

BILL ANALYSIS

Senate Research Center

H.B. 2391
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Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Public school districts are permitted to create special admissions processes for magnet programs and charter schools are required by federal and state law to conduct blind lotteries to admit students when the number of students who apply to the district or charter school exceeds the number of available seats. Federal law allows charter schools to use weighted lotteries instead of blind lotteries to give students from historically disadvantaged backgrounds an advantage in admissions lotteries. H.B. 2391 seeks to permit charter schools to use weighted lotteries and to provide transparency in the processes used by school districts and charter schools to admit certain students.

H.B. 2391 amends current law relating to the methods by which students may be admitted to public schools or transfer within a school district and the disclosure of information regarding public school admission methods.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 12.117, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 12.117, Education Code, to read as follows:

Sec. 12.117. ADMISSION AND ENROLLMENT.

SECTION 2. Amends Section 12.117, Education Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (b-1), as follows:

(a) Requires the governing body of the school, for admission and enrollment, rather than for admission, to an open-enrollment charter school, to:

- (1) makes no changes to this subdivision; and
- (2) on receipt of more acceptable applications for admission under this section than available positions in a grade level or campus, rather than available positions in the school:

(A) fill the available positions by lottery; or

(B) makes no changes to this paragraph.

(a-1) Authorizes an open-enrollment charter school that fills available positions by lottery under Subsection (a)(2)(A) to use a weighted lottery that assigns weights to applicants so that an applicant's probability of admission increases if the applicant satisfies criteria selected by the school. Authorizes the school to increase an applicant's probability of admission if the applicant is:

- (1) eligible to participate in a special education program under Section 29.003 (Eligibility Criteria); or

(2) a student of limited English proficiency, as defined by Section 29.052 (Definitions).

(a-2) Requires the commissioner of education to adopt rules regarding the implementation of a weighted lottery under Subsection (a-1), including rules that:

(1) establish the information an open-enrollment charter school is authorized to request an applicant to provide that is limited in scope to only the information necessary for the school to implement the lottery; and

(2) ensure compliance with:

(A) federal law regarding the confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g); and

(B) any state law relating to the privacy of student information.

(a-3) Requires an open-enrollment charter school that uses a weighted lottery under Subsection (a-1) to:

(1) include in the school's admission and enrollment policy the information requested under Subsection (a-2)(1) that the school uses for the lottery;

(2) provide notice of the information requested of an applicant under Subsection (a-2)(1) only if the school receives more acceptable applications for admission than available positions in the school;

(3) clearly mark all information requested under Subdivision (2) as optional; and

(4) use any information provided by an applicant under Subdivision (2) only to determine if the applicant's probability of admission will increase in accordance with Subsection (a-1).

(b-1) Requires an open-enrollment charter school to make publicly available and post in a prominent and appropriate location on the school's public Internet website, if the school maintains a public Internet website, notice of the school's admission and enrollment policy, including:

(1) the method by which the school fills available positions in the school, including whether the school uses:

(A) a lottery; or

(B) a weighted lottery; and

(2) if the school fills available positions by weighted lottery under Subsection (a-1), the weights assigned to applicants under that subsection.

SECTION 3. Amends Section 25.001, Education Code, by adding Subsections (k) and (l), as follows:

(k) Authorizes the district, if a school district elects to admit students not described by Subsection (b) (relating to the board of trustees of a school district or its designees admitting into the public schools of the district free of tuition a person who meets certain requirements) into the district's schools by lottery, to use a weighted lottery that assigns weights to applicants so that an applicant's probability of admission increases if the applicant satisfies criteria selected by the district. Authorizes the district to increase an applicant's probability of admission if the applicant is:

(1) eligible to participate in a special education program under Section 29.003; or

(2) a student of limited English proficiency, as defined by Section 29.052.

(l) Requires the district, if a school district elects to admit students not described by Subsection (b) into the district's schools, to make publicly available and post in a prominent and appropriate location on the district's public Internet website, if the district maintains a public Internet website, notice of:

(1) the method by which the district admits those students; and

(2) if the district uses a weighted lottery to admit those students under Subsection (k), the weights assigned to applicants for the lottery.

SECTION 4. Amends Subchapter B, Chapter 25, Education Code, by adding Section 25.0311, as follows:

Sec. 25.0311. TRANSFER WITHIN DISTRICT BY LOTTERY. Authorizes the board, if the board of trustees of a school district elects to allow a student enrolled in the district to transfer from the student's assigned campus to another campus in the district by lottery, to use a weighted lottery that assigns weights to applicants so that an applicant's probability of receiving the transfer increases if the applicant is:

(1) eligible to participate in the school's special education program under Section 29.003; or

(2) a student of limited English proficiency, as defined by Section 29.052.

SECTION 5. Provides that this Act applies beginning with the 2022-2023 school year.

SECTION 6. Effective date: September 1, 2021.