

BILL ANALYSIS

Senate Research Center

S.B. 1615
By: Bettencourt
Education
5/25/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2013, for the first time in Texas's history, the Texas Legislature created an adult charter high school pilot as a strategy for meeting industry needs for a sufficiently trained workforce within the state, offering the opportunity to adults who are high school dropouts to complete a high school education and improve their ability to earn a living wage and support their families. Texas has more than 4.4 million people over age 25 without a high school diploma. The majority of those persons lack education and job training, and more than 60 percent do not earn a living wage.

S.B. 1615 creates a subchapter in the Education Code for public adult high school education that is designed to meet the needs of adult learners:

- Maintains program requirements essential to adult student success, including:
 - majority teacher-led instruction;
 - no cost child care;
 - life coaching at a ratio of one coach to 100 students;
 - instructional support for students with disabilities; and
 - access to career and technical courses, career readiness training, postsecondary counseling, and job placement.
- Establishes an advisory committee of experts with experience in adult learning and job training and placement to advise the commissioner of education (commissioner) on an accountability system, performance framework, and assessment tool appropriate for adult learners, with recommendations due to commissioner by November of 2022.
 - Creates a new funding structure that includes:
 - base funding based on enrollment to better accommodate the realities adults face due to work and family;
 - a performance funding component;
 - funding flows through the Foundation School Program to create certainty; legislature can maintain limits on growth.
- Maintains limits on the number of adult high school charters that can be adopted prior to September 1, 2026.
- Grants schools permission to partner with a provider approved by the Texas Workforce Commission for job training and placement.
- Establishes required assessments until new assessment instrument is adopted, before September 1, 2025.
- Establishes temporary accountability framework until new framework is developed, before the 2024-2025 school year.

(Original Author's / Sponsor's Statement of Intent)

S.B. 1615 amends current law relating to the adult high school charter school program.

RULEMAKING AUTHORITY

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Rulemaking authority previously granted to the commissioner of education is modified in SECTION 17 (Section 12.265, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 22 (Section 29.259, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 12, Education Code, by adding Subchapter G, and adding a heading to read as follows:

SUBCHAPTER G. ADULT HIGH SCHOOL CHARTER SCHOOL PROGRAM

SECTION 2. Transfers Section 29.259(a), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.251, Education Code, and amends it, as follows:

Sec. 12.251. DEFINITIONS. Redefines "adult education" and defines "program." Makes conforming changes.

SECTION 3. Transfers Section 29.259(n), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.252, Education Code, and amends it, as follows:

Sec. 12.252. APPLICABILITY OF CERTAIN PROVISIONS. (a) Provides that the provisions of Chapter 12 (Charters) relating to charter schools do not apply to an adult education program operated under a charter granted under this subchapter except as otherwise provided by this subchapter or by commissioner of education (commissioner) rule.

(b) Creates this subsection from existing text and makes a conforming change.

SECTION 4. Transfers Section 29.259(b), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.253, Education Code, and amends it, as follows:

Sec. 12.253. PURPOSE. Provides that the purpose of the adult high school charter school program, as established under former Section 29.259 (Adult High School Diploma and Industry Certification Charter School Program) and provided by this subchapter, is to meet industry needs for a sufficiently trained workforce within the state and strengthen the economic and educational prosperity of the state. Deletes existing text requiring the commissioner to establish an adult high school diploma and industry certification charter school program as provided by Section 29.259 as a strategy for meeting industry needs for a sufficiently trained workforce within the state. Makes nonsubstantive changes.

SECTION 5. Amends Subchapter G, Chapter 12, Education Code, as added by this Act, by adding Section 12.254, as follows:

Sec. 12.254. ADVISORY COMMITTEE. (a) Provides that an advisory committee is established to make recommendations to the commissioner regarding certain assessment tools and accountability frameworks.

(b) Sets forth the composition of the advisory committee.

(c) Requires each member appointed to the advisory committee to have experience or expertise in adult or workforce education.

(d) Provides that members of the advisory committee serve at the pleasure of the appointing official.

(e) Requires the governor to designate a member of the advisory committee as presiding officer to serve in that capacity at the pleasure of the governor.

(f) Provides that members of the advisory committee are not entitled to compensation, but members are entitled to reimbursement for actual and necessary expenses incurred in fulfilling committee duties.

(g) Requires staff members of the Texas Education Agency (TEA) to provide administrative support for the advisory committee.

(h) Requires TEA to provide funding for any administrative and operational expenses of the advisory committee.

