

## **BILL ANALYSIS**

Senate Research Center  
85S12152 MEW-F

H.B. 21  
By: Huberty et al. (Taylor, Larry)  
Education  
8/9/2017  
Engrossed

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

Interested parties suggest that changes to the public school finance system are necessary in order to meet the requirement under the Texas Constitution that the legislature establish and make suitable provision for the support and maintenance of an efficient system of public free schools. H.B. 21 provides for such changes.

H.B. 21 amends current law relating to the public school finance system.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 29 (Section 42.457, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 12 (Section 42.006, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 22 (Section 42.1541, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is rescinded in SECTION 31 (Sections 39.233, 39.234, 42.155, 42.160, and 42.2513, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 11.158(a), Education Code, as follows:

(a) Authorizes the board of trustees of an independent school district (board; district) to require payment of:

(1) through (13) makes no changes to these subdivisions;

(14) deletes an exception prohibiting the board from charging a fee for transportation for which the district received funds under Section 42.155(d) (relating to a certain additional amount under the transportation allotment); or

(15) makes a nonsubstantive change and deletes existing Subdivision (16) relating to a certain fee that may be required if the district does not receive certain funds and does not participate in a certain county transportation system.

SECTION 2. Amends Section 12.106(a-1), Education Code, effective September 1, 2018, as follows:

(a-1) Provides that in determining funding for an open-enrollment charter school (charter school) under Subsection (a) (relating to providing that a charter holder is entitled to receive certain funds for charter school funding):

(1) creates this subdivision from existing text and deletes a reference to Section 42.103 (Small and Mid-Sized District Adjustment); and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

SECTION 3. Amends Section 29.153(c), Education Code, to delete existing text providing that if transportation for a prekindergarten class is provided, the transportation is included for funding purposes as part of the regular transportation system.

SECTION 4. Amends Sections 29.918(a) and (b), Education Code, as follows:

(a) Deletes references to Section 39.234 (Use of High School Allotment), the high school allotment under Section 42.160 (High School Allotment), and high school allotment.

(b) Makes conforming changes.

SECTION 5. Amends Subchapter C, Chapter 30, Education Code, by adding Section 30.0561, as follows:

Sec. 30.0561. TRANSPORTATION ALLOTMENT. Provides that the Texas School for the Deaf is entitled to a transportation allotment paid from the foundation school fund (FSF). Requires the commissioner of education (commissioner) to determine the appropriate allotment.

SECTION 6. Amends Section 30.087(c), Education Code, to authorize a district to receive an allotment paid from the FSF for transportation of students participating in a regional day school program, as determined by the commissioner, rather than determined in the same manner as an allotment for the transportation of other special education students.

SECTION 7. Amends Section 34.002(c), Education Code, as follows:

(c) Requires the commissioner to reduce the basic allotment provided under Section 42.101 (Basic Allotment) for each student in average daily attendance (ADA) by \$125 for a district that fails or refuses to meet the safety standards for school buses established under this section (Safety Standards) until the first anniversary of the date the district begins complying with the safety standards, rather than is ineligible to share in the transportation allotment under Section 42.155 (Transportation Allotment) until the first anniversary of the date the district begins complying with the safety standards.

SECTION 8. Amends Section 34.007, Education Code, by adding Subsection (c), as follows:

(c) Provides that a county transportation system is not entitled to receive funding for transportation costs directly from the state. Provides that funding for a county transportation system is provided by each district participating in the county transportation system in accordance with the terms of the interlocal contract under Chapter 791 (Interlocal Cooperation Contracts), Government Code, under which the county provides transportation services for the participating districts.

SECTION 9. Amends Section 39.0233(a), Education Code, as amended by H.B. 2223, Acts of the 85th Legislature, Regular Session, 2017, to delete a reference to Section 39.233 (Recognition of High School Completion and Success and College Readiness Programs).

SECTION 10. Amends Section 41.099(a), Education Code, to delete a reference to Section 41.002(e) (relating to the certain wealth per student that a district is authorized to have).

SECTION 11. Amends Section 41.257, Education Code, as follows:

Sec. 41.257. New heading: APPLICATION OF SMALL AND SPARSE ADJUSTMENTS. Deletes a reference to Section 42.155 and makes nonsubstantive changes.

SECTION 12. Amends Section 42.006(a-1), Education Code, to require the commissioner to by rule require each district and charter school to report information regarding the number of students enrolled in the district or charter school who are identified as having dyslexia or related disorders, rather than identified as having dyslexia.

SECTION 13. Amends Section 42.101(a), Education Code, to change a reference to \$4,765 to \$5,140 in a certain allotment formula.

