENTS.** Prohibits a free school from expelling a student unless the student engages in an activity for which the student may be expelled under Section 37.007.

Sec. 29.365. **ACCOUNTABILITY.** Requires each free school to report information concerning the school's performance on the academic excellence indicators under Section 39.051 to the commissioner. Requires each free school to administer an assessment instrument required under Chapter 39B, in a certain manner. Requires the commissioner to adopt rules and procedures for the administration of state-required assessment instruments in free schools, to ensure the security of the testing instrument. Sets forth requirements for the commissioner to report and publish student assessment results in a manner that allows comparisons between students attending free schools and students attending public schools, for the purpose of demonstrating the effectiveness of the public education scholarship pilot program. Authorizes the commissioner to determine that a free school is not eligible to continue receiving public education scholarship funds if the percentage of students attending the free school who perform satisfactorily on the assessment instruments required under Chapter 39B is such that the free school would be considered low-performing under Chapter 39D, if it were a public school campus. Requires the commissioner to promptly notify the comptroller of the commissioner's determination under this subsection.

Sec. 29.366. **EVALUATION OF PUBLIC EDUCATION SCHOLARSHIP PILOT PROGRAM.** Requires the State Board of Education to designate an impartial organization with experience in evaluating school choice programs to annually evaluate the public education scholarship pilot program. Requires an evaluation under this section to include a comparison of certain factors before and after implementation of the program. Sets forth the requirement for the examination of effects the program has on children meeting certain requirements.

Sec. 29.367. **DUTIES OF COMPTROLLER.** Requires the comptroller to adopt rules, procedures, and forms for the payment of public education scholarships to the free schools on behalf of parents of students attending free schools. Requires the comptroller's rules to provide for payment to a free school only after the school provides services and to the extent students receiving public education scholarships attended school. Requires the comptroller to adopt rules, procedures, and forms for a free school to submit to review of the financial operations of the school. Authorizes the comptroller to determine that a free school is not eligible to continue receiving public education scholarship funds if the school fails to satisfy generally accepted standards of fiscal management.

Sec. 29.368. **STATUS OF FREE SCHOOLS.** Provides that a free school is not a government agent or instrumentality, and the conduct of a free school is governed by law governing private conduct rather than law governing state action, except as required by certain laws. Provides that the purpose of this subchapter is to allow maximum freedom to the private sector to respond to educational needs without excessive government control. Requires this subchapter to be liberally construed. Prohibits certain persons from regulating the education program of a free school, except as necessary to ensure the school's compliance with this title.

Sec. 29.369. **EXPIRATION.** Provides that this subchapter expires August 31, 2009.

SECTION 2. Amends Sections 29.202 and 29.203, Education Code, as follows:

Sec. 29.202. ELIGIBILITY. Provides that a student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student is assigned to attend a public school campus meeting certain requirements. Requires a school district to notify the parent of each child eligible under this section that the child is eligible to receive a public education grant or to attend another public school in the district.

Sec. 29.203. FINANCING. Provides that a student's public education grant is the total state and local funding per student for the school district in which the student resides or the school district chosen by the child's parent under Section 29.201, if that amount is greater than the amount provided by Subdivision (1). Provides that the school district in which the student resides is entitled to accept or reject the application for the student to attend another public school in that district but may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. Requires a school district having more acceptable applicants than available positions to give priority to students at risk of dropping out of school as defined by Section 29.081 and to fill the available positions by lottery. Authorizes a school district to give preference over at-risk students to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students to achieve continuity in education. Makes conforming changes.

SECTION 3. Requires the State Board of Education to implement the public education scholarship pilot program as provided by Chapter 29J, Education Code, beginning with the 1998-1999 school year.

SECTION 4. Provides that Section 29.203, Education Code, as amended by this Act, applies beginning with the 1997-1998 school year.

SECTION 5. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 29.352, Education Code, to provide that a child is eligible for a public education scholarship, if certain conditions are met. Sets forth new public education scholarship requirements. Provides that after a student has used a public education scholarship, the student remains eligible for the scholarship until the student again enrolls in a public school. Deletes a provision providing that a student does not become ineligible for a public education scholarship because the public school to which the student would be assigned if the student were attending public school no longer meets the criteria under Subsection (a)(1). Defines "alternative education campus." Requires school district to notify the parent of each child assigned to attend a campus described by Section 29.352(a)(2), rather than Section 29.352(a)(1). Sets forth a new subsection regarding public education scholarship. Provides that a free school is not required to provide certain transportation. Authorizes a free school to apply for and receive a certain amount for transportation costs under this subsection. Prohibits a free school from charging certain fees, other than certain fees authorized to be charged by the board of trustees, rather than the school board. Authorizes the commissioner to determine that a free school is not eligible to continue receiving public education scholarship funds if certain conditions apply if it were a public school campus. Requires the commissioner to promptly notify the comptroller of the commissioner's determination under this subsection. Requires the comptroller to adopt rules, procedures, and forms for a free school to submit to review of the financial operations of the school. Authorizes the comptroller to determine that a free school is not eligible to continue receiving public education scholarship funds if the school fails to satisfy generally accepted standards of fiscal management.

SECTION 2.

Redesignates proposed text to SECTION 3. Sets forth provisions regarding eligibility and financing requirements.

SECTION 3.

Redesignated from SECTION 2. Redesignates emergency clause to SECTION 5.

SECTION 4.

Provides that Section 29.203, Education Code, as amended by this Act, applies beginning with the 1997-1998 school year.

SECTION 5.

Redesignated from SECTION 3.