

## **BILL ANALYSIS**

Senate Research Center

H.B. 130  
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Education  
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Engrossed

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

Research overwhelmingly demonstrates that children who participate in high-quality prekindergarten (pre-k) programs are more successful academically, especially children who come from low-income families or who are English language learners. Children who attend such programs are more prepared for kindergarten and reading. Data show also that participants in high-quality pre-k are less likely to be retained in grade and therefore are less likely to drop out of school. Additionally, many parents with currently eligible children do not send them to public pre-k because they cannot leave work and pick their children up at noon. Being able to enroll children in full-day pre-k would allow many low-income and working families to take advantage of pre-k.

Currently, the state funds only half-day pre-k for eligible students with formula funding. In order to receive funding for full-day pre-k or expanded pre-k ("expanded" refers to pre-k offered to children three years of age or children who are from higher-income families), districts must either fund the expansion with local funds, or be awarded funding by the Texas Education Agency's (TEA) Early Start Grant (formerly known as the Pre-k Expansion Grant).

The purpose of this legislation is to give school districts the opportunity to expand their pre-k programs from half-day to full-day for children who are currently eligible for pre-k under Texas law. The program would be voluntary and districts would not be forced to expand if they are not ready or do not see a need. The expansion would be paid for by grant funding.

Quality would be enhanced by limiting class sizes to 22 children, with an 11 to one child per staff ratio, and requiring certified teachers to have an additional nine hours of class training in early childhood education. Districts would use curriculum that includes TEA's pre-k guidelines, and in an effort to promote accountability, districts would be required to report on and evaluate their pre-k programs for effectiveness and student performance.

The legislation would also require participating districts to use at least 20 percent of the additional funds they receive for the program to partner with eligible community child care providers, such as private child care, Head Start, faith-based, and nonprofit child care programs. The legislation defines eligible child care providers so that school districts will be required to partner only with entities that have demonstrated high-quality practices. The legislation guarantees a waiver for any district that cannot find an eligible child care program with which to partner (such as a very rural district).

TEA would be required to prepare a report to the legislature on districts' efforts to partner with community providers and improve the quality of and parental involvement in pre-k, including data on class size. TEA would also provide assistance through the education service centers to parents to inform them of available pre-k programs. They would facilitate community partnering by creating standardized forms and processes for outreach to and contracting with eligible community providers. TEA would be required to contract with an independent evaluator to report on the effectiveness of the enhanced-quality program.

H.B. 130 amends current law relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

## **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Sections 29.165 and 29.174, Education Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.104(b), Education Code, to provide that an open-enrollment charter school is subject to a provision of this title establishing a criminal offense and a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to prekindergarten programs under Subchapter E (Kindergarten and Prekindergarten Programs) or E-1, Chapter 29 (Educational Programs).

SECTION 2. Amends Section 28.002(1), Education Code, as follows:

(1) Requires a school district to require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. Requires a school district, to the extent practicable, to require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

SECTION 3. Amends Subchapter E, Chapter 29, Education Code, by adding Section 29.1534, as follows:

Sec. 29.1534. NOTIFICATION OF PREKINDERGARTEN PROGRAMS. (a) Provides that in this section, "prekindergarten program" includes prekindergarten programs provided by a private entity through a partnership with the school district.

(b) Requires the Texas Education Agency (TEA) to develop joint strategies with other state agencies regarding methods to increase community awareness of prekindergarten programs through programs that provide information relating to public assistance programs.

(c) Authorizes TEA to develop outreach materials for use by school districts to increase community awareness of prekindergarten programs.

(d) Requires each school district to report annually to TEA the strategies implemented by the school district to increase community awareness of prekindergarten programs offered by the district. Requires the district to report the information on a form prescribed by the commissioner of education (commissioner). Authorizes a report required by this subsection to be combined, at the discretion of the commissioner, with another report that the district submits to TEA.

(e) Requires TEA, not later than the 90th day after the date TEA receives a report from a school district as required by Subsection (d), to post the report on TEA's Internet website.

(f) Requires TEA, not later than April 1, 2010, to conduct a study to identify effective methods to communicate to the parent of an eligible child the availability of prekindergarten programs. Requires that the study include research on providing information regarding prekindergarten programs through public, private, and nonprofit institutions that provide assistance and support to families with children eligible for prekindergarten programs. Requires TEA, not later than May 1, 2010, to make recommendations to school districts based on the study regarding the most effective methods to increase communication regarding the availability of prekindergarten programs. Provides that this subsection expires June 1, 2010.

