

## **BILL ANALYSIS**

Senate Research Center  
81R2111 CAS-D

S.B. 183  
By: Williams  
Education  
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As Filed

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

Currently, Texas students are generally required to attend school in the district in which they live, regardless of whether or not that school fits their unique educational needs. Some school districts may be unable to satisfy these needs, resulting in a concern that certain students are not receiving the best education possible for their situation.

As proposed, S.B. 183 creates the School Choice Program for Students With Disabilities which authorizes certain students with certain unique educational needs to attend a school in the school district in which the student resides, attend a public school in a district other than the district in which the student resides, or to receive a scholarship to pay the costs of attending a qualifying school.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.359, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

#### **SUBCHAPTER J. SCHOOL CHOICE PROGRAM FOR STUDENTS WITH DISABILITIES**

Sec. 29.351. DEFINITIONS. Defines "parent," "program," and "qualifying school."

Sec. 29.352. PROGRAM. Authorizes an eligible student under Section 29.353, at the option of the student's parent, to attend any public school in the school district in which the student resides as provided by Subchapter G (Public Education Grant Program), attend a public school in a district other than the district in which the student resides as provided by Subchapter G, subject to the limitations of Section 29.203 (Financing), or to receive a scholarship as provided by Section 29.354 to pay the costs of attending a qualifying school.

Sec. 29.353. ELIGIBLE STUDENT. (a) Sets forth certain conditions under which a student is eligible to participate in the school choice program (program).

(b) Requires a school district to provide written notice of the program to the parent of a student who is eligible to participate in the program under Subsection (a).

(c) Authorizes a student who establishes eligibility under this section to continue participating in the program until the earlier of the date the student graduates from high school or the student's 22nd birthday.

Sec. 29.354. FINANCING; SCHOLARSHIP. (a) Entitles a student who attends a qualifying school under this subchapter to receive an annual scholarship in an amount equal to the amount of funding to which the school district in which the student resides would be entitled under Section 42.151 (Special Education) for the student.

(b) Requires the Texas Education Agency (TEA) to determine a student's eligibility in accordance with rules adopted under Section 29.359, on application by the parent of an eligible student. Requires TEA to issue a scholarship certificate to the parent if TEA determines that the student is eligible for participation in the program. Requires the parent to endorse and present the certificate to the qualifying school chosen by the parent.

(c) Requires the qualifying school the student attends to endorse and present the student's scholarship certificate to TEA to receive payment. Requires TEA to distribute to the qualifying school the amount of the student's scholarship under Subsection (a).

(d) Requires TEA to direct the distribution of funds to the qualifying school the student attends on a monthly pro rata basis after educational services have been provided. Requires TEA to require that the qualifying school submit documentation of the student's attendance before TEA directs funds to the qualifying school. Requires that the payment be made not later than the 30th day after the date on which TEA receives from the qualifying school a request for payment.

(e) Provides that the student's scholarship is the entitlement of the student, under the supervision of the student's parent, and not that of any school.

(f) Prohibits a qualifying school from sharing a student's scholarship with or refund or rebate a student's scholarship to the parent or the student in any manner.

(g) Prohibits a student's scholarship from being financed by money appropriated from the available school fund.

**Sec. 29.355. PARTICIPATION BY QUALIFYING SCHOOLS.** Sets forth certain conditions that a qualifying school is required to meet to participate in the program.

**Sec. 29.356. ADMISSIONS.** (a) Prohibits a qualifying school chosen by an eligible student's parent under this subchapter from denying admission by discriminating on the basis of the student's race, ethnicity, or national origin. Requires a qualifying school chosen by an eligible student's parent under this subchapter to comply with certain requirements of 42 U.S.C. Section 2000d et seq. with respect to nondiscrimination on the basis of race, color, or national origin, and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), with respect to nondiscrimination on the basis of disability.

(b) Requires a qualifying school that has more qualified scholarship applicants for attendance under this subchapter than available positions to fill the available scholarship positions by a random selection process, except as provided by this subsection. Authorizes a school to give preference among scholarship applicants to a previously enrolled student and to other students residing in the same household as a previously enrolled student to achieve continuity in education.

(c) Authorizes a qualifying school to submit a written request for student records from the public school previously attended by an eligible student. Requires the public school, on receipt of a request submitted under this subsection, to deliver in a timely manner to the qualifying school a copy of the school's complete student records for that student, including attendance records, disciplinary records, past results of any assessment instruments administered to the student, the student's individualized educational program, and any other comprehensive assessments from each school the student previously attended. Requires a public school that is required to release student records under this subsection to comply with any applicable provision of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

**Sec. 29.357. ACCOUNTABILITY.** (a) Requires each qualifying school that enrolls a student under this subchapter to annually administer in the spring certain assessments.

(b) Requires the school to provide the student's results to the student's parents and the aggregated results of the assessment instruments to the public.

Sec. 29.358. QUALIFYING SCHOOL AUTONOMY. (a) Provides that a qualifying school that accepts a scholarship under this subchapter is not an agent or arm of the state or federal government.

(b) Prohibits the commissioner of education (commissioner), TEA, the State Board of Education (SBOE), or any other state agency from regulating the educational program of a qualifying school that accepts a scholarship under this subchapter, except as provided by this subchapter.

Sec. 29.359. RULES. (a) Requires the commissioner to adopt rules as necessary to implement, administer, and enforce the program, including rules regarding payments and application and approval procedures.

(b) Provides that a rule adopted under this section is binding on any other state or local government entity, including a political subdivision, as necessary to implement, administer, and enforce the program.

Sec. 29.360. PROGRAM COMPLIANCE. (a) Requires TEA to respond to and investigate any complaint or dispute arising under this subchapter.

(b) Requires TEA to enforce this subchapter and any rule adopted under this subchapter and authorizes TEA to withhold funds from any school district or qualifying school that violates this subchapter or a rule adopted under this subchapter.

SECTION 2. Amends Section 29.202(a), Education Code, to provide that a student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this chapter if, among other certain circumstances, the student is eligible to participate in the school choice program under Subchapter J. Makes nonsubstantive changes.

SECTION 3. (a) Requires the Texas Education Agency to make the school choice program as provided by Subchapter J, Chapter 29, Education Code, as added by this Act, available for participation beginning with the 2009-2010 academic school year.

(b) Requires the commissioner to adopt and implement rules necessary for the administration of the program as soon as practicable.

SECTION 4. Sets forth provisions relating to an action for declaratory judgment regarding the constitutionality and other validity under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act.

SECTION 5. Effective date: upon passage or September 1, 2009.