SECTION 14. Amends Sections 42.103(b) and (d), Education Code, effective September 1, 2023, as follows:

(b) Provides that the basic allotment of a district that has not more than 1,600 students in ADA is adjusted by applying a certain formula, rather than the basic allotment of a district that contains at least 300 square miles and has not more than 1,600 students in ADA is adjusted by applying a certain formula.

(d) Provides that the basic allotment of a district that offers a kindergarten through grade 12 program and has less than 5,000 students in ADA is adjusted by applying the formula, of the following formulas, that results in the greatest adjusted allotment:

(1) the formula in Subsection (b), if the district is eligible for that formula, rather than the formula in Subsection (b) or (c) for which the district is eligible; or

(2) makes no changes to this subdivision.

SECTION 15. Amends Section 42.103(c), Education Code, effective September 1, 2018, to provide that the basic allotment of a district that contains less than 300 square miles and has not more than 1,600 students in ADA is adjusted by applying certain formulas for fiscal years beginning September 1, 2018; September 1, 2019; September 1, 2020; September 1, 2021; and September 1, 2022.

SECTION 16. Amends Subchapter B, Chapter 42, Education Code, by adding Section 42.1041, as follows:

Sec. 42.1041. INELIGIBILITY FOR SMALL OR MID-SIZED DISTRICT ADJUSTMENT OR SPARSITY ADJUSTMENT. (a) Provides that this section applies only to a district that meets certain criteria.

(b) Provides that, notwithstanding Section 42.103, 42.104 (Use of Small or Mid-Sized District Adjustment in Calculating Special Allotments), or 42.105 (Sparsity Adjustment), a district to which this section applies is ineligible for an adjustment under Section 42.103 or 42.105 for any school year during which the district takes certain actions relating to bonds.

SECTION 17. Amends Subchapter B, Chapter 42, Education Code, by adding Section 42.107, as follows:

Sec. 42.107. SPECIAL-PURPOSE SCHOOL DISTRICTS OPERATED BY GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) Requires the commissioner, in each fiscal year of the biennium, to allocate funding from the foundation school program to each special-purpose district established under Section 11.351 (Authority to Establish Special-Purpose School District) that is operated by a general academic teaching institution as defined by Section 61.003 (Definitions), in an amount equivalent to the basic allotment in Section 42.101(a) (relating to providing that a district is entitled to a certain allotment for each student in ADA, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs) multiplied by the number of full-time equivalent students who are enrolled in the district and who reside in this state.

(b) Requires the commissioner, in allocating funding to special-purpose districts under this section, to use a payment schedule consistent with the payment schedule adopted for charter schools.

(c) Prohibits a special-purpose district that receives state funding for a resident student under this section from charging tuition or fees to that student for the academic term for which state funding is received, other than fees permitted under Section 11.158 (Authority to Charge Fees).

(d) Authorizes a special-purpose district to elect not to receive state funding under this section.

SECTION 18. Amends Section 42.151(h), Education Code, to require that funds allocated under this section (Special Education), other than an indirect cost allotment established under State Board of Education (SBOE) rule or amounts made available for the transportation of special education students, be used in the special education program under Subchapter A (Special Education Program), Chapter 29 (Educational Programs).

SECTION 19. Amends Section 42.153(a), Education Code, to provide that, for each student in ADA in a bilingual education or special language program under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.11, rather than 0.1.

SECTION 20. Amends Section 42.154(a), Education Code, as effective September 1, 2017, to provide that, for each full-time equivalent student in ADA in an approved career and technology education program in grades eight through 12, rather than grades nine through 12, or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to certain funds.

SECTION 21. Amends Section 42.154(c), Education Code, as follows:

(c) Requires that funds allocated under this section (Career and Technology Education Allotment), other than an indirect cost allotment established under SBOE rule or amounts made available for the transportation of career and technology education students, be used in providing career and technology education programs in grades eight through 12, rather than grades nine through 12, or career and technology education programs for students with disabilities in grades seven through 12 under certain sections.

SECTION 22. Amends Section 42.1541(a), Education Code, as follows:

(a) Requires SBOE, by rule, for the 2017–2018 and subsequent school years, to revise the indirect cost allotments established under certain sections, including Section 42.154(c), and in effect for the 2016–2017 school year to reflect any increase in the percentage of total maintenance and operations funding represented by the basic allotment as a result of Acts of the 85th Legislature, 1st Called Session, 2017. Deletes existing text requiring SBOE to increase the indirect cost allotments established under certain sections, including Sections 42.154(a-1) and (c), and in effect for the 2010–2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter (Foundation School Program) for the 2011–2012 school year as a result of S.B. Nos. 1 and 2, Acts of the 82nd Legislature, 1st Called Session, 2011.