(g) Requires TEA, not later than December 1, 2010, to prepare and deliver to the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a report detailing strategies developed under Subsection (b) to increase community awareness of prekindergarten programs. Provides that this subsection expires January 1, 2011.

SECTION 4. Amends Chapter 29, Education Code, by adding Subchapter E-1, as follows:

SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM

Sec. 29.164. DEFINITION. Defines "enhanced program" or "program."

Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM GRANTS. (a) Requires the commissioner, from funds appropriated for that purpose, by rule to establish a grant program under which grants are awarded to school districts to implement an enhanced quality full-day prekindergarten program for children eligible for classes under Section 29.153.

(b) Authorizes a school district to apply to the commissioner to participate in the grant program. Requires the commissioner, in awarding grants under this subchapter for each school year, to give priority in the order listed to the following school districts:

(1) school districts that receive grant funding from the commissioner for early childhood education in a lesser amount than the amount provided for that purpose during the preceding school year;

(2) school districts that are not eligible to receive any other existing early childhood grants awarded by the commissioner; and

(3) school districts with a high percentage of students who are educationally disadvantaged, as determined by the commissioner.

(c) Prohibits a school district from enrolling more than 22 students in a program class and requires the district to maintain an average ratio in the program of not less than one certified teacher or teacher's aide for each 11 students. Requires that each program class have at least one certified teacher.

(d) Requires a certified teacher in the program to have a minimum of nine semester credit hours of college education courses emphasizing early childhood education.

(d-1) Authorizes a community provider contracting with a school district under this subchapter, if a certified teacher who meets the requirements of Subsection (d) is unavailable, to employ a teacher for the program who has a minimum of three years experience in early childhood education, who is certified as a Child Development Associate by the Council for Professional Recognition, and who is taking one or more college education courses that emphasize early childhood education. Requires the community provider to employ a teacher who meets the requirements of Subsection (d) not later than the third anniversary of the date the community provider contracts with the district.

(e) Requires a school district to select and implement a curriculum for the program that includes the prekindergarten guidelines established by TEA.

(f) Provides that a program is subject to any other requirements imposed by law that apply to a prekindergarten program not provided in accordance with this subchapter, except that to the extent a conflict exists between this subchapter and any other provision of law, this subchapter prevails.

(g) Requires a school district, to participate in the program, to meet requirements adopted by the commissioner under Section 29.174.

Sec. 29.166. **CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED.** (a) Requires a school district that provides an enhanced program to use at least 20 percent of grant funds provided under this subchapter to contract with one or more eligible community providers to provide the program.

(b) Authorizes the commissioner to waive the requirement under Subsection (a) on an annual basis if a school district provides documentation acceptable to the commissioner that the area served by the district does not have a sufficient number of eligible community providers; after a good faith effort, the school district did not receive any applications or other indications of interest in contracting with the district from eligible community providers; or after a good faith effort and for good cause, the district and one or more eligible community providers interested in contracting with the district were unable to reach an agreement.

(c) Requires the commissioner, not later than the 30th day after the date the commissioner receives a request for a waiver under Subsection (b), to send a written notice to the school district and the affected community provider, if applicable, granting or denying the request. Authorizes a school district or community provider affected by a decision of the commissioner under this subsection to appeal the decision as provided by Section 7.057 (Appeals).

Sec. 29.167. **ELIGIBLE COMMUNITY PROVIDERS.** (a) Requires a community provider, to be eligible to contract with a school district to provide an enhanced program, to be center-based and licensed by and in good standing with the Department of Family and Protective Services (DFPS). Provides that for purposes of this subsection, a community provider is in good standing with DFPS if DFPS has not taken an action against the provider's license under Section 42.071 (Suspension, Evaluation, or Probation of License or Registration), 42.072 (License, Listing, or Registration Denial, Suspension, or Revocation), or 42.078 (Administrative Penalty), Human Resources Code, during the 12-month period preceding the date of a contract with a school district.

(b) Requires an eligible community provider, except as provided by Subsection (c), to also meet one of certain criteria.

