

BILL ANALYSIS

Senate Research Center

S.B. 1506
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Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many students in low performing schools are at serious risk of dropping out. A February 2007 report from the Milton Friedman Foundation stated that dropouts from the class of 2007 in Texas numbered 119,000 children, at a cost to Texas taxpayers of \$337 million each year over the lifetimes of the class members. This amounts to \$19 billion total throughout that lifespan. Dropouts cost the state well after their potential graduation date because they decrease tax revenues by \$2 billion each year, are twice as likely to use state assistance, and twice as likely to be incarcerated.

As proposed, S.B. 1506 creates a pilot opportunity program that enables certain qualified at-risk children to attend a private school chosen by the parent. The bill also gives a parent the option to send the parent's child to a different public school than the school the child currently attends, and sets forth the structure of the program. The program entitles qualifying children to publicly funded scholarships.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 2 (Sections 29.355 and 29.361, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the purpose of this Act is to create a pilot program allowing a limited number of income-qualified parents in certain school districts (districts) the right to use their tax dollars to send their child to the public or private school they feel best serves the interests, abilities, and needs of the child. Provides that the Act allows certain funds to remain with the district from which the child transfers, thereby increasing per-pupil spending levels in that district. Provides that the Act allows for increased competition for parents and students in the kindergarten through grade 12 public education system in the expectation that such competition will inspire greater innovation and lead to increased educational outcomes and to reductions in public school dropout rates.

SECTION 2. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. URBAN SCHOOL CHOICE PILOT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "parent," "program," and "qualifying school."

Sec. 29.352. PROGRAM. Authorizes an eligible child under Section 29.354, at the option of the child's parent, to attend any public school in the district in which the child resides as provided by Subchapter G (Public Education Grant Program), attend a public school in another district, or receive a scholarship as provided by Section 29.355 to pay the costs of attending a qualifying school.

Sec. 29.353. ELIGIBLE DISTRICT. (a) Provides that this subchapter applies only to districts located in a county with a population of 750,000 or more as determined by the United States Census Bureau.

(b) Requires a district subject to this subchapter to participate in the program if it meets the criteria set forth in this subsection.

(c) Requires a district that establishes eligibility under this section to continue participating in the program in order to achieve continuity in education, notwithstanding any other provision of this subchapter.

Sec. 29.354. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child resides in a household in an eligible district in which the annual household income, according to the most recently filed federal income tax return, did not exceed 200 percent of the qualifying income for a reduced-price lunch under the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq., and the child meets certain other criteria set forth in this subsection.

(b) Requires a schools of choice resource center (center) to provide written notice of the program to the parent of a student eligible to participate in the program under Subsections (a)(3) (a student at risk of dropping out of school), (4) (a student or sibling of a student who is the victim of a felony offense by another student), (5) (a student eligible to participate in the special education program), and (6) (a student of limited English proficiency).

(c) Authorizes a child establishing eligibility under this section to continue participating in the program until the earlier of the date the child graduates from high school or the child's 21st birthday, notwithstanding any other provision of this subchapter.

Sec. 29.355. FINANCING; SCHOLARSHIP. (a) Entitles a child attending a qualifying school under this subchapter, except as provided by Subsection (b), to receive an annual scholarship in an amount set forth in this subsection.

(b) Provides that if a child is eligible under Section 29.003(b) (regarding the eligibility criteria for a special education program) to participate in a school's special education program, or under Section 29.056 (Enrollment of Students in Program) to participate in a school district's bilingual education or special language program and receives the applicable services at the qualifying school, the amount of the child's scholarship is set forth in this subsection.

(c) Requires the comptroller of public accounts (comptroller), on application by an eligible child's parent, to provide a child's application to a center selected by the comptroller under Section 29.363. Authorizes the center to assist parents, schools, and the comptroller in determining a child's eligibility for participation in the program under Section 29.354 in accordance with rules adopted under Subsection (h)(2) (rules regarding application and approval procedures for qualifying school and student program participation). Requires the comptroller to issue a scholarship certificate to the parent of a child determined to be eligible for participation in the program. Requires the parent to endorse and present the certificate to the qualifying school chosen by the parent.

(d) Requires the qualifying school attended by the child (qualifying school) to endorse and present the child's scholarship certificate to the comptroller to receive payment. Requires the comptroller to distribute, on receipt of the scholarship certificate, amounts as set forth in this subsection.

(e) Requires the comptroller to direct the distribution of funds to the qualifying school on a monthly pro rata basis after the provision of educational services, and to require the qualifying school to submit documentation of the child's attendance before directing funds to the qualifying school on the child's behalf. Requires the payment to be made not later than the 30th day after the date the comptroller receives a request for payment from the qualifying school.

(f) Provides that the child's scholarship is the entitlement of the child, under the supervision of the child's parent, and not that of any school.

(g) Prohibits a qualifying school from sharing a child's scholarship with, refunding, or rebating a child's scholarship to the parent or the child in any manner.

(h) Requires the comptroller to develop and adopt rules regarding the calculation and distribution of payments for qualifying schools and application and approval procedures for qualifying school and student program participation.

(i) Prohibits a child's scholarship from being financed by money appropriated from the available school fund.

Sec. 29.356. PARTICIPATION BY QUALIFYING SCHOOLS. Sets forth eligibility criteria for a qualifying school to participate in the program.