SECTION 6. Transfers Section 29.259(d), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.255, Education Code, and amends it, as follows:

Sec. 12.255. AUTHORIZATION FOR CHARTER. (a) Creates this subsection from existing text. Authorizes the commissioner, notwithstanding any other law and in addition to the number of charters allowed under Subchapter D (Open-Enrollment Charter School), subject to Subsection (c) and on the basis of an application submitted, to grant a charter under the program to a nonprofit entity described by Section 12.256 to provide an adult education program for individuals described by Section 12.258 to successfully complete a high school program that can lead to a diploma and career and technology education courses that can lead to industry certification. Makes conforming and nonsubstantive changes.

(b) Provides that a nonprofit entity, other than the nonprofit entity granted a charter under former Section 29.259 (Adult High School Diploma and Industry Certification Charter School Program), is not entitled to an automatic grant of a charter under this subchapter on the basis that the entity holds a charter or operates a charter school under another provision of this chapter.

(c) Prohibits the commissioner, subject to Subsection (d), from granting more than two charters in a calendar year or more than six charters total under this subchapter. Prohibits the commissioner, in granting charters, from granting a charter before September 1, 2023, or from granting a total of more than two charters before September 1, 2024, or four charters before September 1, 2026.

(d) Prohibits a charter granted under former Section 29.259 from being counted toward the limit under Subsection (c).

(e) Prohibits a nonprofit entity granted a charter under the program from enrolling more than 350 students in an adult education program operated under that charter during the first two years after the charter is granted. Provides that this subsection does not apply to a charter granted under former Section 29.259, regardless of whether that charter is transferred to another nonprofit entity as provided by law.

SECTION 7. Transfers Section 29.259(e), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.256, Education Code, and amends it, as follows:

Sec. 12.256. CHARTER HOLDER QUALIFICATIONS. Deletes existing text authorizing a nonprofit entity to be granted a charter under Subchapter G if the entity agrees to commit at least \$1 million to the adult education program offered. Makes conforming and nonsubstantive changes.

SECTION 8. Transfers Sections 29.259(h) and (i), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates them as Section 12.257, Education Code, and amends them, as follows:

Sec. 12.257. APPLICATION; CHARTER CONTENT. (a) and (b) Creates these subsections from existing text and makes conforming and nonsubstantive changes.

SECTION 9. Transfers Sections 29.259(g) and (g-1), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates them as Section 12.258, Education Code, and amends them, as follows:

Sec. 12.258. STUDENT ELIGIBILITY; ADMISSION. (a) Creates this subsection from existing text. Provides that a person who is at least 18 years of age and not more than 50 years of age is eligible to enroll in an adult education program operated under a charter granted under this subchapter if the person has failed to complete the curriculum requirements for high school graduation or if the person has failed to perform satisfactorily on an assessment instrument required for high school graduation. Makes conforming changes.

(b) Creates this subsection from existing text. Requires a nonprofit entity, in admitting students to an adult education program operated under a charter granted under this subchapter, to give priority to a person who has not earned a high school equivalency certificate. Makes conforming changes.

SECTION 10. Transfers Section 29.259(i-1), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.259, Education Code, and amends it, as follows:

Sec. 12.259. ADULT EDUCATION PROGRAM. (a) Creates this subsection from existing text. Requires that an adult education program operated under a charter granted under Subchapter G:

(1) use an instructional model in which a significant portion, rather than at least 75 percent, of instruction, as approved by the commissioner, is delivered in a teacher-led, rather than an in-person, interactive classroom environment;

(2) provide access to career and technical education courses that lead to an industry certification, career readiness training, postsecondary counseling, and job-placement services; and

(3) provide certain support services to students, including transportation assistance.

Makes conforming and nonsubstantive changes.

SECTION 11. Transfers Section 29.259(f), Education Code, to Section 12.259, Education Code, as added by this Act, redesignates it as Subsection (b) of that section, and amends it, as follows:

(b) Creates this subsection from existing text. Authorizes a nonprofit entity granted a charter under Subchapter G to partner with a public junior college or a provider or organization approved by the Texas Workforce Commission (TWC) to provide career and technology courses that lead to industry certification through an adult education program described by Subsection (a). Makes conforming changes.

SECTION 12. Transfers Section 29.259(c), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.260, Education Code, and amends it as follows:

Sec. 12.260. ASSESSMENT INSTRUMENT. (a) Creates this subsection from existing text. Requires TEA, in cooperation with the advisory committee established under

Section 12.254, to adopt or develop and administer a standardized secondary exit-level assessment instrument appropriate for assessing program participants who successfully complete high school curriculum requirements under an adult education program operated under a charter granted under Subchapter G. Makes conforming and nonsubstantive changes.