(c) Authorizes a community provider otherwise eligible to contract with a school district under Subsection (a), notwithstanding failure to satisfy the requirements of Subsection (b) and subject to Subsection (d), to contract with a district if the community provider meets quality criteria adopted by the district that are based on the best available peer-reviewed research and made available to the public in a timely manner, and the commissioner approves the arrangement.

(d) Requires a community provider contracting with a school district as provided by Subsection (c) to meet the requirements for eligibility provided by Subsection (b) not later than the first anniversary of the date the contract was executed.

Sec. 29.168. **WRITTEN CONTRACT REQUIRED.** Requires a school district and a community provider contracting under this subchapter to enter a written contract governing the services to be provided by the community provider. Provides that the contract may provide for, but is not limited to, certain types of partnerships.

Sec. 29.169. **FUNDING TO COMMUNITY PROVIDER.** (a) Provides that except as provided by Subsection (b), the amount of reimbursement provided by a school district to a community provider is negotiable between the district and the community provider based on the services provided.

(b) Requires a school district, for each school district prekindergarten student in attendance in an enhanced program class provided by a community provider in which the community provider supplies the school facilities, certified teachers, personnel, and supplies, to reimburse the community provider in an amount not less than the sum of:

(1) the amount of the district's adjusted basic allotment, as determined under Section 42.102 or 42.103, as applicable, multiplied by 1.0; and

(2) the amount of any additional funding received by the district for the student under Subchapter C, Chapter 42.

(c) Provides that funding provided under this section does not affect a community provider's eligibility to receive any other local, state, or federal funds to provide before-school, after-school, and summer child care.

Sec. 29.170. **DISCRIMINATION BY COMMUNITY PROVIDER PROHIBITED.** Prohibits a community provider from denying enhanced program services to a student on the basis of the student's race, religion, sex, ethnicity, national origin, or disability.

Sec. 29.171. **ANNUAL ENHANCED PROGRAM REPORT.** Requires a school district operating an enhanced program to provide an annual report to TEA not later than August 1 of each year. Requires that the report include the percentage of the grant funds provided under this subchapter used by the district to contract with community providers and data components, approved by the commissioner, that illustrate acquisition of knowledge and skills consistent with the prekindergarten guidelines established by the agency and student-level progress towards school readiness.

Sec. 29.172. **DUTIES OF COMMISSIONER.** Sets forth the required duties of the commissioner.

Sec. 29.173. **STATE FUNDING; GRANT AMOUNT.** (a) Requires the commissioner, from funds appropriated for the purposes of this subchapter, to award grants as provided by this subchapter.

(b) Requires the commissioner, in accordance with this subsection, to determine the amount of each grant awarded under this subchapter. Requires that a grant provide an amount of funding for each student in the program equal to 70 percent of the statewide average funding provided per student to an open-enrollment charter school under Section 12.106 (State Funding), including all adjustments used in computing per-student funding under that section.

(c) Provides that funding provided for each program student through a grant under this subchapter is in addition to funding otherwise provided for the student under Chapter 42 (Foundation School Program).

Sec. 29.174. **RULES.** Authorizes the commissioner to adopt rules necessary to implement this subchapter.

Sec. 29.175. **PROHIBITION ON USE OF FUNDS FOR VOUCHERS.** Requires that funds provided for the operation of the enhanced program through a grant awarded under this subchapter be paid directly to a public school district or open-enrollment charter school. Provides that it is the intent of the legislature that this requirement is absolute and that the terms of this requirement be broadly construed so as to prevent the use of public funds for any program having the same effect as a voucher program. Provides that this section does not prohibit the use of state funding by a school district or open-enrollment charter school under a contract entered into by the district or school before January 1, 2009, under a law in effect at the time the contract was approved, if state funds are paid directly to the district or school.

Sec. 29.176. ENHANCED PROGRAM EVALUATION. (a) Requires the commissioner, using information provided to the agency under Section 29.171 and using funds available for that purpose, in an amount not to exceed \$150,000 each fiscal year, to contract for an evaluation of the effectiveness of the enhanced program in promoting student achievement and school readiness.

(b) Requires the commissioner, not later than December 1, 2012, to deliver an interim report to the legislature containing the preliminary results of the evaluation.

(c) Requires the commissioner, not later than December 1, 2016, to deliver to the legislature a final report regarding the program.

(d) Provides that this section expires December 1, 2016.

SECTION 5. Provides that this Act applies beginning with the 2009-2010 school year.

SECTION 6. Effective date: upon passage or September 1, 2009.