

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 10  
By: Bivins  
Education  
3/25/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, Texas has no Public Education Scholarship program. C.S.S.B. 10 would create a public education scholarship program for certain educationally disadvantaged children in certain school districts.

### **PURPOSE**

As proposed, C.S.S.B. 10 creates a public education scholarship program for certain educationally disadvantaged children in certain school districts.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of education in SECTION 1 (Section 29.364(b), Education Code) and to the comptroller in SECTION 1 (Sections 29.366(a) and (b), 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 PROGRAM**

Sec. 29.351. DEFINITIONS. Defines “free school,” “parent,” and “private school.”

Sec. 29.352. ELIGIBILITY OF CHILD FOR PUBLIC EDUCATION SCHOLARSHIP. Sets forth conditions for a child’s eligibility, except as provided by Section 29.368, for a public education scholarship under this subchapter. Provides that after a student has used a public education scholarship to attend a free school, the student remains eligible for the scholarship until the student again enrolls in public school. Provides that at any one time, no more than 5 percent of a school district’s total student population may be receiving scholarships under this subchapter.

Sec. 29.353. PARENTAL CHOICE. Requires a school district to notify the parent of each child eligible for a public education scholarship that the child is eligible to attend a free school. Provides that a child may attend a private school, but may not receive funding from state and local sources for that purpose.

Sec. 29.354. FINANCING. Entitles each school district to receive state funding. Requires a child eligible to attend school in a school district but who attends a free school and registers that free school choice with the school district to be considered in determining the district’s average daily attendance. Requires the commissioner of education (commissioner) to adopt a procedure for free schools to use in order to report the average daily attendance of students receiving public education scholarship funds.

Sec. 29.355. PUBLIC EDUCATION SCHOLARSHIP. Provides that a child’s public education scholarship is the sum of state and local revenues per student in average daily attendance under the Foundation School Program available to certain school districts, if required, after exercising an option under Section 41.003, except as provided by Subsection (b). Requires the district that the child attending a free school would otherwise attend on the basis of residence to pay certain funds to the free school. Prohibits a free school from sharing with, refunding to, or rebating to the parents or child the remainder of the public education scholarship fund. Entitles the school district that the child would have attended to the remainder.

Sec. 29.356. TRANSPORTATION. Requires a free school to provide to each student using a public education scholarship transportation without charge to and from the free school, if the student would be entitled to transportation without charge under Section 42.155 if the free school were a public school.

Sec. 29.357. CONDITIONS FOR RECEIPT OF FUNDS BY FREE SCHOOLS. Requires the selected free school to certify to the comptroller that the school has complied with certain conditions, in order to receive a child's public scholarship fund.

Sec. 29.358. ACCREDITATION. Requires a free school included in the public education scholarship to be accredited by a private organization recognized by the commissioner, except that a newly established free school may operate without such accreditation if the school applies for accreditation before accepting students under the program.

Sec. 29.359. ADMISSIONS. Prohibits a free school from refusing to enroll a child based upon certain personal characteristics. Prohibits a free school from considering athletic ability or the amount of a public education scholarship in any admissions process. Authorizes a free school to refuse to enroll a child who has been expelled from a school district. Provides that a free school with more scholarship applicants than positions must give priority to students at risk of dropping out of school, and must fill other positions by lottery. Requires a free school to declare the number of available positions and conduct the lottery for the next school year not later than July 1 of each year. Authorizes a free school to give admissions preference to enrolled students and siblings or other children residing in the same household of enrolled students for the convenience of parents of those children.

Sec. 29.360. SPECIAL EDUCATION SERVICES. Entitles a child who is eligible under the law to receive special services and a public education scholarship to receive those services from the state or the school district the child would otherwise attend.

Sec. 29.361. BILINGUAL EDUCATION SERVICES. Entitles a parent to request that a free school provide bilingual education services or address the language needs of a child, that are not unreasonable. Entitles a free school to certain allotments for providing bilingual education included in the student's public education scholarship.

Sec. 29.362. TUITION; ADDITIONAL CHARGES AND FEES. Sets forth certain charges and assessments prohibited for a free school.

Sec. 29.363. EXPULSION OF STUDENTS. Prohibits a free school from expelling a student unless the student engages in activity for which the student may be expelled under Section 37.007.

Sec. 29.364. ACCOUNTABILITY. Requires each free school to report to the commissioner concerning scholarship students' performance on the academic excellence indicators. Requires each free school to administer, in the same way as public school students, the appropriate required assessment instruments for each student. Requires the commissioner to adopt rules and procedures for the administration of state-required assessment instruments in free schools. Requires the commissioner to report and publish student assessment results in a manner that allows comparisons between scholarship students attending free schools and students attending public schools. Requires the report to show statewide, district, and campus results. Prohibits identification of students in the commissioner's report. Requires copies of the commissioner's report to be made available to the public at each free and public school. 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 instrument is considered low-performing if it were a public campus. Requires the commissioner to promptly notify the comptroller of the commissioner's determination.

Sec. 29.365. EVALUATION OF PUBLIC EDUCATION SCHOLARSHIP 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 program. Sets forth requirements for an evaluation. Requires the organization conducting the evaluation, not later than September 1, 2004, to file a written report stating the results of the evaluation with

certain government officials. Provides that this subsection expires January 1, 2005.

Sec. 29.366. 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 the parents of the students attending free schools. Requires the comptroller's rules to include conditions of payments made with respect to public education scholarships. Requires the comptroller to adopt rules, procedures, and forms for a free school to permit review of the financial operations of the school. Authorizes the comptroller to determine that a free school is not eligible to continue receiving funds if the school fails to satisfy generally accepted standards of fiscal management.

Sec. 29.367. 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 by law governing state action. Establishes that the purpose of this subchapter is to allow maximum freedom to the private sector to respond to educational needs without excessive government control, and requires this subchapter to be liberally construed to achieve that purpose. Prohibits the State Board of Education, the commissioner, or the comptroller from regulating the educational program of a free school, except as necessary to ensure the school's compliance with this title.

Sec. 29.368. PARTIAL TERMINATION OF PROGRAM. Requires the commissioner, not later than July 1, 2005, to compare the average performance of each free school's students to the average performance of students in public schools who are of similar age, background, and school district. Sets forth requirements for a school's acceptance of and a student's attendance of a free school.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Requires the State Board of Education to implement the public education scholarship program, as added by this Act, beginning with the 2000-2001 school year.

SECTION 4. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 1.

Amends Section 29.352, Education Code, to provide that at any one time, no more than 5 percent of a school district's total student population may be receiving scholarships. Deletes text regarding the definition of "alternative education campus.

Amends Section 29.355, Education Code, to set forth the cost of a public scholarship fund under the Foundation School Program available to school districts.

Amends Section 29.356, Education Code, to require a free school to provide to each student using a public education scholarship transportation without charge to and from the free school if the student would be entitled to transportation without charge under Section 42.155 if the free school were a public school.

Amends Section 29.358, Education Code, to delete text regarding newly established schools being included under the pilot program.

Amends Section 29.361, Education Code, to include access to bilingual education for scholarship students.

Amends Section 29.364, Education Code, to require each free school to report to the commissioner concerning scholarship students' performance on certain academic excellence indicators. Requires a published report including a comparison between scholarship students attending free schools and students attending public schools.

Amends Section 29.365, Education Code, to add a new heading.

Amends Section 29.367, Education Code, to provide 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 by law governing state action.