

SUBJECT: Modifying the public school finance system

COMMITTEE: Public Education — committee substitute recommended

VOTE: *After recommitted:*  
10 ayes — Huberty, Bernal, Allen, Deshotel, Dutton, Gooden, K. King,  
Koop, VanDeaver

1 nay — Meyer

1 absent — Bohac

WITNESSES: *July 24 public hearing:*  
For — Mark Wiggins, Association of Texas Professional Educators; Chris Masey, Coalition of Texans with Disabilities; Steven Aleman, Disability Rights Texas; Heather Sheffield, Eanes Advocates, Texans for Public Education; Bill Grusendorf, Texas Association of Rural Schools; Dominic Giarratani, Texas Association of School Boards; Yannis Banks, Texas NAACP; Arati Singh, Texas PTA; Christy Rome, Texas School Coalition; Paul Colbert; Robin Cowsar; Tara Rainey; (*Registered, but did not testify:* Joey Gidseg, Austin Justice Coalition; Cynthia Garcia and Veronica Ramon, Driscoll ISD; Jolene Sanders, Easterseals Central Texas; Ray Freeman, Equity Center; Leandro Gonzales, Grady ISD; Ashlea Graves, Houston ISD; Brian Patterson, Dennis Taylor, and Russell Wall, Ira ISD; Cody Carroll and Nancy Shipley, Krum ISD; Webb Darren, Lago Vista ISD; Kelly Cowan, Lovejoy; Rachea Adams, Marilyn Allen, Laura Barr, Jessica Brewster, Frank Calderon, Richard Cass, Austin Coachman, Shelley Cooper, Vindhya Devalla, Stacey Dillon, Alejandro Duran, Fink, Todd Ford, Alexis Fuller, Sancy Fuller, John Gore, Kyle Herrema, Paul Heuer, Cathy Koziatek, Fela Mathy, Elizabeth McQueen, Kali Moore, Ted Moore, SaraJane Mueth, Dennis Muizers, Kyle Nelson, James Nicholson, Sheryl Nicholson, Jennifer Perez, James Puckett, William Raschendorfer, Jessie Rohlmeier, Tayo Segun, Amy Smith, Barb Smith, Kathy Stone, Gloria Sweeney, Anne Tracy, Randy Trevino, Jill Wilkins, Mary Winkler, and Dennis Womack, Lovejoy ISD; Andrew Stallings, Lovejoy ISD, Lovejoy High School; Jesse Ozuna, Mayor's Office, City of

Houston; Logan Hudson, Miami ISD; John Hubbard, Pharr-San Juan-Alamo ISD; Kent Josselet and Bruce Yeager, Ponder ISD; Scott Burrow, Pringle-Morse CISD; Chris Skinner, Public Education; Bryan Hebert, School Taxpayer Relief Coalition; Jesus Chavez, South Texas Association of Schools; Nate Carman, Christina Fuller, Karl Paris, and Catherine Schmidt, Teague ISD; Christine Broughal and Linda Litzinger, Texans for Special Education Reform; Sally Cain and Courtney Hoffman, Texas Academic Language Therapy Association; Jesse Romero, Texas Association for Bilingual Education; Amy Beneski, Texas Association of School Administrators; Elizabeth Lippincott, Texas Border Coalition; Paige Williams, Texas Classroom Teachers Association; Amanda List, Texas League of Community Charter Schools; Colby Nichols, Texas Rural Education Association, Texas Association of Community Schools; Dee Carney, Texas School Alliance; Kyle Piccola, the Arc of Texas; and 60 individuals)

Against — Adam Cahn, Cahnman's Musings

On — Amber Elenz, Austin ISD Board of Trustees; Chandra Villanueva, Center for Public Policy Priorities; Mike Motheral, Small Rural School Finance Coalition; Ted Melina Raab, Texas American Federation of Teachers; David Hinojosa, Texas Latino Education Coalition; Portia Bosse, Texas State Teachers Association; Steve Swanson; Columba Wilson; (*Registered, but did not testify*: Michelle Smith, Fast Growth School Coalition; Celina Moreno, MALDEF; Kara Belew, Von Byer, and Leonardo Lopez, Texas Education Agency; Timothy Lee, Texas Retired Teachers Association; John Burleson, Travis County Resistance; Analucia Berry; Dana Blanton; Nichole Miller; Maria Person; Shubhada Saxena)

**BACKGROUND:** Education Code, chapters 41 and 42 govern the distribution of state aid under the Foundation School Program to school districts and public charter schools. Chapter 41 contains wealth equalization provisions that require some property-wealthy districts to share a portion of their local school property taxes with less wealthy districts.