Sec. 29.357. ADMISSIONS. (a) Prohibits a qualifying school chosen by an eligible child's parent under this subchapter from denying admission by discriminating on the basis of the child's race, national origin, or ethnicity, and requires the school to comply with federal law as set forth in this subsection.

(b) Authorizes a school to give admissions preference among scholarship applicants to certain students set forth in this subsection, in order to achieve continuity in education.

(c) Requires a qualifying school that has more qualified scholarship applicants for attendance than available positions to fill the available positions by a random selection process, except as provided by Subsection (b).

(d) Authorizes a qualifying school to submit a written request for student records from the public school previously attended by an eligible child. Requires a public school, on receipt of such a request and in a timely manner, to deliver to the qualifying school a copy of the school's complete student records for that child, including attendance records, immunization records, disciplinary records, past results of any assessment instruments, the child's individualized educational program, and any other comprehensive assessments for each school the child previously attended. Requires a public school required to release such student records to comply with applicable provisions of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

Sec. 29.358. ACCOUNTABILITY. (a) Requires each qualifying school enrolling a child under this subchapter to annually administer in the spring a certain assessment instrument as set forth in this section.

(b) Requires the school to provide the results to certain entities as set forth in this subsection

Sec. 29.359. QUALIFYING SCHOOL AUTONOMY. (a) Provides that a qualifying school accepting a scholarship under this subchapter is not an agent or arm of the state or federal government.

(b) Prohibits the comptroller, the commissioner of education, the Texas Education Agency, the State Board of Education, or any other state board or agency from regulating the admissions policy or educational program of a qualifying school accepting a scholarship under this subchapter, except as provided by this subchapter.

(c) Provides that the purpose of this subchapter is to allow maximum freedom to the private sector to respond to and provide for the educational needs of the children of this state without governmental control or influence, and requires it to be liberally construed to achieve that purpose.

Sec. 29.360. LIMITATION ON NUMBER OF PARTICIPATING CHILDREN. (a) Prohibits the annual number of new student enrollments in the program from each eligible district from exceeding five percent of the number of students in the district in the preceding year as set by the comptroller.

(b) Provides that this section does not apply to a child eligible for participation in the program under Section 29.354(a) who meets other criteria set forth in this subsection.

Sec. 29.361. RULES. (a) Requires the comptroller to develop and adopt rules as necessary to implement, administer, and enforce the program.

(b) Makes a rule adopted under this section binding on any other state agency, board, or local governmental entity, including a political subdivision, as necessary to implement, administer, and enforce the program.

Sec. 29.362. PROGRAM COMPLIANCE. (a) Requires the comptroller to respond to and investigate complaints or disputes arising under this subchapter.

(b) Requires the comptroller to enforce this subchapter and any rule adopted thereunder and authorizes the comptroller to withhold funds from any district or qualifying school violating this subchapter or a rule adopted thereunder.

Sec. 29.363. SCHOOLS OF CHOICE RESOURCE CENTERS. (a) Requires the comptroller to select one or more independent and privately funded nonprofit organizations to establish and operate centers in each eligible district.

(b) Sets forth the required duties of a center.

(c) Provides that this section expires September 30, 2013.

Sec. 29.364. EVALUATION OF PROGRAM. (a) Requires the comptroller to contract with one or more researchers experienced in evaluating school choice programs to conduct a study of the program, using funds other than state funds.

(b) Sets forth the required factors the study is to assess.

(c) Requires the study to employ appropriate safeguards for student privacy and to incorporate appropriate analytical and behavioral science methodologies to ensure public confidence in the study.

(d) Requires schools and districts to and from which students transfer to participate in the program to cooperate with the research effort by providing student information, including assessment instrument scores and any other necessary student records, with appropriate safeguards for students' privacy, to meet the requirements of this subchapter.

(e) Requires the comptroller to provide the legislature with a final copy of the study.

(f) Authorizes the comptroller to solicit and accept grants to pay the implementation costs of this section.

(g) Provides that this section expires June 1, 2016.

SECTION 3. (a) Requires the comptroller to make the program provided by Subchapter J, Chapter 29, Education Code, as added by this Act, available for participation beginning with the 2007-2008 academic school year.

(b) Requires the comptroller to adopt and implement rules necessary for the administration and enforcement of the program as soon as practicable.

SECTION 4. (a) Provides that the constitutionality and other validity under the state or federal constitution of all or part of this Act may be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code.

(b) Provides that an appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining that all or any part of this Act is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution, is an accelerated appeal.

(c) Authorizes an interlocutory appeal to be taken from the judgment or order if the judgment or order is interlocutory and provides that such an appeal is an accelerated appeal.

(d) Authorizes a district court in Travis County to grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of this Act.

(e) Provides that there is a direct appeal to the Supreme Court of Texas (supreme court) from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution, of all or any part of this Act.

(f) Provides that the direct appeal under Subsection (e) of this section is an accelerated appeal.

(g) Provides that this section exercises the authority granted by Section 3-b (Appeal from Order Granting or Denying Injunction), Article V, Texas Constitution.

(h) Provides that the filing of a direct appeal under this section automatically stays any temporary or otherwise interlocutory injunction or permanent injunction granted in accordance with this section, pending final determination by the supreme court, unless the supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved certain conditions set forth in this subsection exist with regard to the applicant.

(i) Provides that an appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure. Sets forth specific applicable rules.

SECTION 5. Effective date: upon passage or September 1, 2007.