SECTION 23. Amends Subchapter C, Chapter 42, Education Code, by adding Section 42.1561, as follows:

Sec. 42.1561. ALLOTMENT FOR STUDENT WITH DYSLEXIA OR RELATED DISORDER. (a) Provides that, subject to Subsection (b) and for each student that a district serves who has been identified as having dyslexia or a related disorder, the district

is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 42.102 (Cost of Education Adjustment) or Section 42.103, as applicable, multiplied by 0.1 for each school year or a greater amount provided by appropriation.

(b) Provides that a district is entitled to the allotment under Subsection (a) only for a student who:

(1) is receiving instruction that meets applicable dyslexia program criteria established by the Texas Education Agency (TEA) and is provided by a person with specific training in providing that instruction; or

(2) has received the instruction described by Subdivision (1) and is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom and accommodations in the administration of assessment instruments under Section 39.023 (Adoption and Administration of Instruments).

(c) Requires that funds allotted under this section be used in providing services to students with dyslexia or related disorders.

(d) Authorizes a district to receive funding for a student under this section and Section 42.151 if the student satisfies the requirements of both sections.

(e) Provides that not more than five percent of a district's students in ADA are eligible for funding under this section.

SECTION 24. Amends Section 42.2518(a), Education Code, as effective September 1, 2017, as follows:

(a) Provides that, beginning with the 2017–2018 school year, a district is entitled to additional state aid to the extent that state and local revenue under this chapter and Chapter 41 (Equalized Wealth Level) is less than the state and local revenue that would have been available to the district under Chapter 41 and this chapter as those chapters existed on September 1, 2015, excluding any state aid or adjustment in wealth per student that would have been provided under former Section 41.002(e) through (g) (relating to the calculation of the wealth per student of a district), 42.155, 42.160, 42.2513 (Additional State Aid for Staff Salary Increases), or 42.2516 (Additional State Aid for Tax Reduction), if a certain increase and a certain limitation had not occurred.

SECTION 25. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2541, as follows:

Sec. 42.2541. ESTIMATED PROJECTIONS. (a) Defines "equivalent equalized wealth level."

(b) Requires TEA, not later than November 1 of each even-numbered year, to:

(1) submit to the legislature a projection for an equivalent equalized wealth level for the following biennium based on TEA's estimate of certain factors; and

(2) provide projections for the equalized funding elements under Section 42.007 (Equalized Funding Elements) for the following biennium as necessary to achieve the equivalent equalized wealth level projected under Subdivision (1).

SECTION 26. Amends Sections 42.259(c), (d), and (f), Education Code, as follows:

(c) Requires that payments from the FSF to each category 2 district be made as follows:

(1) through (7) makes no changes to these subdivisions; and

(8) requires that 15 percent of the yearly entitlement of the district be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) (relating to the allocation of 22 percent of the yearly entitlement), rather than requiring that 15 percent of the yearly entitlement of the district be paid in an installment to be made on or before the 25th day of August.

(d) Requires that payments from the FSF to each category 3 district be made as follows:

(1) and (2) makes no changes to these subdivisions; and

(3) requires that 20 percent of the yearly entitlement of the district be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) (relating to the allocation of 45 percent of the yearly entitlement), rather than requiring that 20 percent of the yearly entitlement of the district be paid in an installment to be made on or before the 25th day of August.

(f) Creates exceptions as provided by Subsection (c)(8) or (d)(3).

SECTION 27. Amends Sections 42.2591(c) and (e), Education Code, as follows:

(c) Requires that payments from the FSF to a charter school under this section (Foundation School Fund Transfers to Certain Charter Schools) be made as follows:

(1) through (11) makes no changes to these subdivisions; and

(12) requires that eight percent of the yearly entitlement of the charter school be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) (relating to the allocation of 22 percent of the yearly entitlement), rather than requiring that eight percent of the yearly entitlement of the charter school be paid in an installment to be made on or before the 25th day of August.

(e) Creates an exception as provided by Subsection (c)(12).

SECTION 28. Amends Section 42.302(a), Education Code, as follows:

(a) Provides that the amount of certain state and local funds provided to each district, subject only to the maximum amount under Section 42.303 (Limitation on Enrichment Tax Rate), is determined by a certain formula. Sets forth the amended formula.