(b) Creates this subsection from existing text. Requires the commissioner, in cooperation with the advisory committee established under Section 12.254, to determine the level of performance considered to be satisfactory on the secondary exit-level assessment instrument adopted under Subsection (a) for receipt of a high school diploma by a program participant in an adult education program operated under a charter granted under Subchapter G. Makes conforming and nonsubstantive changes.

(c) Requires TEA, for a school year before the 2025-2026 school year, to adopt and administer the Algebra I, English II, and biology end-of-course assessment instruments adopted under Section 39.023(c) (relating to certain end-of-course assessment instruments for secondary-level courses) as the secondary exit-level assessment instrument required under this section. Provides that the level of performance considered to be satisfactory on those assessment instruments for purposes of this subsection is the level of performance adopted under 19 T.A.C. Section 101.4003(a), as that rule existed on January 1, 2021. Provides that this subsection expires September 1, 2025.

SECTION 13. Transfers Section 29.259(i-2), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.261, Education Code, and amends it, as follows:

Sec. 12.261. EXPANSION AMENDMENT. (a) Creates this subsection from existing text. Requires a nonprofit entity granted a charter under Subchapter G to submit any request for approval of an expansion amendment intended to take effect the next school year, not later than June 30 of each year. Deletes existing text requiring the nonprofit entity granted under a charter in Section 29.259 to submit any request for approval of an expansion amendment if money is appropriated for a state fiscal year for expansion of the program under Section 29.259, not later than June 30 of the state fiscal year in which appropriations are made.

(b) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

SECTION 14. Transfers Sections 29.259(o) and (p), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates them as Section 12.262, Education Code, and amends them, as follows:

Sec. 12.262. ACCOUNTABILITY; REVOCATION OF CHARTER. (a) Creates this subsection from existing text. Requires the commissioner, in cooperation with the advisory committee established under Section 12.254, to develop and adopt an accountability framework that establishes standards by which to measure the performance of an adult education program operated under a charter granted under this subchapter, rather than. Makes nonsubstantive changes.

Deletes existing text requiring the commissioner to develop and adopt a performance framework that establishes standards by which to measure the performance of a high school program under Section 29.259 in a manner consistent with the requirements provided for an open-enrollment charter school under Sections 12.1181(a) and (b) (relating to the adoption of performance frameworks that establish standards to measure the performance of an open-enrollment charter school).

(b) Creates this subsection from existing text. Requires the commissioner to include in the accountability framework adopted under Subsection (a)

performance domains that measure academic growth, career readiness, one-year post-graduation and longitudinal postsecondary outcomes, longitudinal wage and career growth, and operational performance. Makes conforming changes.

(b-1) Creates this subsection from existing text. Requires that the accountability framework adopted under Subsection (a), for a school year before the 2024-2025 school year, include the following performance measures:

(1) and (2) makes conforming changes to these subdivisions;

(3) the percentage of program participants who successfully completed career and technology education courses and obtained industry certification within six months after completing the adult education program;

(4) the percentage of program participants who have enrolled in an institution of higher education or private or independent institution of higher education, as those terms are defined under Section 61.003 (Definitions), within six months after completing the adult education program; and

(5) operational performance as measured under the performance frameworks adopted under Section 12.1181 (Performance Frameworks; Annual Evaluations), rather than the percentage of program participants who earned a wage, salary, or other income increase that was significant as determined and reported by TWC.

(c) Requires the commissioner to adopt a separate accountability framework for an adult education program located in a correctional facility, as that term is defined by Section 1.07 (Definitions), Penal Code.

(c-1) Requires that the accountability framework adopted under Subsection (c), for a school year before the 2024-2025 school year, include the following performance measures:

(1) the percentage of program participants who performed satisfactorily on the standardized secondary exit-level assessment instrument described by Section 12.260(c); and

(2) the percentage of program participants who successfully completed the adult education program and earned a high school diploma.

(c-2) Provides that Subsections (b-1) and (c-1) and this subsection expire September 1, 2024.

(d) Creates this subsection from existing text. Requires the commissioner, each year, to evaluate the performance of an adult education program operated under a charter granted under Subchapter G based on the applicable accountability framework adopted under Section 12.262. Makes conforming changes.

