

BILL ANALYSIS

Senate Research Center

S.B. 2483
By: Paxton
Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over 30 states have enacted varieties of laws to allow for parent directed funding of a portion of state funds to follow the student for a learning environment that best meets their child's needs. Interested parties assert that Texas also should provide the opportunity for parent directed funding to expand the options that families have in directing their child's education environment.

S.B. 2483 creates the Parent Empowerment Act to provide parents the opportunity to direct their child's educational setting and direct the funding for the education setting of their choice through the creation of an education savings account program.

As proposed, S.B. 2483 amends current law relating to the establishment of an Education Savings Account program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts of the State of Texas in SECTION 4 (Sections 29.359, 29.371, and 29.372, Education Code) and SECTION of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Parent Empowerment Act.

SECTION 2. Provides that the purpose of this Act is to provide families with additional educational options to assist in exercising their right to direct the educational needs of their children and achieve a general diffusion of knowledge.

SECTION 3. Amends Chapter 26, Education Code, by adding Section 26.0025, as follows:

Sec. 26.0025. RIGHT TO SELECT PUBLIC OR PRIVATE EDUCATION. (a) Provides that a parent or guardian is entitled to choose the educational setting for the parent or guardian's child, whether public or private.

(b) Requires funding to be directed to the child, if a parent or guardian chooses a private educational setting for the child, as provided in the manner described by Subchapter J, Chapter 29.

SECTION 4. Amends Chapter 29, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. EDUCATION SAVINGS ACCOUNT PROGRAM

Sec. 29.351. DEFINITIONS. Defines "account," "certified educational assistance organization," "cocurricular activity," "education service provider," "vendor of educational products," "higher education provider," "parent," "program," and "program participant."

Sec. 29.352. PURPOSE. Provides that the purpose of this subchapter is to provide families with additional educational options to assist in exercising their right to direct the educational needs of their children.

Sec. 29.353. ESTABLISHMENT OF PROGRAM. Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to establish an Education Savings Account program to provide funding for approved education-related expenses of program participants.

Sec. 29.354. EDUCATION SAVINGS ACCOUNT PROGRAM FUND. (a) Provides that the Education Savings Account program fund is an account in the general revenue fund to be administered by the comptroller.

(b) Provides that the fund is composed of:

- (1) general revenue transferred to the fund;
- (2) money appropriated to the fund;
- (3) gifts, grants, and donations received under Section 29.370; and
- (4) any other money available for purposes of the program.

(c) Authorizes money in the fund to be appropriated to the comptroller only for purposes of making payments to program participants and administering the program under this subchapter.

Sec. 29.355. SELECTION OF CERTIFIED EDUCATIONAL ASSISTANCE ORGANIZATION. (a) Authorizes an organization to apply to the comptroller for certification as a certified educational assistance organization during an application period established by the comptroller. Authorizes the comptroller to certify one or more educational assistance organizations to assist in administering the program.

(b) Requires the applicant, to be eligible for certification as a certified educational assistance organization, to:

- (1) be able to perform the duties and functions required of a certified educational assistance organization under this subchapter;
- (2) be in good standing with the state; and
- (3) be able to assist the comptroller in administering the program, including having the ability to:
 - (A) accept, process, and track applications for the program;
 - (B) help prospective applicants, applicants, and program participants find preapproved education service providers and vendors of educational products; and
 - (C) verify that program funding is used only for approved education-related expenses.

(c) Requires a certified educational assistance organization to assist the comptroller in administering the program, including by:

- (1) administering the application process in Section 29.357;

(2) helping prospective applicants, applicants, and program participants understand eligible expenses and find preapproved education service providers and vendors of educational products;

(3) expending the funds in a program participant's account only for purposes approved under Section 29.360; and

(4) publishing data and an annual report regarding:

(A) the number of applications received, accepted, and wait-listed, disaggregated by applicant age;

(B) program participant satisfaction;

(C) assessment results reported under Section 29.358(2); and

(D) the number and percentage of program participants who, within one year after graduating from high school, are:

(i) college ready, as indicated by earning a minimum of 12 non-remedial credit hours or an associate degree from a postsecondary educational institution;

(ii) career ready, as indicated by earning a credential listed in the credential library established by the Texas Workforce Commission and the Texas Higher Education Coordinating Board under Section 2308A.007 (Credential Library), Government Code, or employment at or above the median wage in the graduate's region; or

(iii) military ready, as indicated by achieving a passing score set by the applicable military branch on the Armed Services Vocational Aptitude Battery and enlisting in the armed forces of the United States or the Texas National Guard.

