

## **BILL ANALYSIS**

Senate Research Center

S.B. 1788  
By: Shapiro  
Education  
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As Filed

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

Currently, students who are interested in taking courses that are not offered due to the lack of interest by students as a whole are constrained to taking the courses that are offered, regardless if their interests are in another subject.

As proposed, S.B. 1788 establishes a state virtual school network (network) so students throughout the state can have access to course work which may not otherwise be provided or offered. Sets forth the operational, administrative, and funding requirements of the network.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1 (Sections 30A.103, 30A.113, 30A.114, 30A.115, 30A.154, and 30A.155, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 30A.154, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle F, Title 2, Education Code, by adding Chapter 30A, as follows:

#### CHAPTER 30A. STATE VIRTUAL SCHOOL NETWORK

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 30A.001. DEFINITIONS. Defines "board," "course," "electronic course or program," "electronic diagnostic assessment," "electronic professional development course," "program," and "provider school district or school."

Sec. 30A.002. MISSION. Requires the State Board of Education (SBOE) to ensure high-quality education for students in this state who are being educated through electronic courses or programs.

Sec. 30A.003. APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not affect the provision of a course or program to a student while the student is located on the physical premises of a school district or open-enrollment charter school (district or school), except as provided under Subsection (c).

(b) Provides that this chapter does not affect the provision of distance learning courses offered under other law.

(c) Authorizes a district or school to choose to participate in providing an electronic course or program or electronic diagnostic assessment under this chapter to as student who is located on the physical premises of a district or school.

Sec. 30A.004. TELECOMMUNICATIONS OR INFORMATION SERVICES NETWORK NOT CREATED. Provides that this chapter does not create or authorize the creation of a telecommunications or information services network.

[Reserves Sections 30A.005-30A.050 for expansion.]

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 30A.051. GOVERNANCE OF NETWORK. Requires SBOE to govern the state virtual school network (network).

Sec. 30A.052. GENERAL POWERS AND DUTIES OF BOARD. (a) Requires SBOE to prepare or provide for preparation of a biennial budget request for the network for presentation to the legislature.

(b) Provides that SBOE has exclusive jurisdiction over the physical assets of the network. Requires SBOE to administer and spend appropriations made for the benefit of the network.

(c) Requires SBOE to employ or contract with the Texas Education Agency (TEA) to employ a limited number of administrative employees to operate the network or contract with a regional education service center for the service center to operate the network.

Sec. 30A.053. REPORTS. (a) Requires SBOE to prepare a report for each fiscal year documenting activities of the network in accordance with this chapter. Requires SBOE, not later than January 13 of each year, to file the report for the preceding fiscal year with certain state government officials.

(b) Requires that the report include an evaluation of the performance under Chapter 39 of provider school districts and schools, and to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the results of assessments administered to the students enrolled in electronic courses or programs under this chapter.

(c) Requires the commissioner of education (commissioner), to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) to make information relating to the performance of students enrolled in electronic courses or programs under this chapter available to school districts, open-enrollment charter schools, and the public.

Sec. 30A.054. LIMITATIONS ON NETWORK POWERS. Prohibits the network from developing its own curriculum, courses, or programs, or providing educational service directly to a student.

Sec. 30A.055. CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS.

(a) Requires that each contract between a district or school and a virtual school service provider provide that the district or school is authorized to cancel the contract without penalty if legislative authorization for the district or school to offer an electronic course or program through the network is revoked, and requires each contract to be submitted to the commissioner.

(b) Provides that a contract submitted under this section is public information for purposes of Chapter 552 (Public Information), Government Code.

[Reserves Sections 30A.056-30A.100 for expansion.]

## SUBCHAPTER C. PROVISION OF ELECTRONIC COURSES AND PROGRAMS

Sec. 30A.101. ELIGIBILITY TO ACT AS PROVIDER DISTRICT OR SCHOOL. (a) Provides that a school district is eligible to act as a provider district under this chapter only if the school district is rated academically acceptable or higher under Section 39.072.