**DIGEST:** CSHB 21 would revise certain aspects of the formulas used to determine

school district and charter school entitlements under the Foundation School Program. Beginning with fiscal 2019, the bill would defer the August payment from the Foundation School Fund to charters and certain districts until early September.

The bill would repeal dedicated funding streams for transportation, high school students, and support staff salaries. It also would repeal a hold harmless provision that has provided extra funding to certain districts since 1993.

The bill would create new weighted funding for students with dyslexia. It would increase weighted funding for students in bilingual education programs and extend weighted funding for career and technology education programs to students in 8th grade.

CSHB 21 would create a financial hardship transition grant program for districts that lost funding under changes to chapters 41 and 42 of the Education Code that would apply after the 2016-17 school year.

**Transportation funding.** The bill would repeal the allotment for districts providing transportation to students who reside two or more miles from their regular campus. Districts that failed to meet school bus safety standards would have per-student funding reduced by \$125 until the first anniversary of the date the district began complying with the safety standards.

The Texas School for the Deaf would continue to be entitled to a transportation allotment in an amount determined by the commissioner of education. School districts also could continue to receive an allotment determined by the commissioner for transporting deaf students participating in a regional day school program.

The bill would prohibit a county transportation system from receiving transportation funding directly from the state. Funding would come from the individual school districts participating in the county transportation system.

**High school allotment.** The bill would repeal districts' entitlement to an annual allotment of \$275 for each student in average daily attendance in grades 9-12.

**Additional state aid for staff salary increases.** CSHB 21 would repeal a district's current entitlement to \$500 multiplied by the number of full-time non-professional employees and \$250 multiplied by the number of part-time district employees, other than administrators.

**1993 hold harmless provision.** The bill would repeal language in Education Code, ch. 41 that allows higher equalized wealth levels for certain districts based on a formula that takes into account the district's 1992-93 revenue per student.

**Weight for students with dyslexia.** CSHB 21 would include a multiplier of 0.1 by which the basic allotment would be increased for students with dyslexia or a related disorder. Funding would be limited to no more than 5 percent of a district's students in average daily attendance.

Funding would be available only for students who were receiving instruction that met applicable dyslexia program criteria established by the Texas Education Agency (TEA) and was provided by an instructor specifically trained for this purpose. Funding also would be available to students who have received the required instruction and are permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom or on state assessments.

Districts could receive funding for a student who met the criteria for dyslexia instruction and also was receiving funding for special education services if the student satisfied the requirements of both programs.

**Weight for students in bilingual education programs.** The bill would increase the multiplier in the basic allotment from 0.1 to 0.11 for students in bilingual education programs or special language programs.

**Career and technology programs.** The bill would expand the allotment for career and technology programs offered at the high school level to include 8th grade.

**Adjustment for smaller districts.** For each year from fiscal 2019 through fiscal 2023, the bill would amend formulas to gradually increase the adjustment for districts that have 1,600 or fewer students and contain fewer than 300 square miles. In making the final increase in fiscal 2024, the bill would apply the same adjustment formula to all districts that have 1,600 or fewer students, regardless of the district's geographic size.

CSHB 21 also would make a district ineligible for the small district adjustment under certain conditions involving the issuance or payment of bonds for construction of a new school. The restriction would be bracketed to a district that borders the Red River and has a student enrollment of less than 90, with more than 50 percent of the enrollment consisting of students who have transferred from another district.

**Special-purpose district funding.** CSHB 21 would entitle special-purpose school districts operated by general academic teaching institutions to basic allotment funding for their students. A special-purpose district that received funding could not charge tuition or fees to students.

**Financial hardship transition program.** CSHB 21 would authorize the Commissioner of Education to create a two-year grant program to defray financial hardships resulting from changes to school funding laws. Grants would be distributed through a formula based on funding the district would have received under current law, funding available under changes that would apply after the 2016-2017 school year, and the district's maintenance and operations tax rate as specified by the comptroller's most recent report.

A district or charter school's grant could not exceed the lesser of 10 percent of the total amount available or the amount by which a district's funding under current law exceeded the amount it would be entitled to

after the enactment of CSHB 21 and the scheduled expiration of certain additional state aid. If funds remained available for a school year after determining initial grant amounts, the commissioner would reapply the formula to award all available funds.

Regional education service centers and county departments of education would not be eligible for the grants. The grant amounts could not exceed \$125 million for the 2017-2018 school year or \$75 million for the 2018-2019 school year. The grant program would expire on September 1, 2019.

**Biennial funding report.** By November 1 of each even-numbered year, TEA would be required to submit to the Legislature a projection for an equivalent equalized wealth level for the following biennium based on estimates that would include student enrollment, taxable property values, school district tax rates, and other criteria.

