

## **BILL ANALYSIS**

Senate Research Center  
83R15267 KSD-D

C.S.S.B. 307  
By: Huffman et al.  
Economic Development  
3/21/2013  
Committee Report (Substituted)

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

Currently, the Texas Education Agency (TEA) has primary responsibility for adult education programs in Texas that provide training in literacy and basic academic skills through the high school level. Recently, TEA went through a sunset review process and the Sunset Advisory Commission adopted a recommendation that would transfer the responsibility for adult education from TEA to the Texas Workforce Commission (TWC).

C.S.S.B. 307 implements the Sunset Advisory Commission recommendation to transfer the adult education program from TEA to TWC and create an Adult Education and Literacy Advisory Committee.

C.S.S.B. 307 amends current law relating to the transfer of adult education and literacy programs from the Texas Education Agency to the Texas Workforce Commission.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Workforce Commission (TWC) in SECTION 1.01 (Section 315.002, Labor Code) and (Section 315.007, Labor Code) of this bill.

Rulemaking authority is expressly granted to the Texas Education Agency (TEA) in SECTION 2.04 (Section 29.252, Education Code) of this bill.

Rulemaking authority previously granted to TEA and to the Texas Department of Commerce is rescinded in SECTION 2.05 (Section 29.255, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 2.06 (Section 7.102, Education Code) of this bill.

Rulemaking authority previously granted to TEA is rescinded in SECTION 2.04 (Section 29.252, Education Code) and SECTION 2.06 (Section 29.2535, Education Code) of this bill.

Rulemaking authority previously granted to TWC is rescinded in SECTION 2.06 (Section 312.011, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. CHANGES TO LABOR CODE

SECTION 1.01. Amends Subtitle B, Title 4, Labor Code, by adding Chapter 315, as follows:

##### CHAPTER 315. ADULT EDUCATION AND LITERACY PROGRAMS

Sec. 315.001. DEFINITIONS. Defines "adult," "adult education," and "community-based organization" in this chapter.

Sec. 315.002. COMMISSION DUTIES. (a) Requires the Texas Workforce Commission (TWC) to:

(1) provide adequate staffing to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for the education and training of adults;

(2) develop the mechanism and guidelines for the coordination of comprehensive adult education and related skill training services for adults with other entities, including public agencies and private organizations, in planning, developing, and implementing related programs;

(3) administer all state and federal funds for adult education and related skill training services in this state, other than funds that another entity is specifically authorized to administer under other law;

(4) prescribe and administer standards and accrediting policies for adult education;

(5) prescribe and administer rules for teacher certification for adult education;

(6) accept and administer grants, gifts, services, and funds from available sources for use in adult education;

(7) adopt or develop and administer a standardized assessment mechanism for assessing all adult education program participants who need literacy instruction, adult basic education, or secondary education leading to an adult high school diploma or the equivalent; and

(8) monitor and evaluate educational and employment outcomes of students who participate in the TWC's adult education and literacy programs.

(b) Requires that the assessment mechanism prescribed by Subsection (a)(7) include an initial basic skills screening instrument and provide comprehensive information concerning baseline student skills before and student progress after participation in an adult education program.

(c) Requires TWC, not later than December 1 of each even-numbered year, to report to the legislature regarding the educational and employment outcomes of students who participate in TWC's adult education and literacy programs.

(d) Authorizes TWC to adopt rules for the administration of this chapter.

Sec. 315.003. PROVISION OF ADULT EDUCATION PROGRAMS. Requires that adult education programs be provided by public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations approved in accordance with state statutes and rules adopted by TWC. Requires that the programs be designed to meet the education and training needs of adults to the extent possible using available public and private resources. Authorizes bilingual education to be used to instruct students who do not function satisfactorily in English whenever it is appropriate for those students' optimum development.

Sec. 315.004. ADULT EDUCATION ASSESSMENT. Requires TWC, in consultation with the Texas Higher Education Coordinating Board (THECB) and the Texas Education Agency (TEA), to review the standardized assessment mechanism required under Section 315.002(a)(7) and recommend any changes necessary to align the assessment with the assessments designated under Section 51.3062 (Success Initiative), Education Code, to allow for the proper placement of a student in an adult basic education course or to provide the student with the proper developmental or English as a second language coursework, as appropriate.

Sec. 315.005. ADULT EDUCATION AND LITERACY ADVISORY COMMITTEE.

(a) Defines "advisory committee" in this section.