Sec. 29.356. ELIGIBLE CHILD. (a) Provides that a child is eligible to participate in the program if the child is eligible to attend a public school under Section 25.001 (Admission) or 29.153(b) (relating to the eligibility criteria for enrollment in a free prekindergarten program);

(b) Authorizes a child who establishes eligibility under this section to participate in the program until the earliest date on which the child:

(1) graduates from high school;

(2) is no longer eligible to attend a public school under Section 25.001 or 29.153(b);

(3) is entitled to the benefits of the Foundation School Program through enrollment in a public school; or

(4) is declared ineligible for the program by the comptroller under this subchapter.

Sec. 29.357. APPLICATION TO PROGRAM. (a) Requires a certified educational assistance organization, for the admission of applicants to the program, to:

(1) require an applicant to complete and submit an application form not later than a reasonable biennial deadline established by the certified educational assistance organization; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the program due to funding, prioritize students who are eligible for the free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(b) Requires a certified educational assistance organization to create an application form for the program and make the application form readily available to interested parents through various sources, including the organization's Internet website. Requires the application form to state the application deadline. Requires the organization to ensure that the application form is capable of being submitted to the organization electronically.

(c) Requires a certified educational assistance organization to post on the organization's Internet website an applicant and program participant handbook that describes the program, including:

(1) expenses allowed;

(2) preapproved education service providers and vendors of educational products;

(3) expense reporting requirements; and

(4) program participant responsibilities.

(d) Requires a certified educational assistance organization to annually provide to each program participant the information required under Subsection (c). Authorizes the information to be provided electronically.

(e) Prohibits a program participant in good standing from being required to resubmit an application for continued participation in the program each year.

(f) Authorizes a program participant to appeal any administrative decision made by the comptroller or a certified educational assistance organization pursuant to this subchapter, including enrollment eligibility, determinations of allowable expenses, or removal of the participant from the program.

Sec. 29.358. PARTICIPATION IN PROGRAM. Requires a parent of an eligible child, to receive program funding, to agree to:

(1) spend program funds only for expenses allowed under Section 29.360;

(2) share with the certified educational assistance organization the results of assessments required under Section 29.359(b)(1)(B);

(3) not sell items purchased under Section 29.360(a)(2) until 12 months after the purchase; and

(4) notify the certified educational assistance organization not later than 30 days after the date on which the child:

(A) enrolls in a public school, including an open-enrollment charter school;

(B) graduates from high school; or

(C) is no longer eligible to enroll in a public school under Section 25.001 or 29.153(b).

Sec. 29.359. PREAPPROVED PROVIDERS. (a) Requires the comptroller to by rule establish a process for the preapproval of education service providers and vendors of educational products for participation in the program. Requires the comptroller to require applicants to complete and submit an application form not later than a reasonable quarterly deadline.

(b) Requires the comptroller to preapprove an education service provider or vendor of educational products for participation in the program if:

(1) for a school, the school demonstrates:

(A) accreditation by:

(i) the Texas Education Agency (TEA);

(ii) an organization recognized by TEA; or

(iii) an organization recognized by the Texas Private School Accreditation Commission; and

(B) annual administration of a nationally norm-referenced assessment instrument or the appropriate assessment instruments required under Subchapter B (Public School System Accountability), Chapter 39;

(2) for a private tutor, therapist, or teaching service, the applicant demonstrates that:

(A) the tutor or therapist or each employee who will provide services to a program participant:

(i) is certified under Subchapter B (Educators), Chapter 21;

(ii) holds a relevant license or accreditation issued by a state, regional, or national certification or accreditation organization; or

(iii) is employed in a teaching or tutoring capacity by a higher education provider;

(B) the tutor or therapist or each employee who will provide services to a program participant either:

(i) completes a national criminal history record information review; or

(ii) provides to the comptroller documentation indicating that the tutor, therapist, or employee, as applicable, has completed a national criminal history record information review within a period established by comptroller rule; and

(C) the tutor or therapist or each employee who will provide services to a program participant is not listed on the registry maintained under Section 22.092 (Registry of Persons Not Eligible For Employment in Public Schools); or

(3) for a higher education provider, the provider demonstrates postsecondary accreditation.