**Payment deferral.** Beginning with fiscal 2019, CSHB 21 would defer until early September the August payment from the Foundation School Fund to charter schools and to school districts in the two highest categories of property wealth per student.

**Effective date.** This bill would take effect September 1, 2017, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the special session. It would apply only to a payment from the Foundation School Fund made on or after September 1, 2018.

SUPPORTERS  
SAY:

CSHB 21, in conjunction with HB 30 by Zerwas, would provide more resources for schools and distribute them more appropriately. The bill would simplify school finance formulas and be an important first step toward modernizing a system that has been criticized as a patchwork of fixes in response to a series of school finance court rulings. There is no need to wait for yet another study of education funding before beginning to improve the system.

Nearly every school district and charter school would receive more funding under CSHB 21. The Legislative Budget Board (LBB) estimates that beginning in fiscal 2018 the bill and assumed appropriations would provide increased Foundation School Program (FSP) funding to 96 percent of school districts and charter schools serving 99 percent of students.

A payment deferral is an appropriate way to increase funding to schools beginning with the coming school year so they can use it to support teachers and students. There is no need to delay fixing school finance when a deferral is a fiscally responsible method of providing the necessary funds.

**Equity.** By repealing several funding streams that are distributed to districts outside the FSP's equalized system, the bill is expected to improve equity among districts. In addition, it would repeal a "hold harmless" mechanism dating to 1993 that has allowed certain districts to keep more revenue per student than other equally wealthy districts. These districts have benefited for decades from greater funding, and it is time to end this provision.

The bill, in conjunction with the appropriations in HB 30 by Zerwas, would increase funding through the basic allotment, which gives local school officials greater flexibility to determine how to spend their money to best meet their students' needs, such as by providing more discretion on transportation funding and other programs.

**Recapture.** CSHB 21 and the \$1.8 billion in new appropriations could reduce the need for higher property taxes by increasing the state share of school funding and reducing the amount of local property taxes recaptured from certain property-wealthy districts. The LBB estimates the bill would reduce recapture paid by districts by about \$176.4 million in fiscal 2018, \$221.4 million in fiscal 2019, and \$354.7 million by fiscal 2022.

**High school allotment.** The bill would end a \$275 per-student high school allotment that initially was intended to supplement academic

offerings and provide services to students at risk of dropping out. However, because funding is generated for every high school student, it is not linked to the actual costs of serving those at risk. Replacing the allotment with extra funding for all students could allow districts to target spending toward students in earlier grades to provide them with a stronger educational foundation before they reach high school.

**Career and technology.** Funding career and technology education beginning in 8th grade would help middle and junior high schools enhance career and technology programs and better prepare students for high school courses. This would provide schools with new resources to offer quality courses to prepare students for occupations in high demand.

**Transportation funding.** By funding transportation through an increased basic allotment, transportation funding would be available for all schools, including charter schools and certain property-wealthy districts that do not receive the current transportation allotment. The bill, in conjunction with proposed appropriations, is estimated to provide schools with \$125 per student to spend on transportation costs.

The bill would simplify and modernize transportation funding by removing annual calculations of factors such as mileage, gas prices, and student population. These factors can be manipulated under the current system to provide some districts with transportation funding in excess of actual costs.

**Weighted student funding.** The bill would benefit the approximately 154,000 students with dyslexia identified by districts in the 2015-16 school year. It would provide new funding to help schools meet the additional education needs of these students.

Under current law, districts are required to identify and serve students with dyslexia but do not receive any extra funds to comply with this mandate. The new funding stream in the bill could incentivize schools to ensure students with dyslexia and related disorders were identified and supported. Funds could be used to hire specially trained educators, to pay



for parent education programs, and for other valuable resources that many districts have struggled to provide. Making this funding available to 5 percent of a district's students would be an appropriate limit and likely sufficient to cover the population it is intended to help.

CSHB 21 also would provide extra funding for bilingual education programs that have been shown to significantly close the achievement gap between English language learners and native English speakers. The bilingual education weight was established in 1984 and has not been updated since, despite the fact that the number of students struggling to learn English has grown dramatically in the past few decades.

While some have said the bill should provide a larger increase in the weight for bilingual students and should increase the weight for students in compensatory education programs, such funding increases would be too expensive because of the large numbers of students in those demographic groups.

Others have said the Legislature should study the costs of educating these and other student populations during the interim and use the results to determine the actual costs of providing a constitutionally adequate education. Such a cost study would not guarantee legislative funding and could become an issue in future school finance litigation. It would be better for the Legislature to enact the reforms included in CSHB 21 and improve funding for Texas students this school year.