(b) Requires TWC to establish an adult education and literacy advisory committee composed of not more than nine members appointed by TWC. Requires members of the advisory committee to have expertise in the field of adult education and literacy and authorizes members to include adult educators, providers, advocates, current or former adult education and literacy program students, and leaders in the nonprofit community engaged in literacy promotion efforts. Requires the advisory committee's membership to include at least one representative of the business community and at least one representative of a local workforce development board.

(c) Requires the advisory committee to:

(1) meet at least quarterly;

(2) report to TWC at least annually; and

(3) advise TWC on:

(A) the development of policies and program priorities that support the development of an educated and skilled workforce in this state;

(B) the development of statewide curriculum guidelines and standards for adult education and literacy services that ensure a balance of education and workplace skill development;

(C) the exploration of potential partnerships with entities in the nonprofit community engaged in literacy promotion efforts, entities in the business community, and other appropriate entities to improve statewide literacy programs; and

(D) any other issue TWC considers appropriate.

(d) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee.

Sec. 315.006. STATE FUNDING. (a) Requires that funds be appropriated to implement statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs to eliminate illiteracy in this state and to implement and support a statewide program to meet the total range of adult needs for adult education and related skill training. Requires TWC to ensure that public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations have direct and equitable access to those funds.

(b) Authorizes the legislature, in addition to any amount appropriated under Subsection (a), to appropriate an additional amount to TWC for the purpose of skill training in direct support of industrial expansion and new business development in locations, industries, and occupations designated by TWC, if the training supports the basic purposes of this chapter. Authorizes the legislature, to support the basic purposes of this chapter, to also appropriate an additional amount to TWC for skill training that is conducted to support the expansion of civilian employment opportunities on United States military reservations.

Sec. 315.007. PERFORMANCE INCENTIVE FUNDING. (a) Requires TWC by rule to develop and establish a performance-based process for annually awarding funds to entities that deliver adult education and literacy services under this chapter. Requires that

the process be designed to reward those entities demonstrating exemplary performance in the delivery of services.

(b) Requires TWC, in developing the process for awarding funds under this section to prescribe:

(1) criteria, including fiscal and programmatic performance criteria, to be used to evaluate the performance by the entities described by Subsection (a); and

(2) procedures for taking corrective action, including contract termination or the discontinuation of an award of funds, against an entity for the entity's failure to satisfy the performance criteria prescribed under Subdivision (1).

Sec. 315.008. SERVICE PROVIDER CONTRACTS: COMPETITIVE PROCUREMENT REQUIREMENT. Requires TWC to use a competitive procurement process to award a contract to a service provider of an adult education program.

SECTION 1.02. Amends Section 302.004, Labor Code, as follows:

Sec. 302.004. New heading: FUNDS FOR JOB TRAINING, EMPLOYMENT SERVICES, ADULT EDUCATION AND LITERACY ACTIVITIES, AND CHILD CARE. Authorizes TWC, in providing job training, employment services, adult education and literacy services, and child care to eligible persons, to, notwithstanding the provisions of this chapter or other law, establish a need-based formula to allocate funds available under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) and the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) for job training, employment services, adult education and literacy activities, and child care to local workforce development areas so as to attain certain goals, including achieving integrated education and training. Makes nonsubstantive changes.

SECTION 1.03. Amends Section 302.062(g), Labor Code, to add Subdivision (15), relating to the adult education and literacy program under Chapter 315, to the list of exceptions to which block grant funding under Section 302.062 (Block Grants to Local Workforce Development Areas) does not apply.

## ARTICLE 2. TEXAS EDUCATION AGENCY RESPONSIBILITY FOR COMMUNITY EDUCATION PROGRAMS; CONFORMING CHANGES TO EDUCATION CODE

SECTION 2.01. Amends Section 7.021(b)(8), Education Code, to authorize TEA to carry out powers and duties relating to community education, rather than adult and community education, as required under Subchapter H (Adult and Community Education Programs), Chapter 29 (Educational Programs).

SECTION 2.02. Amends the heading to Subchapter H, Chapter 29, Education Code, to read as follows:

### SUBCHAPTER H. COMMUNITY EDUCATION PROGRAMS

SECTION 2.03. Amends Section 29.251(4), Education Code, to redefine "community education."

