

BILL ANALYSIS

C.S.H.B. 130
By: Patrick
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, school districts in Texas are required to offer a half-day prekindergarten program if at least 15 children reside in the district who are economically disadvantaged, English language learners, homeless, previous or current foster care participants, or children of a military parent. There were 182,000 four-year-olds enrolled in district prekindergarten programs in the 2007-2008 school year, roughly 50 percent of an estimated 362,000 four-year-olds in Texas.

Districts receive state formula funding for the required half-day program. However, many districts offer full-day prekindergarten or expand eligibility to additional children, but state formula funding is not available for these purposes. Districts must raise local funds or secure grants, such as the Texas Education Agency's Early Start Grant. This grant has provided approximately 300 districts with funding since 2000 to expand prekindergarten programs. Because of new grant rules, many districts that have been previous recipients will be "phased out" of the grant, while hundreds of districts that have never received the grant will continue to be ineligible. This bill seeks to set up an enhanced quality program provided in partnership with existing, established community providers to allow districts to save taxpayer dollars and prevent bond elections to build additional prekindergarten facilities.

C.S.H.B. 130 establishes a grant to allow districts to voluntarily expand prekindergarten programs to a full day for currently eligible four-year-old children. The bill requires districts to implement the following quality standards in each prekindergarten classroom: class size ratios, certified teachers, approved curriculum, partnership requirements, evaluations. The bill requires districts to partner with local Head Start or licensed child care providers to promote collaboration and build on the existing high-quality early childhood programs in our communities to provide extended services to eligible children.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 130 amends the Education Code to require the commissioner of education, from funds appropriated for such purpose, to establish by rule a grant program under which grants are awarded to school districts to implement an enhanced quality full-day prekindergarten program for certain children at least three years of age who are unable to speak or understand English, educationally disadvantaged, homeless, children of active duty military personnel or of such military personnel injured or killed while on active duty, or either currently or previously in the conservatorship of the Department of Family and Protective Services (DFPS). The bill authorizes a district to apply to the commissioner to participate in the grant program and requires the commissioner, in awarding such grants for each school year, to give priority, in the following order, to districts that receive grant funding from the commissioner for early childhood education in a lesser amount than the amount provided for that purpose during the preceding school year,

districts that are not eligible to receive any other existing early childhood grants awarded by the commissioner, and districts with a high percentage of students who are educationally disadvantaged, as determined by the commissioner.

C.S.H.B. 130 prohibits a district from enrolling more than 22 students in a program class and requires a district to maintain an average ratio in the program of not less than one certified teacher or teacher's aide for each 11 students. The bill requires each program class to have at least one certified teacher. The bill requires a certified teacher in the program to have a minimum of nine semester credit hours of college education courses emphasizing early childhood education. The bill requires the community provider, in the event that such a certified teacher is unavailable, to require a certified teacher within three years of receiving such grant funding from the district. The bill requires the teacher, during that time, to have at minimum a Child Development Associate certification with at least three years experience in early childhood education.

C.S.H.B. 130 requires a district to select and implement a curriculum for the program that includes the prekindergarten guidelines established by the Texas Education Agency (TEA). The bill makes a program subject to any other requirements imposed by law that apply to a prekindergarten program not provided in accordance with the bill's provisions, except that to the extent a conflict exists between the bill's provisions and any other provision of law, the bill's provisions prevail.

C.S.H.B. 130 requires a district to use at least 20 percent of the district's grant funds to contract with one or more eligible community providers to provide the program. The bill authorizes the commissioner to waive such requirement on an annual basis if a school district provides documentation acceptable to the commissioner that the area served by the district does not have a sufficient number of eligible community providers; that the district, after a good faith effort, did not receive any applications or other indications of interest in contracting with the district from eligible community providers; or that the district and one or more eligible community providers interested in contracting with the district, after a good faith effort and for good cause, were unable to reach an agreement. The bill requires the commissioner, not later than the 30th day after the date the commissioner receives a request for a waiver, to send a written notice to the school district and the affected community provider, if applicable, granting or denying the request. The bill authorizes a school district or community provider affected by the commissioner's decision to appeal the decision.