**Hardship grants.** The \$200 million hardship grant program would be a reasonable way to help offset a portion of funding reductions that some districts would experience under the bill and the pending September 1, 2017, expiration of a 2006 hold harmless provision known as Additional State Aid for Tax Reduction (ASATR). It would be appropriate to compensate those districts that lost money even though many are considered property wealthy. Unlike previous legislative efforts to hold districts harmless for funding revisions, the bill would end the grants after two school years.

OPPONENTS  
SAY:

CSHB 21 would result in less funding for some school districts at a time when all districts are facing financial pressures and rising expectations for students. Even with the changes to funding formulas, the state's school finance system still would rely too heavily on local property value increases to make up for state funding inadequacies.

The bill would increase spending on public education without providing meaningful property tax relief or significant structural reforms to the school finance system. Instead of moving forward with this bill, the Legislature should take time during the interim to study the actual costs of providing an adequate education to different student populations and then make funding decisions based on the results of those studies.

Using a deferral to pay for the biennial \$1.8 billion cost of the bill would spend money that is not available and must be paid back. This would place a burden on the 86th Legislature to either make up the funding shortfall or continue the deferral.

**Transportation funding.** The bill would change how the state funds transportation by eliminating an allotment tied to costs such as miles traveled and ridership. Instead of funding transportation based on actual costs, transportation funding would be included in a district's base funding with no requirement that the money go toward transporting students. The lack of dedicated transportation funding might lead districts to use the money for other purposes.

Under the bill, some districts and charter schools that provide little or no transportation services would receive funding for an expense they do not incur. At the same time, some geographically large districts could experience a steep decline in transportation funding under the new plan.

**1993 hold harmless.** The repeal of this provision would harm some districts that face budget constraints due to the large portion of local property tax revenue they are required to send to the state under the recapture requirements of the school finance system. This would break a promise made to these districts in 1993 that they would not lose funding

under finance law revisions.

**Hardship grants.** The hardship grant program would carry forward funding inequities that largely benefit the wealthiest school districts. Awards under the bill's \$200 million hardship grant program primarily would go to school districts in the two highest quintiles of wealth per student, according to an analysis by the LBB.

OTHER  
OPPONENTS  
SAY:

CSHB 21 would not go far enough in helping districts and charter schools keep up with inflation. One group estimates that a minimum investment of \$2.7 billion would be required to keep schools from losing ground during the next two years compared to \$1.8 billion proposed under the bill, in conjunction with HB 30.

**Weighted student funding.** Increasing the weight for bilingual students by a mere 1 percent would not be sufficient to provide funding to the roughly 1 million Texas students in bilingual education programs. In addition, the bill would not increase the compensatory education weight for economically disadvantaged students, a group that represents a growing portion of Texas students. It costs districts more to educate students from low-income families and those who do not speak English, and Texas should provide districts with additional resources for these populations.

Limiting funding for students with dyslexia or a related disorder to 5 percent of a district's students would be too low and could leave many students without resources.

**Prekindergarten funding.** The bill should address the need for increased funding for prekindergarten to help districts provide the full-day, high-quality programs that can make a difference in preparing students for their school careers.

**Facility funding.** Previous versions of the bill included \$25 million that charter schools could have used for facility costs and \$75 million that would have helped districts with bond debt. These provisions would have

benefitted both charter schools and districts struggling to keep up with an increase in students.

**Hardship grants.** CSHB 21 should do more to compensate districts for the loss of funding under the bill as well as the scheduled September 1, 2017, expiration of ASATR. About 160 mostly smaller districts are anticipated to lose about \$400 million in ASATR funding during fiscal 2018-19, and would have to share the \$200 million in the hardship grant program with districts losing money due to funding changes made by CSHB 21.

**NOTES:**

**Related legislation.** HB 30 by Zerwas, which would appropriate \$963.5 million for each year of fiscal 2018-19 to the Texas Education Agency to fund the provisions of HB 21, also appears on today's calendar.

**Fiscal note.** In its fiscal note, the Legislative Budget Board (LBB) analyzed CSHB 21 with the assumption of a \$210 increase in the basic per-student allotment from \$5,140 to \$5,350. According to the LBB, CSHB 21 would:

- save the Foundation School Program \$126.9 million in general revenue related funds in fiscal 2018-19; and
- offset a biennial cost of \$1.8 billion through a one-time savings of \$1.9 billion due to deferring the final Foundation School Fund payment for fiscal 2019 to fiscal 2020.

**Comparison of original to substitute.** Compared to the filed bill, the committee substitute would:

- eliminate an additional \$25 million in funding for charter schools and \$75 million in funding for district facility debt;
- extend the allotment for high school students in career and technical education programs to students in 8th grade; and
- increase the cap on funding for hardship grants for the 2018-19 school year from \$34 million to \$75 million.