

## **BILL ANALYSIS**

Senate Research Center  
87R11262 TYPED

S.B. 1697  
By: Paxton  
Education  
4/6/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Education Agency reported that students started the 2020-2021 school year an average of 3.2 months behind, leading some students to struggle throughout the year. Additionally, there has been a concerning decline in attendance, with the pandemic causing a small population of students to remain out of school altogether.

S.B. 1697 requires that students who received a passing grade or earned credit for a high school course retain their original grade even if they retake the course, unless the school district adopts a local policy to the contrary. This ensures students do not repeat grades to continually raise their GPA. The bill also grants the commissioner of education rulemaking authority to exclude certain students retained through this provision from being considered "at-risk" and allows for a student to be considered for the average daily attendance for a repeated course, even if they already received a passing grade or credit for the course.

As proposed, S.B. 1697 amends current law relating to allowing parents and guardians to elect for a student to repeat or retake a course or grade.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Section 28.02124, Education Code) and SECTION 5 (Section 29.081, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 6 (Section 48.005, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.013(b), Education Code, as follows:

(b) Provides that a home-rule school district is subject to certain provisions, including a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) or a rule adopted under Title 2, relating to parental options to retain a student under Section 28.02124. Makes nonsubstantive changes.

SECTION 2. Amends Section 12.056(b), Education Code, to provide that a campus or program for which a charter is granted under Subchapter C (Campus or Campus Program Charter) is subject to parental options to retain a student under Section 28.02124. Makes nonsubstantive changes.

SECTION 3. Amends Section 12.104(b), Education Code, to provide that an open-enrollment charter school is subject to parental options to retain a student under Section 28.02124. Makes nonsubstantive and conforming changes.

SECTION 4. Amends Subchapter B, Chapter 28, Education Code, by adding Section 28.02124, as follows:

Sec. 28.02124. PARENTAL OPTION FOR STUDENT RETENTION. (a) Authorizes a parent or guardian, subject to Subsection (c), to elect for a student to:

(1) repeat prekindergarten;

(2) enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Section 29.153(b) (relating to providing that a child is eligible for enrollment in a prekindergarten class if the child is at least three years of age and meets certain requirements) and the student has not yet enrolled in kindergarten;

(3) repeat kindergarten;

(4) enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade; or

(5) for grades one through three, repeat the grade in which the student was enrolled during the previous school year.

(a-1) Authorizes a parent or guardian, subject to Subsections (a-3) and (c), to elect for a student to:

(1) for grades four through eight, repeat the grade the student was enrolled in during the previous school year; and

(2) for courses taken for high school credit, repeat any course in which the student was enrolled in during the previous school year.

(a-2) Authorizes a parent or guardian to make an election under Subsection (a-1)(1) or (2), or both.

(a-3) Prohibits a parent or guardian from electing for a student to repeat a course under Subsection (a-1)(2) if the school district or open-enrollment charter school determines the student has met all of the requirements for graduation.

(a-4) Provides that Subsections (a-1), (a-2), (a-3), and this subsection apply for students who repeat courses from the 2020-2021 school year during the 2021-2022 school year and for students who otherwise enroll during the 2021-2022 school year. Provides that Subsections (a-1), (a-2), (a-3), and this subsection expire September 1, 2022.

(b) Requires that an election made by a parent or guardian under this section be made in writing to a school district or open-enrollment charter school, as applicable.

(c) Requires the school district or open-enrollment charter school, if a school district or an open-enrollment charter school disagrees with an election authorized under this section, to convene a retention committee and meet with the parent or guardian to discuss retention. Requires that a meeting under this subsection be conducted in person unless an alternative means is agreeable to the parent or guardian. Prohibits a student from being retained for a grade or retaking a course under this section if the parent or guardian does not meet with the retention committee.

(d) Requires a retention committee established under Subsection (c) to be composed of:

(1) the principal or the principal's designee;

(2) the student's parent or guardian;

(3) the teacher who taught the grade or course for which the parent wants the student retained or repeated; and

(4) additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses.

(e) Requires a retention committee established under Subsection (c) to:

(1) discuss the merits of and concerns with advancement and retention; and

(2) review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course.

(f) Requires the parent or guardian, if established under Subsection (c), after the parent or guardian has participated in a retention committee meeting, to decide whether the student should be retained or retake a grade or course. Requires the school district or open-enrollment school to abide by the decision of the parent or guardian.

(g) Requires a student who receives a passing grade or who earns credit for a high school course to retain a school district's or open-enrollment charter school's original assignment of a grade or award of credit when a student is retained under this section, unless the school district or open-enrollment charter school adopts a policy to a different effect.

(h) Requires that retention of a student pursuant to a parent's or guardian's election under this section, except as provided by this section or other law, be considered the same as retention of a student by a school district or open-enrollment charter school.

(i) Provides that the rights of a parent or guardian under this section transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age.

(j) Authorizes the commissioner of education (commissioner) to adopt rules to implement this section.

SECTION 5. Amends Section 29.081, Education Code, by reenacting and amending Subsection (d), as amended by Chapters 403 (S.B. 1746), 1060 (H.B. 1051), and 597 (S.B. 668), Acts of the 86th Legislature, Regular Session, 2019, and adding Subsection (h), as follows:

(d) Redefines "student at risk of dropping out of school" to include:

(1) is under 26 years of age and who:

(A) except as provided by Subsection (h) or if retained for prekindergarten under Section 28.02124, was not advanced from one grade level to the next for one or more school years; and

(B)-(N) makes no changes to these paragraphs; or

(2) makes no changes to this subdivision.

(h) Requires the Texas Education Agency (TEA) to study whether students retained under Section 28.02124 should be considered at-risk. Authorizes the commissioner to adopt a rule excluding students retained by a parent or guardian under Section 28.02124 from being considered a "student at risk of dropping out of school" under Subsection (d)(1)(A).

SECTION 6. Amends Section 48.005(m), Education Code, as follows:

(m) Requires the commissioner to adopt rules necessary to implement Section 48.005 (Average Daily Attendance), including rules that allow a grade or course repeated under Section 28.02124 to qualify for average daily attendance even if the student previously passed or earned credit for the grade or course, if the grade or course would otherwise be eligible. Makes nonsubstantive changes.

SECTION 7. Effective date: upon passage or September 1, 2021.