C.S.H.B. 130 requires a community provider, to be eligible to contract with a district to provide an enhanced program, to be center-based and to be licensed by and in good standing with DFPS; certified through the school readiness certification system; a Texas Early Education Model participant; a Texas Rising Star Provider with a three-star certification or higher; or accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by TEA that requires a developmentally appropriate curriculum that includes math, science, social studies, literacy, and social and emotional components. The bill authorizes an otherwise eligible community provider that lacks the required educational certification or accreditation to contract with a district if the provider meets research-based quality criteria adopted and made publicly available by the district and the commissioner approves the arrangement. The bill requires a contracted community provider that does not satisfy educational certification or accreditation requirements to meet those requirements not later than the first anniversary of the date the contract was executed.

C.S.H.B. 130 requires a school district and a community provider to enter a written contract governing the services provided by the community provider. The bill authorizes such contract to provide for partnerships that involve the district leasing school facilities to or from the community provider, the district employing a certified teacher for the prekindergarten class and the community provider supplying the school facilities and all other personnel and supplies, or the community provider supplying the school facilities, certified teachers, personnel, and

supplies, but the bill expressly does not limit a contract to those types of partnerships.

C.S.H.B. 130 establishes that, except as provided otherwise, the amount of reimbursement provided by a district to a community provider is negotiable between the district and the provider based on the services provided. The bill requires a school district to reimburse a community provider in an amount not less than the sum of the district's adjusted basic allotment and any special allotments for each prekindergarten student in attendance in an enhanced program in which the community provider supplies the school facilities, certified teachers, personnel, and supplies. The bill provides that this funding does not affect a community provider's eligibility to receive any other local, state, or federal funding to provide before-school, after-school, and summer child-care.

C.S.H.B. 130 prohibits a community provider from denying enhanced program services to a student on the basis of the student's race, religion, sex, ethnicity, national origin, or disability.

C.S.H.B. 130 requires a school district operating an enhanced program, not later than August 1 of each year, to provide an annual report to TEA that includes the percentage of the grant funds provided under the bill's provisions used to contract with community providers for enhanced programs and data components that illustrate acquisition of knowledge and skills consistent with the prekindergarten guidelines established by the agency.

C.S.H.B. 130 requires the commissioner to require a regional education service center to assist a school district in informing parents of prekindergarten options, in identifying and maintaining an updated list of eligible community providers, and in creating standardized forms and processes for outreach to and contracts with a community provider for use when considering a community partnership; to assist a community provider in establishing a contract regarding an enhanced program with a district; and to assist a community provider who is not eligible to contract with a district by providing eligibility information. The bill requires the commissioner to encourage regional education service centers and school districts to use locally available child care resources and referral services.

C.S.H.B. 130 requires the commissioner, from funds appropriated for the purposes of an enhanced program, to award grants as provided by provisions of the bill and to determine the amount of each grant awarded. The bill requires a grant to provide an amount of funding for each student in the program equal to 70 percent of the statewide average funding provided per student to an open-enrollment charter school, including all applicable adjustments used in computing per-student funding. The bill provides that funding provided for each program student through such a grant is in addition to funding otherwise provided for the student under the Foundation School Program.

C.S.H.B. 130 authorizes the commissioner to adopt rules necessary to implement the enhanced quality full-day prekindergarten program. The bill requires funds provided for the operation of an enhanced program through a grant awarded under the bill's provisions to be paid directly to a public school district or open-enrollment charter school. The bill states the legislature's intent that such requirement for direct payment to a district or open-enrollment charter school is absolute and that the terms of the requirement be broadly construed so as to prevent the use of public funds for any program having the same effect as a voucher program. The bill specifies that such requirement does not prohibit the use of state funding by a school district or open-enrollment charter school under a contract entered into by the district or school before January 1, 2009, under a law in effect at the time the contract was approved, if state funds are paid directly to the district or school.

C.S.H.B. 130 requires the commissioner, using information provided to TEA in the annual reports required of districts operating an enhanced program and using funds available for such purpose in an amount not to exceed \$150,000, to contract for an evaluation of the enhanced program's effectiveness in promoting student achievement and school readiness. The bill adds a

temporary provision, set to expire December 1, 2016, requiring the commissioner, not later than December 1, 2012, to deliver an interim report to the legislature containing the preliminary results of the evaluation, and, not later than December 1, 2016, to deliver a final report regarding the program.

C.S.H.B. 130 defines "enhanced program" or "program" to mean an enhanced quality full-day prekindergarten program provided free of tuition or fees in accordance with the bill's provisions.