(e) Authorizes the commissioner to revoke a charter to operate an adult education program granted under Subchapter G if the charter's adult education program fails to meet the minimum performance standards established by commissioner rule on the applicable accountability framework adopted under Section 12.262 for three consecutive school years after the first year of operation.

(f) Requires the commissioner, in cooperation with the advisory committee established under Section 12.254, to review and, if necessary, revise each accountability framework adopted under Section 12.262 at least once every three years.

SECTION 15. (a) Provides that, effective September 1, 2021, Sections 29.259(j) and (k), Education Code, are transferred to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignated as Section 12.263, Education Code, and amended, as follows:

Sec. 12.263. ADULT EDUCATION PROGRAM FUNDING. (a) Creates this subsection from existing text. Provides that funding, except as otherwise provided by Section 12.263, for an adult education program operated under a charter granted under Subchapter G is an amount per participant through the Foundation School Program equal to the amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program for the student's attendance at an open-enrollment charter school in accordance with Section 12.106 (State Funding).

Deletes existing text providing that funding based on a certain allocation is for participants who are at least 18 years of age and under 26 years of age. Deletes existing text providing that funding, for participants who are 26 years of age and older, is an amount per participant from available general revenue funds appropriated for the program equal to the statewide average amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program to an open-enrollment charter school under Section 12.106 were the student under 26 years of age.

(a-1) Requires that funding for an adult education program operated under this subchapter be provided in accordance with the average daily attendance hold harmless provisions and guidance regarding remote instruction implemented by TEA for the 2020-2021 school year. Provides that this subsection expires September 1, 2023.

(b) Creates this subsection from existing text. Provides that Sections 12.107 (Status and Use of Funds) and 12.128 (Property Purchased or Leased With State Funds) apply as though funds under Section 12.263 were funds under Subchapter D. Makes conforming changes.

(b) Provides that, effective September 1, 2023, Sections 29.259(j) and (k), Education Code, are transferred to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignated as Section 12.263, Education Code, and amended, as follows:

Sec. 12.263. ADULT EDUCATION PROGRAM FUNDING. (a) Creates this subsection from existing text. Provides that funding, except as otherwise provided by Section 12.263, for an adult education program operated under a charter granted under Subchapter G is an amount per participant through the Foundation School Program equal to the amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program for the student's attendance at an open-enrollment charter school in accordance with Section 12.106. Makes conforming and nonsubstantive changes.

Deletes existing text providing that funding based on a certain allocation is for participants who are at least 18 years of age and under 26 years of age. Deletes existing text providing that funding, for participants who are 26 years of age and older, is an amount per participant from available general revenue funds appropriated for the program equal to the statewide average amount of state funding per student in weighted average daily attendance that would be allocated under the Foundation School Program to an open-enrollment charter school under Section 12.106 were the student under 26 years of age.

(b) Provides that a student, for purposes of determining the average daily attendance of an adult education program operated under a charter granted under Subchapter G, is considered to be in average daily attendance, with a 100 percent attendance rate, for:

(1) all of the instructional days of the school year, if the student is enrolled for at least 75 percent of the school year;

(2) half of the instructional days of the school year, if the student is enrolled for at least 50 percent but less than 75 percent of the school year;

(3) a quarter of the instructional days of the school year, if the student is enrolled for at least 25 percent but less than 50 percent of the school year; or

(4) one-tenth of the instructional days of the school year, if the student is enrolled for at least 10 percent but less than 25 percent of the school year.

(c) Prohibits a student enrolled in an adult education program operated under a charter granted under Subchapter G for less than 10 percent of a school year from being counted toward the adult education program's average daily attendance for that school year.

(d) Requires the commissioner, for purposes of the compensatory education allotment under Section 48.104 (Compensatory Education Allotment), to:

(1) permit an adult education program operated under a charter granted under Subchapter G to give a final report at the end of each school year of students who were enrolled in the adult education program at any time during that school year and who qualify for that allotment; and

(2) provide the allotment for each student reported under Subdivision (1) in an amount proportional to the duration of the student's enrollment in the adult education program.

(e) Provides that an annual graduate, for purposes of the college, career, or military readiness outcomes bonus under Section 48.110 (College, Career, or Military Readiness Outcomes Bonus), notwithstanding Subsection (f) (relating to an annual graduate demonstrating college, career, and military readiness) of that section, of an adult education program operated under a charter granted under Subchapter G demonstrates career readiness by earning an industry-accepted certificate not later than six months after completing the program.