(b) Provides that an open-enrollment charter school is eligible to act as a provider district under this chapter only if the school district is rated academically acceptable or higher. Authorizes an open-enrollment charter school to serve as a provider school only to a student within the school district in which the school is located or within its service area, whichever is smaller, or to another student in the state through an agreement with the enrolling school under Section 30A.153.

Sec. 30A.102. LISTING OF ELECTRONIC COURSES AND PROGRAMS. (a) Requires SBOE to establish criteria as provided by Section 30A.103 for electronic courses and programs that a provider school district or school is authorized to offer through the network; to evaluate, using the criteria established under Section 30A.103, electronic courses and programs offered by a provider school district or school; to place electronic courses and programs offered by a provider school district or school on an approved list; and to provide public access to the list of approved electronic courses and programs offered by provider school districts and schools and a detailed description of the courses and programs that complies with Section 30A.108.

(b) Requires SBOE, for the purpose of ensuring a full range of electronic courses and programs, including advanced placement courses are offered to students in this state, to create a list of those subjects and courses designated by SBOE under Subchapter A (Essential Knowledge and Skills; Curriculum), Chapter 28, for which SBOE had identified essential knowledge and skills or for which the board has designated content requirements under Subchapter A, Chapter 28; note each course for which an electronic course is not available, determine the level of interest of students and parents in courses for which an electronic course is not available; and make publicly available the interest level for those courses. Requires SBOE, if sufficient interest exists in a certain course, to solicit provider school districts or schools to offer such as course.

Sec. 30A.103. CRITERIA FOR ELECTRONIC COURSES AND PROGRAMS. (a) Requires SBOE by rule to establish an objective standard criteria for quality of an electronic course or program.

(b) Requires the criteria to include the essential knowledge and skills requirements identified or content requirements established under Subchapter A, Chapter 28. Prohibits the criteria from permitting SBOE to prohibit provider school districts or schools from applying for approval or an electronic course for a course for which essential knowledge and skills have been identified.

(c) Prohibits the criteria from including certain requirements.

(d) Requires that the criteria be in place at least six months before SBOE uses the criteria in evaluating an electronic course or program under Section 30A.105.

(e) Requires SBOE in establishing criteria under this section, to review and consider quality-related criteria established in this state for existing virtual or distance learning courses or programs.

Sec. 30A.104. MINIMUM NUMBER OF INSTRUCTIONAL HOURS. Requires an electronic course offered through the network to provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082.

Sec. 30A.105. APPROVAL OF ELECTRONIC COURSES AND PROGRAMS. Requires SBOE to establish a schedule for an annual submission and approval process for electronic courses and programs; evaluate electronic courses or programs submitted by provider school districts and schools; and not later than August 1 of each year, approve electronic courses or programs that meet the criteria established under Section 30A.103 and provide the minimum number of instructional hours required under Section 30A.104.

(b) Requires SBOE to establish the cost of providing an electronic course or program approved under Subsection (a). Prohibits the cost from exceeding \$400 per student per course or \$4,800 per full-time student.

(c) Requires a district or school that submits an electronic course or program to SBOE for approval to pay a fee in an amount established by the commissioner as sufficient to recover the reasonable costs to SBOE in evaluating and approving electronic courses and programs.

(d) Requires SBOE to waive the fee required by Subsection (c) if a district or school applies for approval of an electronic course or program that was developed under certain statutes or independently by the district or school.

(e) Sets forth, for the purpose of Subsection (d)(2), the aspects of a course or program that need to be developed substantially by a district or school employee in order for the course or program to be considered as developed independently by a district or school.

Sec. 30A.106. APPEAL TO COMMISSIONER. (a) Authorizes a provider school district or school, before the evaluation under Section 30A.105 begins, to appeal to the commissioner on the grounds that the criteria is not objective or does not otherwise comply with this chapter.

(b) Authorizes a provider school district or school to appeal to the commissioner the SBOE's refusal to approve an electronic course or program.

(c) Authorizes the commissioner to overrule SBOE and place the course or program on a list of approved courses or programs if the commissioner confirms the grounds of an appeal.

Sec. 30A.107. OPTIONS FOR PROVIDERS AND STUDENTS. (a) Authorizes a provider school district or school to offer electronic courses and programs to students in this state and outside this state.