C.S.H.B. 130 makes an open-enrollment charter school subject to certain provisions relating to an enhanced quality full-day prekindergarten program, as an alternative to provisions relating to kindergarten and prekindergarten programs.

C.S.H.B. 130 makes its provisions applicable beginning with the 2009-2010 school year.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 130 omits provisions in the original authorizing a school district either to operate prekindergarten classes on a full-day basis, using any combination of Foundation School Program funding, local funds, authorized tuition, and applicable grants, or to operate enhanced prekindergarten classes on a full-day basis in accordance with the enhanced quality full-day prekindergarten program, as provided by the bill, using funding provided under the Foundation School Program for that purpose, as an alternative to the requirement that a prekindergarten class under provisions relating to free prekindergarten for certain children be operated on a half-day basis.

C.S.H.B. 130 adds a provision not in the original to make an open-enrollment charter school subject to statutory or regulatory prohibitions, restrictions, and requirements, as applicable, relating to prekindergarten programs either under provisions governing kindergarten and prekindergarten or under provisions governing enhanced quality full-day prekindergarten programs established by the bill.

C.S.H.B. 130 differs from the original by providing in the definition of "enhanced program" and "program," as applicable to the enhanced quality full-day prekindergarten program, that such program is provided free of tuition or fees.

C.S.H.B. 130 differs from the original by requiring the commissioner of education, from funds appropriated for such purpose, by rule to establish a grant program to award grants to school districts to implement enhanced quality full-day prekindergarten programs as provided by the bill, rather than authorizing a district to offer such a program as in the original.

C.S.H.B. 130 adds provisions not in the original authorizing a district to apply to the commissioner to participate in the grant program and requiring the commissioner, in awarding such grants for each school year, to give priority to certain districts in a certain order.

C.S.H.B. 130 adds provisions not in the original requiring each program class to have at least one certified teacher and requiring a community provider, in the event that such a teacher is unavailable, to require a certified teacher within three years of its receipt of grant funds and, during that interval, require a teacher to have a Child Development Associate certification and three years of relevant experience. The substitute requires a certified teacher in the program to have a minimum of nine semester credit hours of college education courses emphasizing early childhood education, whereas the original does not specify either the teacher's certification nor

the credit hours being semester credit hours.

C.S.H.B. 130 requires a district to select and implement a program curriculum that includes the prekindergarten guidelines established by the Texas Education Agency (TEA), whereas the original requires a district to select the curriculum from the list of curricula approved for that purpose by the commissioner.

C.S.H.B. 130 requires a district providing an enhanced program to use at least 20 percent of its grant funds to contract with one or more eligible community providers to provide the program, whereas the original requires such a district to use for that purpose at least 20 percent of the additional prekindergarten funding available to the district each school year due to the change in law made by ___B. ____, Acts of the 81st Legislature, Regular Session, 2009. The substitute omits a provision in the original making that requirement applicable beginning not later than the second year that the district provides such a program.

C.S.H.B. 130 differs from the original by requiring a good faith effort for a commissioner waiver of the requirement for a district to 20 percent of its grant funding to contract with one or more community providers to be based on the district's not receiving any applications or other indications of interest from such community providers. The substitute requires the commissioner to send written notice to the district and the affected community provider, if applicable, granting or denying a waiver request and authorizes a district or community provider affected by the commissioner's decision to appeal that decision, whereas the original only requires notice to be sent to the district and does not expressly authorize the community provider to appeal.

C.S.H.B. 130, in a provision containing additional eligibility criteria, one of which the community provider must meet, specifies that the community provider must be accredited by a certain accreditation system that requires a developmentally appropriate curriculum that includes math, science, social studies, literacy, and social and emotional components, whereas the original does not include the social and emotional components in the required curriculum.

C.S.H.B. 130 requires a community provider contracting with a school district to meet the applicable eligibility requirements not later than the first anniversary of the date the contract was executed, whereas the original requires such a provider to meet those eligibility requirements not later than the second anniversary of the date the contract was executed.

C.S.H.B. 130 differs from the original, in the provision requiring a written contract between a school district and a community provider governing the services to be provided by the community provider, by expressly stating that such contract is not limited to the types of partnerships enumerated in the bill, whereas the original only authorizes certain provisions in such a contract. The substitute includes in the enumerated types of partnerships, one in which the district leases school facilities to the community provider, whereas the original does not include such an arrangement in the permissible contract provisions.