(c) Requires the comptroller, for each private tutor, therapist, or teaching service who submits an application, to:

(1) review the national criminal history record information or documentation; and

(2) verify that the applicant is not listed on the registry maintained under Section 22.092.

(d) Authorizes applicants to provide information to enable verification of eligibility for preapproval, if requested by the comptroller. Prohibits applicants whose eligibility cannot be verified under Subsection (b) from being preapproved for participation in the program.

(e) Requires the comptroller, subject to Sections 29.362(e) and 29.364, at a program participant's direction, to disburse to preapproved providers payments directly from the participant's account. Prohibits disbursements from exceeding the participant's account balance.

(f) Requires the comptroller to by rule establish a process by which:

(1) program participants are authorized to be efficiently reimbursed for eligible expenses under certain sections incurred from education service providers and vendors of educational products that are not preapproved under Subsection (a); and

(2) frequently utilized education service providers and vendors of educational products under Subsection (f)(1) that are in good standing for three continuous school years are authorized to receive payment directly from Education Savings Accounts.

Sec. 29.360. APPROVED EDUCATION-RELATED EXPENSES. (a) Provides that accounts are authorized only for the following expenses incurred by a program participant:

(1) tuition and fees at a preapproved school or higher education provider;

(2) textbooks, other instructional materials, or uniforms required by a program participant's school, institution, course, or program;

(3) fees for services provided by a private tutor or teaching service;

(4) academic assessments;

(5) fees for educational therapies or services for which the program participant is not authorized to be reimbursed or is partially reimbursed by private insurance or federal, state, or local government benefits at the time of receiving the therapies or services;

(6) fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider or vendor of educational products; and

(7) cocurricular activities.

(b) Prohibits money received under the program from being used to pay any person who is a member of the program participant's household.

(c) Provides that a finding that a program participant used money distributed under the program to pay for an expense not allowed under Subsection (a) does not affect the validity of any payment made by the participant for an expense that is allowed under that subsection.

Sec. 29.361. AMOUNT OF PAYMENT; FINANCING. (a) Requires the comptroller, from funds available under Section 29.354, to:

(1) deposit into each program participant's account an amount that is equal to the statewide average state and local public school maintenance and operations revenue per student in average daily attendance for the prior school year; and

(2) reserve equal portions of funds for students who might apply by each biennial deadline established under Section 29.357(a).

(b) Provides that any money remaining in a child's account at the end of a fiscal year is carried forward to the next fiscal year unless another provision of this subchapter mandates the closure of the account.

(c) Provides that the ability of program participants to purchase educational programs, services, or products with their own account funds is prohibited from being infringed.

(d) Prohibits the Education Savings Account program fund from receiving federal revenue or revenue from the available school fund.

(e) Requires the comptroller, not later than November 1 of each even-numbered year, to submit to the legislature a summary of program participant enrollment, an estimate of the savings accruing to the state as a result of the program, and an estimate of the total amount of funding required for the program for the following state fiscal biennium.

(f) Provides that account funds received by program participants do not constitute taxable income to the parent of the participating student.

Sec. 29.362. ADMINISTRATION OF ACCOUNTS. (a) Requires the comptroller to make quarterly payments to each program participant's account in equal amounts on or before the first day of July, October, January, and April.

(b) Authorizes the comptroller, each year, to deduct an amount from the total amount of money allocated to the Education Savings Account program fund to cover the cost of administering the program. Prohibits the amount deducted from exceeding three percent of annual program funds.