SECTION 29. Amends Chapter 42, Education Code, by adding Subchapter H, as follows:

#### SUBCHAPTER H. FINANCIAL HARDSHIP TRANSITION PROGRAM

Sec. 42.451. FINANCIAL HARDSHIP GRANTS. (a) Authorizes the commissioner, from amounts appropriated for this subchapter, to administer a grant program that provides grants to districts to defray financial hardships resulting from changes made to Chapter 41 and this chapter that apply after the 2016–2017 school year.

(b) Requires the commissioner to award grants under this subchapter to districts as provided by Section 42.452.

(c) Provides that funding provided to a district under this subchapter is in addition to all other funding provided under Chapter 41 and this chapter.

(d) Authorizes the commissioner to obtain additional information as needed from a district or other state or local agency to make determinations in awarding grants under this subchapter.

Sec. 42.452. AWARD OF GRANTS; AMOUNT. (a) Requires the commissioner to award grants to districts based on a certain formula.

(b) Prohibits a district's hardship grant awarded under this subchapter for a school year from exceeding the lesser of certain amounts.

(c) Requires the commissioner to take certain actions for purposes of calculating the formula under Subsection (a).

(d) Requires the commissioner, if funds remain available under this subchapter for a school year after determining initial grant amounts under Subsection (a), as adjusted to reflect the limits imposed by Subsection (b), to reapply the formula as necessary to award all available funds.

Sec. 42.453. ELIGIBILITY OF OPEN-ENROLLMENT CHARTER SCHOOL. Provides that a charter school is eligible for a grant under this subchapter in the same manner as a district.

Sec. 42.454. REGIONAL EDUCATION SERVICE CENTERS AND COUNTY DEPARTMENTS OF EDUCATION NOT ELIGIBLE. Provides that a regional education service center or a county department of education is not eligible for a grant under this subchapter.

Sec. 42.455. FUNDING LIMIT. Prohibits the amount of grants awarded by the commissioner under this subchapter from exceeding \$125 million for the 2017–2018 school year or \$75 million for the 2018–2019 school year.

Sec. 42.456. NO ADJUSTMENT BASED ON REVISED DATA. Prohibits the commissioner from adjusting the amount of a district's grant under this subchapter based on revisions to the district's data received after a grant has been awarded.

Sec. 42.457. RULES. Authorizes the commissioner to adopt rules as necessary to administer this subchapter.

Sec. 42.458. DETERMINATION FINAL. Provides that a determination by the commissioner under this subchapter is final and prohibits it from being appealed.

Sec. 42.459. EXPIRATION. Provides that this subchapter expires September 1, 2019.

SECTION 30. Reenacts Section 466.355(c), Government Code, as repealed by Chapter 431 (S.B. 559), Acts of the 83rd Legislature, Regular Session, 2013, and amended by Chapter 1410 (S.B. 758), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(c) Requires the Texas comptroller of public accounts (comptroller), rather than requires the comptroller each August, to estimate the amount to be transferred to the FSF on or before September 15 and, notwithstanding Subsection (b)(4) (relating to certain transfers from the state lottery account), transfer the amount estimated in Subdivision (1) to the FSF before installment payments, rather than August installment payments, are made under Section 42.259(c)(8) or (d)(3), Education Code, rather than Section 42.259, Education Code.

SECTION 31. (a) Repealers: Section 29.097(g) (relating to encouraging a district to use certain funds), Education Code; Section 29.098(e) (relating to encouraging a district to use certain funds), Education Code; Section 39.233 (Recognition of High School Completion and Success and College Readiness Programs), Education Code; Section 39.234 (Use of High School Allotment), Education Code; Sections 41.002(e) (relating to the wealth per student that a district may have after exercising a certain option), (f) (relating to the calculation of a district's effective tax rate), and (g) (relating to the adjustment of the wealth per student that a district may have), Education Code; Section 42.1541(c) (relating to requiring SBOE to take a certain action regarding indirect cost allotments not later than a certain date), Education Code; Section 42.155 (Transportation Allotment), Education Code as amended by S.B. 195, Acts of the 85th Legislature, Regular Session, 2017; Section 42.160 (High School Allotment), Education Code; and Section 42.2513 (Additional State Aid For Staff Salary Increases), Education Code.

(b) Repealer, effective September 1, 2023: Section 42.103(c) (relating to the formula for adjusting the basic allotment of a certain district), Education Code.

SECTION 32. Makes application of Sections 42.259 and 42.2591, Education Code, as amended by this Act, prospective to September 1, 2018.

SECTION 33. Effective date, except as otherwise provided by this Act: September 1, 2017, or on the 91st day after the last day of the legislative session.