(b) Authorizes a student who is enrolled in a district or school in this state as full-time student and who wishes to take an electronic course or program through the network to take one or more electronic courses from the district or school in which the student is enrolled, if the district or school is a provider school district or school; a provider school district or school other than the district or school in which the student is enrolled, under an agreement under Section 30A.153; or any combination of provider school districts and schools.

(c) Authorizes a student who resides in this state but who is not enrolled in a district or school in this state as a full-time student and who wishes to take an electronic course or program, subject to Section 30A.156, to enroll in electronic courses from one or more provider school districts or schools. Prohibits a person to whom this subsection applies, from enrolling in more than two electronic courses offered through the network, in any semester. Provides that a person to whom this subsection applies is not considered to be a public school student.

(d) Prohibits a district or school from requiring a student to enroll in an electronic course or program.

Sec. 30A.108. INFORMED CHOICE REPORTS. (a) Requires each provider school district or school that offers an electronic course or program through the network, not later than a date determined by the commissioner, to create and maintain on the district's or school's Internet website an "informed choice" report in a format determined by the commissioner. Requires TEA to maintain on its Internet website a link to each district or school report under this section.

(b) Requires each report by a provider school district or school to include a description of certain pertinent information.

Sec. 30A.109. **COMPULSORY ATTENDANCE.** Requires SBOE to adopt procedures for verifying the attendance of a student enrolled in an electronic course or program provided by a provider school district or school. Authorizes the rules to modify the application of Sections 25.085, 25.086, and 25.087 for a student enrolled in an electronic course or program; and any other law inconsistent with the provision of electronic courses or programs.

Sec. 30A.110. **APPLICABILITY OF ACCOUNTABILITY REQUIREMENTS.** (a) Provides that Chapter 39 (Public School System Accountability) applies to an electronic course or program offered by a district or school through the network in the same manner that that chapter applies to any other courses or program offered by the district or school.

(b) Requires a district or school to report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessments administered to students enrolled in an electronic course or program offered through the network separately from the results of assessments administered to other students.

Sec. 30A.111. **TEACHER QUALIFICATIONS.** Requires that each teacher of an electronic course offered through the network to be certified under Subchapter B, Chapter 21, to teach that course and grade level.

Sec. 30A.112. **EDUCATOR PROFESSIONAL DEVELOPMENT.** Authorizes the network to provide or authorize providers of electronic professional development courses or programs to provide professional development for certain teachers.

Sec. 30A.113. **CRITERIA FOR ELECTRONIC PROFESSIONAL DEVELOPMENT COURSES.** Requires SBOE by rule to establish objective standard criteria for quality of an electronic professional development course provided under Section 30A.112.

Sec. 30A.114. **REGIONAL EDUCATION SERVICE CENTERS.** Authorizes SBOE by rule to establish procedures for providing additional resources, such as an online library, to students and educators served through the network. Authorizes SBOE to provide additional resources only if it receives an appropriation, gift, or grant sufficient to pay the costs of providing those resources.

[Reserves Sections 30A.116-30A.150 for expansion.]

#### SUBCHAPTER D. FUNDING

Sec. 30A.151. **COSTS TO BE BORNE BY STATE.** (a) Requires the state, except as authorized by Section 30A.152 or this section, to pay the cost of operating the network.

(b) Prohibits the operating costs of the network to be charged to a district or school.

(c) Authorizes the costs of providing electronic professional development courses to be paid by state funds appropriated by the legislature or federal funds that are authorized to be used for that purpose.

(d) Prohibits state funds provided in connection with the network from being used in a manner that violates Section 7, Article I, Texas Constitution.

Sec. 30A.152. **GRANTS AND FEDERAL FUNDS.** (a) Authorizes SBOE to accept a grant for purposes of this chapter from a public or private person and requires SBOE to use those funds in accordance with SBOE's duties regarding the network.

(b) Authorizes SBOE to accept federal funds for purposes of this chapter and requires SBOE to use those funds in compliance with applicable federal law, regulations, and guidelines.