(c) Requires the comptroller, each quarter, to disburse to a certified educational assistance organization an amount from the total amount of money allocated to the Education Savings Account program fund to cover the organization's cost of administering the program. Prohibits the amount disbursed each year from exceeding five percent of annual program funds.

(d) Requires the certified educational assistance organization, before payments are made under Subsection (a) in October and April, to:

(1) verify with TEA that a program participant is not entitled to the benefits of the Foundation School Program through enrollment in a public school; and

(2) notify the comptroller if the organization determines that a program participant is enrolled in a public school, including an open-enrollment charter school, and entitled to the benefits of the Foundation School Program.

(e) Requires the comptroller, on the date on which a program participant is no longer eligible to participate in the program under Section 29.356, to close the program participant's account and return any remaining revenue to the Education Savings Account program fund.

Sec. 29.363. RANDOM AUDITING. (a) Authorizes the comptroller to contract with a private entity to randomly audit accounts and a certified educational assistance organization as necessary to ensure compliance with applicable law and program requirements.

(b) Authorizes the comptroller or private entity, in conducting an audit, to require that a program participant or a certified educational assistance organization provide additional information and documentation regarding any payment made with program funds.

(c) Requires the private entity to report to the comptroller any violation of this subchapter or other relevant law found by the entity during an audit conducted under this section. Requires the comptroller to report the violation to the:

(1) certified educational assistance organization;

(2) education service provider or vendor of educational products, as applicable; and

(3) parents of affected program participants.

Sec. 29.364. SUSPENSION OF ACCOUNT. (a) Requires the comptroller to suspend the account of a program participant who fails to remain in good standing by complying with applicable law or program requirements.

(b) Requires the comptroller, on suspension of an account under Subsection (a), to notify the program participant in writing that the account has been suspended and that no additional payments are authorized to be made from the account. Requires that the notification specify the grounds for the suspension and state that the participant has 30 business days to respond and take any corrective action required by the comptroller.

(c) Requires the comptroller, on the expiration of the 30th business day under Subsection (b), to:

(1) order closure of the suspended account;

(2) order temporary reinstatement of the account, conditioned on the performance of a specified action by the program participant; or

(3) order full reinstatement of the account.

(d) Authorizes the comptroller, if the program participant's account is suspended or closed under this section, to recover from the participant or other entity money distributed to the account that was used for expenses not allowed under Section 29.360.

Sec. 29.365. TUITION AND FEES; REFUND PROHIBITED. (a) Prohibits an education service provider or vendor of educational products from charging a program

participant an amount greater than the amount charged for that product or service by the provider or vendor to an individual who is not a program participant.

(b) Prohibits an education service provider or a vendor of educational products receiving money distributed under the program from in any manner rebating, refunding, crediting to, or sharing with a program participant, or any person on behalf of a participant, any program funds paid or owed by the participant to the provider or vendor.

Sec. 29.366. REFERRAL TO DISTRICT ATTORNEY. Requires the comptroller or organization, if the comptroller or a certified educational assistance organization obtains evidence of fraudulent use of an account, to notify the district attorney with jurisdiction over the residence of the program participant.

Sec. 29.367. SPECIAL EDUCATION NOTICE. (a) Requires a certified educational assistance organization to post on the organization's Internet website and provide to each parent who submits an application for the program a notice that:

(1) a private school is not subject in the same manner as a public school to federal and state laws regarding the provision of educational services to a child with a disability; and

(2) provides information regarding rights to which a child with a disability is entitled under federal and state law if the child attends a public school, including:

(A) rights provided under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

(B) rights provided under Subchapter A (Special Education Program).

(b) Requires a private school in which a program participant with a disability enrolls to provide to the child's parent a copy of the notice required under Subsection (a).

Sec. 29.368. PROGRAM PARTICIPANT, PROVIDER, AND VENDOR AUTONOMY. (a) Provides that receiving funds from the program does not make an education service provider or vendor of educational products a recipient of federal financial assistance.