(f) Provides that a nonprofit entity granted a charter under Subchapter G, in addition to funding provided under Subsection (a), is entitled to receive for the adult education program an annual allotment, provided in accordance with a schedule established by commissioner rule, equal to the maximum basic allotment under Section 48.051(a) or (b) (relating to allotments made to students in average daily attendance) multiplied by:

(1) for each credit earned by a student enrolled in the adult education program during the preceding school year, 0.01 for a course other than a career and technology education course, and 0.02 for a career and technology education course; and

(2) 0.1 for each student who successfully completed the adult education program and earned a high school diploma during the preceding school year.

(g) Creates this subsection from existing text. Provides that Sections 12.107 and 12.128 apply as though funds under Section 12.263 were funds under Subchapter D. Makes conforming changes.

SECTION 16. Transfers Section 29.259(r), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.264, Education Code, and amends it, as follows:

Sec. 12.264. GIFTS, GRANTS, AND DONATIONS. Authorizes the commissioner or an adult education program operated under a charter granted under Subchapter G to accept gifts, grants, or donations from any public or private source to be used for purposes of this subchapter. Makes conforming changes.

SECTION 17. Transfers Section 29.259(m), Education Code, to Subchapter G, Chapter 12, Education Code, as added by this Act, redesignates it as Section 12.265, Education Code, and amends it, as follows:

Sec. 12.265. RULES. (a) Creates this subsection from existing text. Requires the commissioner to adopt rules necessary to administer the program under Subchapter G, including rules to implement and administer the reporting requirements under Section 12.252(b)(2)(A), and the evaluation provisions under Section 12.262. Makes conforming changes.

(b) Creates this subsection from existing text. Authorizes the commissioner, in adopting rules, to modify charter school requirements only to the extent necessary for the administration of a charter school under Subchapter G that provides for adult education. Makes conforming changes.

SECTION 18. Amends Section 12.137(a), Education Code, as follows:

(a) Provides that Section 12.137 (Certain Charter Holders Authorized to Provide Combined Services for Certain Adult and High School Dropout Recovery Programs) applies only to certain entities, including an adult education program provided under the adult high school charter school program under Subchapter G, rather than a high school diploma and industry certification charter school program under Section 29.259.

SECTION 19. Reenacts Section 29.081(d), Education Code, as amended by Chapters 403 (S.B. 1746), 597 (S.B. 668), and 1060 (H.B. 1051), Acts of the 86th Legislature, Regular Session, 2019, and amends it to redefine "student at risk of dropping out of school" for purposes of Section 29.081 (Compensatory, Intensive, and Accelerated Instruction).

SECTION 20. Amends Section 48.003(a), Education Code, as follows:

(a) Entitles a student to the benefits of the Foundation School Program if, on September 1 of the school year, the student meets certain criteria, including if the student is at least 18 years of age and under 50, rather than 26, years of age and is enrolled in an adult education program provided under the adult high school charter school program under Subchapter G, Chapter 12. Makes conforming changes.

SECTION 21. Amends Section 48.005(j), Education Code, to make a conforming change.

SECTION 22. (1) Repealer: the section heading to Section 29.259 (Adult High School Diploma and Industry Certification Charter School Program), Education Code; and

(2) Repealer: Section 29.259(q) (relating to the commissioner adopting rules as necessary to implement and administer the reporting requirements and evaluation provisions), Education Code.

SECTION 23. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 24. Requires the advisory committee established under Section 12.254, Education Code, as added by this Act, to submit its initial recommendations to the commissioner, not later than November 1, 2022.

SECTION 25. (a) Provides that a charter granted to a nonprofit entity under former Section 29.259, Education Code, before the effective date of this Act continues to be valid after the transfer, redesignation, and amendment of that section as provided by this Act, until September 1, 2025. Requires the entity to apply for a renewal of the charter under Subchapter G, Chapter 12, Education Code, as added by this Act, to continue operating the charter on or after September 1, 2025.

(b) Authorizes a nonprofit entity granted a charter under former Section 29.259, Education Code, to transfer the charter to another nonprofit entity subject to the approval of the commissioner. Provides that Subchapter G, Chapter 12, Education Code, as added by this Act, applies to a charter transferred under this subsection on the date of the transfer.

SECTION 26. Requires TEA to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that if the legislature does not appropriate money specifically for that purpose, TEA is authorized, but is not required, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 27. Provides that this Act, to the extent of any conflict, prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 28. Effective date, except as otherwise provided by this Act: upon passage or September 1, 2021.