C.S.H.B. 130 adds a provision not in the original establishing that, except as provided otherwise, the amount of reimbursement provided by a district to a community provider is negotiable between the district and the provider based on the services provided. The substitute differs from the original by adding any special allotments received by a district, in addition to the basic allotment, to the amount a district is required to reimburse a provider for each student in attendance in an enhanced program in which the provider supplies the school facilities, certified teachers, personnel, and supplies. The substitute omits a provision in the original that specifies the student attendance as the average daily attendance.

C.S.H.B. 130 adds a provision not in the original prohibiting a community provider from denying enhanced program services to a student on the basis of the student's race, religion, sex, ethnicity, national origin, or disability.

C.S.H.B. 130 differs from the original by requiring a district's annual report to TEA concerning the enhanced program to include the percentage of the grant funds provided by the bill's provisions used to contract with community providers for enhanced programs and to include data components that illustrate acquisition of knowledge and skills consistent with the prekindergarten guidelines established by the agency, whereas the original requires the report to include the percentage of the total increase in prekindergarten funding as provided by the bill's provisions and any other information required by commissioner rule.

C.S.H.B. 130 omits a provision in the original requiring the commissioner to prepare and deliver to each legislator a biennial report describing efforts to encourage community provider participation in the program and improve parental involvement and to include class size information. The substitute requires the commissioner to require a regional education service center to provide certain types of assistance to a school district and a community provider, whereas the original requires the commissioner to provide technical assistance to those entities through a center. The substitute adds a provision not in the original requiring a center to assist a district in maintaining an updated list of eligible community providers in addition to assisting a district in identifying such providers as in the original. The substitute differs from the original by requiring the assistance provided to an ineligible community provider be informational assistance regarding eligibility requirements, whereas the original specifies assistance in improving quality so that the providers will become eligible to contract with a district.

C.S.H.B. 130 adds provisions not in the original requiring the commissioner, from funds appropriated for such purposes, to award grants under provisions of the bill and to determine the amount of each grant; specifying a grant amount relative to the statewide average per-pupil funding provided to an open-enrollment charter school; and establishing that funding provided for each program student through such a grant is in addition to funding otherwise provided for the student under the Foundation School Program.

C.S.H.B. 130 adds a provision not in the original requiring funds provided for the operation of an enhanced program through a grant awarded under the substitute's provisions to be paid directly to a public school district or open-enrollment charter school. The substitute differs from the original by specifying the legislative intent that such requirement for direct payment to a district or open-enrollment charter school be absolute and that the terms of the requirement be broadly construed so as to prevent the use of public funds for any program having the same effect as a voucher program, whereas the original states as the legislative intent the prohibition on the use of funds to pay for a public education voucher program or a pilot program in which the program uses state funds to pay tuition vouchers for children to attend private school. The substitute differs from the original by establishing that the substitute's legislative intent and requirement regarding program funds do not prohibit the use of state funding by a school district or open-enrollment charter school under a contract entered into by the district or school before January 1, 2009, under a law in effect at the time the contract was approved, if state funds are paid directly to a district or school, whereas the original, in a similar provision, specifies under a law in effect on January 1, 2009, as applicable to the original's legislative intent.

C.S.H.B. 130 adds a provision not in the original requiring the commissioner, in contracting for an evaluation of the effectiveness of the enhanced program, to use information provided to TEA in the annual reports required of districts operating an enhanced program.

C.S.H.B. 130 requires the commissioner, not later than December 1, 2012, to deliver an interim report to the legislature containing the preliminary results of the evaluation and requires the commissioner, not later than December 1, 2016, to deliver to the legislature a final report regarding the program, whereas the original specifies deadlines of December 1, 2010, and December 1, 2012, for the interim and final reports, respectively. The substitute differs from the original by providing that the bill's provisions regarding the commissioner's interim and final reports to the legislature expire December 1, 2016, rather than December 1, 2012, as in the

original.

C.S.H.B. 130 omits provisions in the original entitling a student enrolled in an enhanced program to the benefits of the available school fund and the Foundation School Program and entitling a school district to an annual allotment equal to the adjusted basic allotment multiplied by 0.2 for each student in average daily attendance in an enhanced program.