(b) Prohibits a rule or other action by any person, governmental body, court of law, or administrator of the program from, in any matter related to the program:

(1) limiting the independence or autonomy of an education service provider;

(2) deeming the actions of an education service provider to be the actions of the state government or make the education service provider a state actor;

(3) imposing any additional regulation on education service providers beyond those necessary to enforce the requirements of the program;

(4) requiring an education service provider to modify its creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments to accept recipients of funds from the program;

(5) taking any action that limits an education service provider in determining how to educate its students or in exercising its religious or institutional values; or

(6) taking any action that imposes an obligation on the education service provider to act contrary to its religious or institutional values.

(c) Provides that with regard to a program participant who is not enrolled in an accredited school, a rule or other action by any person, governmental body, court of law, or administrator of the program is prohibited from, in any matter related to the program:

- (1) limiting the independence or autonomy of the program participant;
- (2) deeming the actions of the program participant to be the actions of the state government or make the program participant a state actor;
- (3) imposing any additional regulation on the program participant beyond what is necessary to enforce the requirements of the program;
- (4) requiring the program participant to modify their creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments to accept recipients of funds from the program;
- (5) taking any action that limits the program participant in determining their educational content or in exercising religious values; or
- (6) taking any action that imposes an obligation on the program participant to act contrary to their religious values.

(d) Provides that, in any proceeding challenging a rule adopted under the authority of or related to this subchapter, the state agency, officer, or other person adopting the rule has the burden of proof to establish by clear and convincing evidence that the rule:

- (1) is necessary to implement the program;
- (2) does not violate this section;
- (3) does not impose an undue burden on a program participant or an education service provider or vendor of educational products that participates or applies to participate in the program; and
- (4) is the least restrictive means of accomplishing the intended purposes, while at the same time recognizing the independence of education service providers or vendors of educational products to meet the educational needs of their students in accordance with their religious or institutional values.

Sec. 29.369. STUDENT RECORDS AND INFORMATION. (a) Requires the school district or open-enrollment charter school that the child would otherwise attend, on request by the parent of a child participating or seeking to participate in the program, to provide a copy of the child's school records possessed by the district or school, if any, to the child's parent or, if applicable, the private school the child attends or is seeking to attend.

(b) Requires TEA, as necessary to verify eligibility for the program, to provide to a certified educational assistance organization any information available to TEA requested by the organization regarding a program participant or applicant. Prohibits the certified educational assistance organization from retaining information provided under this subsection beyond the period necessary to determine a child's eligibility to participate in the program.

Sec. 29.370. GIFTS, GRANTS, AND DONATIONS. Authorizes the comptroller and a certified educational assistance organization to solicit and accept gifts, grants, and

donations from any public or private source for any expenses related to the program, including establishing the program.

Sec. 29.371. RULES; PROCEDURES. (a) Requires the comptroller to adopt rules and procedures as necessary to implement, administer, and enforce this subchapter. Authorizes the comptroller to adopt the initial rules in the manner provided by law for emergency rules.

(b) Provides that a rule adopted under Subsection (a) is binding on an organization that applies for certification as an educational assistance organization and a state or local governmental entity, including a political subdivision.

Sec. 29.372. RULES; PROCEDURES. Requires the comptroller to adopt rules and procedures as necessary to implement, administer, and enforce this subchapter. Authorizes the comptroller to adopt the initial rules in the manner provided by law for emergency rules.

Sec. 29.373. PARENTAL AND STUDENT RIGHT TO INTERVENE IN CIVIL ACTION. (a) Authorizes a child, a parent, and education service providers or vendors of educational products who are eligible to participate in the program to intervene in any civil action challenging the constitutionality of the program.

(b) Authorizes a court in which a civil action described by Subsection (a) is filed to require that all children and parents of children who are eligible to participate in the program wishing to intervene in the action file a joint brief. Prohibits children and parents of children who are eligible to participate in the program from being required to join a brief filed on behalf of the state or a state agency.

Sec. 29.374. VENUE, STANDING, AND PROCEDURE IN LEGAL PROCEEDINGS CONCERNING THE PROGRAM. (a) Authorizes any question regarding the constitutionality or other validity under the state or federal constitution of all or any part of this subchapter to be determined in any state district court in which the violation is alleged to have occurred or where the claimant resides or has its principal place of business.