SECTION 2.04. Amends Section 29.252, Education Code, as follows:

Sec. 29.252. New heading: AGENCY ROLE IN COMMUNITY EDUCATION. (a)(1) Redesignates and amends text from existing Subdivision (2) to require TEA to develop, implement, and regulate a comprehensive statewide program for community education

services, rather than community level education services to meet the special needs of adults;

(2) Redesignates and amends text from existing Subdivision (4) to require TEA to administer all state and federal funds for community education, rather than adult education and related skill training, in this state, other than funds that another entity is specifically authorized to administer under other law; and

(3) Redesignates and amends text from existing Subdivision (7) to require TEA to accept and administer grants, gifts, services, and funds from available sources for use in community education, rather than adult education.

Deletes text of existing Subdivision (1) requiring TEA to provide adequate staffing to develop, administer, and support a comprehensive statewide adult education program and coordinate related federal and state programs for education and training of adults. Deletes text of existing Subdivision (3) requiring TEA to develop the mechanism and guidelines for coordination of comprehensive adult education and related skill training services for adults with other agencies, both public and private, in planning, developing, and implementing related programs, including community education programs. Deletes existing Subdivision (5) requiring TEA to prescribe and administer standards and accrediting policies for adult education. Deletes existing Subdivision (6) requiring TEA to prescribe and administer rules for teacher certification for adult education. Deletes existing Subdivision (8) requiring TEA to adopt or develop and administer a standardized assessment mechanism for assessing all adult education program participants who need certain instruction and education. Deletes existing Subdivision (9) requiring TEA to collaborate with TWC to improve coordination and implementation of adult education and literacy services in this state. Deletes existing Subdivision (10) requiring TEA to monitor and evaluate educational and employment outcomes of students who participate in TEA's adult education and literacy programs. Makes conforming and nonsubstantive changes.

(b) Authorizes TEA to adopt rules for the administration of this subchapter, rather than requiring the assessment mechanism prescribed under Subsection (a)(8) to include an initial basic skills screening instrument and to provide comprehensive information concerning baseline student skills before and student progress after participation in an adult education program.

SECTION 2.05. Amends Section 29.255, Education Code, as follows:

Sec. 29.255. New heading: STATE FUNDING. Deletes Subsection (a) designation. Requires that funds be appropriated to implement statewide community education programs, including pilot programs to demonstrate the effectiveness of the community education concept, rather than requiring that funds be appropriated to implement certain statewide adult basic education, adult bilingual education, high school equivalency, and high school credit programs and pilot programs to demonstrate the effectiveness of the community education concept. Deletes existing text authorizing an additional sum of money to be appropriated to the Texas Department of Commerce for certain training and supportive programs. Deletes existing text authorizing an additional sum of money to be appropriated for skill training that is conducted to support the expansion of civilian employment opportunities on United States military reservations to fulfill the basic purposes of this subchapter.

Deletes existing Subsection (b), authorizing TEA, in conjunction with the Texas Department of Commerce, to adopt rules to administer skill training programs for

which TEA is responsible, and authorizes the Texas Department of Commerce to adopt rules to administer skill training programs for which it is responsible.

SECTION 2.06. (a) Repealer: Section 7.102(c)(16) (relating to requiring the State Board of Education to adopt certain rules and authorizing the establishment of a commission);

Repealers: Sections 29.251(1) (defining "adult education"), (2) (defining "adult"), and (3) (defining "community-based organization");

Repealer: Section 29.253 (Provision of Adult Education Programs);

Repealer: Section 29.2531 (Adult Education Assessment);

Repealer: Section 29.2535 (Service Provider Contracts: Competitive Procurement Requirement); and

Repealer: Section 29.254 (Adult Education Advisory Committee).

(b) Repealer: Chapter 312 (Interagency Literacy Council), Labor Code.

### ARTICLE 3: TRANSITION PROVISIONS; EFFECTIVE DATE

SECTION 3.01. (a) Provides that, not later than January 1, 2014:

(1) the administration of adult education and literacy programs is required to be transferred from TEA to TWC;

(2) all rules, policies, procedures, and decisions of TEA relating to the administration of adult education and literacy programs are continued in effect as rules, policies, procedures, and decisions of TWC until superseded by a rule or other appropriate action by TWC; and

(3) a reference in law or administrative rule to TEA relating to the administration of adult education and literacy programs means TWC.

(b) Requires TEA and TWC, not later than the 60th day before the date of the transfer of the administration of adult education and literacy programs from the TEA to TWC under Subsection (a) of this section, to enter into a memorandum of understanding relating to that transfer. Sets forth certain requirements of the memorandum.

(c) Requires TWC to complete the initial competitive procurement process required under Section 315.008, Labor Code, as added by this Act, to award contracts to service providers of adult education programs that are effective not later than October 1, 2014.

SECTION 3.02. Effective date: September 1, 2013.