Sec. 30A.153. ALLOCATION OF FUNDS FOR STUDENTS ENROLLED IN SCHOOL DISTRICTS AND OPEN-ENROLLMENT CHARTER SCHOOLS. (a) Entitles a district or school in which a student is enrolled to receive state and local funding for a student enrolled in an electronic course or program offered through the network in an amount equal to the cost of providing the electronic course or program, as established by SBOE, plus 20 percent.

(b) Authorizes, as determined by SBOE for each approved course, a district or school to receive payment for a student enrolled in an electronic course or program base on certain criteria.

(c) Requires a provider school district or school and the district or school in which a student is enrolled to enter into an agreement related to the payment of the costs of the student's enrollment in an electronic course or program. Prohibits the payment to a provider school district or school under this subsection from exceeding the cost of providing the electronic course or program, as established by SBOE.

(d) Requires the agreement under Subsection (c) to permit the district or school in which the student is enrolled as a full-time student to retain, for the district's or school's administrative costs, an amount not to exceed 20 percent of the amount of funds the district or school receives under Subsection (a) in connection with the student; and identify the services each district or school is required to provide to the student.

(e) Requires SBOE, with the advice of the commissioner, to adopt a standard agreement under Subsection (c) that governs payment of funds and other matters relating to a student's enrollment in an electronic course or program offered through the network. Requires each district or open-enrollment charter school participating in the network to use the standard agreement as provided by Subsection (c) unless the district or school requests from SBOE permission to modify the standard agreement and SBOE authorizes the modification.

Sec. 30A.154. ALLOCATION OF FUNDS FOR STUDENTS NOT ENROLLED IN SCHOOL DISTRICT OR OPEN-ENROLLMENT CHARTER SCHOOL. (a) Requires the commissioner by rule, for a student enrolled in an electronic course or program under Section 30A.107(c), to allocate to the district or school funds from the foundation school fund based on an amount established by SBOE for that course or program. Prohibits the amount established by SBOE from exceeding \$350 for any electronic course.

(b) Prohibits the commissioner, for the 2008-2009 school year, from providing funding for more than 6,000 electronic courses offered through the network to students to whom this section applies. Prohibits the commissioner, for the 2009-2010 school year, from providing funding for more than 15,000 electronic courses offered through the network to students to whom this section applies. Provides that this subsection expires August 1, 2010.

Sec. 30A.155. FUNDING FOR ACCELERATED STUDENTS. (a) Authorizes a provider school district or school to apply for additional funding for an accelerated student who is enrolled in more than the course load taken by a student in the equivalent grade level in other school districts or open-enrollment charter schools.

(b) Requires SBOE by rule to set a limit on the total amount for funding for which an accelerated student is eligible.

(c) Authorizes the legislature in the General Appropriations Act to limit the amount of funding and the number of hours or courses eligible for funding under this section.

Sec. 30A.156. FEES. (a) Authorizes a provider school district or school to charge a fee for enrollment in an electronic course or program provided by the district or school to certain students.

(b) Prohibits the amount of a fee charged a student under Subsection (a)(3) from exceeding \$50 for each electronic course in which the student enrolls through the network.

(c) Prohibits the network, except as provided by Subsection (a), from charging a fee to students for electronic courses or programs provided by a provider school district or school.

SECTION 2. Amends Chapter 26, Education Code, by adding Section 26.0031, as follows:

Sec. 26.0031. RIGHTS CONCERNING STATE VIRTUAL SCHOOL NETWORK. (a) Prohibits a district or school in which a student is enrolled as a full-time student from unreasonably denying the request of a parent of a student to enroll the student in an electronic course or program offered through the network.

(b) Sets forth the circumstances under which, for the purposes of Subsection (a), a school district or open-enrollment charter school is not considered to have unreasonably denied a request to enroll a student in an electronic course or program.

(c) Authorizes a parent to appeal to the commissioner from a school district's or open-enrollment's charter school's decision to deny a request to enroll a student in an electronic course or program offered through the network. Provides that the commissioner's decision under this subsection is final and may not be appealed.

SECTION 3. Requires SBOE to ensure that the network under Chapter 30A, Education Code, as added by this Act, begins operation in a manner that allows students to enroll in electronic courses and programs offered through the network beginning with the 2008-2009 school year.

SECTION 4. Effective date: September 1, 2007.