(b) Authorizes an organization or parent of an eligible child who is adversely affected or aggrieved by a determination or order made by the comptroller or a certified educational assistance organization under this subchapter to obtain a review of such determination or order in any state district court in which the child resides or where the organization has its principal place of business.

(c) Authorizes an order or judgment, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of this subchapter to be reviewed only by direct appeal to the Supreme Court of Texas (supreme court) filed not later than the 15th day after entry of the order or judgment. Requires all appeals to be heard and determined by the district court and the supreme court as expeditiously as possible with lawful precedence over other matters. Provides that such a direct appeal is an accelerated appeal.

(d) Provides that the filing of a direct appeal under this section will automatically stay any temporary or otherwise interlocutory injunction or permanent injunction pending final determination by the supreme court, unless the supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved that:

(1) the applicant has a probable right to the relief it seeks on final hearing;

(2) the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other legal remedy; and

(3) maintaining the injunction is in the public interest.

(e) Provides that an appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure, including certain rules.

(f) Provides that this section does not authorize an award of attorney's fees against this state, and Section 37.009 (Costs), Civil Practice and Remedies Code, does not apply to an action filed under this section.

SECTION 5. Amends Section 411.109, Government Code, by adding Subsection (c), as follows:

(c) Provides that the comptroller is entitled to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas about a person who is a private tutor, a therapist, or an employee of a teaching service or school who intends to provide educational services to a child participating in the program established under Subchapter J, Chapter 29, Education Code.

SECTION 6. Amends Section 22.092(d), Education Code, as follows:

(d) Requires TEA to provide equivalent access to the registry maintained under this section to:

(1) makes no changes to this subdivision;

(2)-(3) makes nonsubstantive changes to these sections; and

(4) the comptroller, for the purpose of preapproving education service providers and vendors of educational products as required under Section 29.359.

SECTION 7. Requires the comptroller, not later than November 15, 2023, to adopt rules as provided by Section 29.372, Education Code, as added by this Act.

SECTION 8. Provides that the comptroller is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose or funds are provided through gifts, grants, or donations. Provides that if the legislature does not appropriate money specifically for that purpose and funds are not provided through gifts, grants, or donations, the comptroller is authorized, but is not required to, implement this Act using other appropriations available for that purpose.

SECTION 9. (a) Authorizes any question regarding the constitutionality or 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, to be determined in any state district court in which the violation is alleged to have occurred or where the claimant resides or has its principal place of business.

(b) Authorizes an organization or parent of an eligible child who is adversely affected or aggrieved by a determination or order made by the comptroller or a certified educational assistance organization under Subchapter J, Chapter 29, Education Code, as added by this Act to obtain a review of such order in any state district court in which the child resides or where the organization has its principal place of business.

(c) Authorizes an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of Subchapter J, Chapter 29, Education Code, as added by this Act, to be reviewed only by direct appeal to the supreme court filed within 15 days after entry of judgment. Requires all appeals to be heard and

determined by the district court and the supreme court as expeditiously as possible with lawful precedence over other matters.

(d) Provides that the direct appeal is an accelerated appeal.

(e) Provides that this section exercises the authority granted by Section 3-b (Direct Appeal from Order Granting or Denying Injunction), Article V (Judicial Department), of the Texas Constitution.

(f) Provides that the filing of a direct appeal under this section will automatically stay any temporary or otherwise interlocutory injunction or permanent injunction granted in accordance with this section pending final determination by the supreme court, unless the supreme court makes specific findings that the applicant seeking such injunctive relief has pleaded and proved that:

(1) the applicant has a probable right to the relief it seeks on final hearing;

(2) the applicant will suffer a probable injury that is imminent and irreparable, and that the applicant has no other legal remedy; and

(3) maintaining the injunction is in the public interest.

(g) Provides that an appeal under this section, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure, including certain rules.

(h) Provides that this section does not authorize an award of attorneys' fees against this state and Section 37.009, Civil Practice and Remedies Code, does not apply to an action filed under this section.

SECTION 10. Severability clause.

SECTION 11. Effective date: upon passage or September 1, 2023.