

SUBJECT: Tuition payments by school districts contracting with other districts

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Grusendorf, Oliveira, Branch, Dawson, Eissler, Hochberg,  
Madden

0 nays

2 absent — Dutton, Griggs

WITNESSES: For — Jan Hungate, Hallsburg ISD

Against — None

BACKGROUND: Education Code, sec. 25.039 allows school districts that do not offer all grades from K-12 to contract with other school districts that do. This applies to school districts in rural areas where there are too few children to justify building a middle school or high school. When children reach the higher grades, the smaller district may contract with a larger district to educate its middle and high school children in exchange for a tuition payment.

Sections 25.037, 25.038, and 42.106 set forth the method for calculating state aid payments and tuition payments under these circumstances. For the purposes of state aid allotments under the Foundation School Program (FSP), the state adjusts the sending district's taxable property value downward so that the district can get enough extra state aid to pay tuition to the receiving district. The state credits the receiving district for educating an additional child in average daily attendance (ADA), and the receiving district also may charge the sending district tuition to the extent that the receiving district's actual expenditure per student in ADA, as determined by its school board, exceeds the benefit from the state.

The commissioner of education has control over the final amount of the tuition payment, in that the tuition payment may not exceed the lesser of the amount determined by the receiving school district's board or the amount specified by commissioner rule.

DIGEST: *The author intends to offer a complete floor substitute in lieu of CSHB 1619. The floor substitute is summarized in the digest below.*

The floor substitute to CSHB 1619 would amend Education Code, sec. 25.039(b) to provide that the amount of tuition paid to a school district that contracted to educate a child from another district could not exceed the greater of the following two amounts:

- the amount in excess of state aid for one extra child in ADA that was determined by the school board necessary to educate that child; or
- an amount specified by commissioner rule.

CSHB 1619 also would amend the formula for determining a sending district's adjustment to taxable property value, by limiting the tuition value for the purposes of that formula to the amount determined by commissioner rule.

The bill would take effect September 1, 2003.

SUPPORTERS  
SAY:

The floor substitute for CSHB 1619 would allow a district that agreed to educate another district's middle- and high-school age children to receive fair tuition payments in return. By allowing the school board of the receiving district to determine what was a fair amount to charge for tuition, rather than continuing to allow the education commissioner to overrule the school board's determination with a lower estimate, the state would recognize that receiving districts incur additional costs from educating additional children. The FSP is built to be sensitive to changes in the number of children, but not necessarily to how a district's cost structure changes when those children are added.

Districts that receive children from rural areas could be suburban districts, which already are being strained by double-digit enrollment growth. It is an added burden on facilities and staffing for fast-growth districts to accept additional students. Further, receiving school districts should be able to locally determine tuition payments because the extra student's family in this case would not pay local property taxes in the receiving school district. The state aid received for one additional child currently does not necessarily cover a district's costs for one additional child, and a school board should be allowed to determine those reasonable costs and be reimbursed for them.

The bill would minimize the “double dipping” that currently occurs when one district contracts with another to educate its children in exchange for tuition payments. The proposed formula to adjust the sending district’s taxable property value always would use the commissioner’s determined tuition rate, rather than using the receiving school district’s tuition rate. Because the commissioner’s tuition estimate likely would be less than the receiving district’s estimate, this would ensure that state aid to the sending district would not be increased in a greater amount than that needed to pay tuition.

The dynamics of the formula would work to decrease a sending district’s property value as the tuition rate went up. The further downward a district’s taxable property value was adjusted, the more state aid it would receive. If the bill had not allowed the commissioner to set the tuition rate in the formula, the sending district potentially could have gotten a serious boost in state aid that would have exceeded actual tuition paid. Under current law, both the sending and the receiving districts benefit financially, resulting in the state often paying twice for children who only are being educated once. This bill would eliminate the boost for the sending district, thus ensuring that the state’s portion of the costs were revenue neutral.

Because this bill would affect 12 to 14 sending districts and 30 receiving districts, an element of competition would be built into the system that should keep tuition rates down. For example, Melissa ISD could choose to send its high school aged children to either Anna ISD or McKinney ISD. If one of those districts charged too high of a tuition rate, then Melissa ISD could make a choice. Further, it is the intent of the bill that sending districts would not set rates on their own but that the two districts would negotiate, so they both would have to agree to pay a rate that was higher than the commissioner’s rate.

**OPPONENTS  
SAY:**

This bill would put no upper limit on how much a receiving school district could charge for tuition when accepting a child from another district. Current law at least allows the commissioner to set a lower amount if he or she determines that the receiving district is charging an excessive amount for tuition above and beyond the state aid it receives for educating one additional child. Before the Legislature allowed the commissioner to limit tuition, payments under this area of the law were \$6.3 million per year. Since imposing the limitation, tuition payments have gone down to \$2.6 million for

the 2002 fiscal year. This bill would allow the receiving district to set the tuition rate at whatever level it chose, thus potentially tripling tuition costs overnight.

**OTHER  
OPPONENTS  
SAY:**

This bill should eliminate tuition payments for transferred children altogether and replace them with a nominal registration fee to cover administrative costs. While it may be true that many receiving districts are experiencing facilities and staffing constraints due to an increasing student population, enrollment growth is fully funded by the state. Because the addition of one student increases a school district's Foundation School Program entitlement amount by \$5,700, the local share does not increase at the time a new student enrolls. Thus, extra student enrollment does not create a local tax burden; rather, it creates a state tax burden. It is unfair to expect a nonresident child entering the district to pay his or her fair share as measured by local property taxes when that certainly is not the expectation in the sending district. Most families in a school district do not pay the full cost of one child through their property taxes. Further, using local property taxes to determine the "tuition price" of an additional child does not take into account the contributions that businesses make to a local property tax base.

**NOTES:**

The floor substitute for CSHB 1619 would add the formula adjustment to make the sending district's adjustment to taxable property value dependent on the commissioner's determination of a fair tuition payment.

The committee substitute would allow the receiving district's school board to set the tuition amount at a level it determined necessary to cover district costs incurred in excess of the state's attendance credit, without allowing the commissioner of education to set an alternative, lesser rate. By not changing the formula for calculating the sending district's taxable property value, the committee substitute would increase state aid for the sending district in proportion to the increased tuition payment. According to the Legislative Budget Board (LBB), the committee substitute has a fiscal note of \$4 million per year starting in 2004. The House Public Education Committee originally sent CSHB 1619 to the Local and Consent Calendars Committee.

CSHB 1619 as introduced would not have amended the methods for determining a receiving district's tuition payment; it simply would have extended for two years the current method for calculating the wealth per

student of districts not serving all grades. Under current law, such school districts may have their property wealth limit set based on the level necessary to maintain the revenues per student that the district had in fiscal year 2000. CSHB 1619 as introduced would have extended that treatment through fiscal year 2006. According to the LBB, this change would have cost the bill \$12 million in fiscal 2005 and \$12 million in fiscal 2006. An amendment by Rep. Laubenberg added to HB 5 would extend that same provision for only one year.