

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: King of Hemphill

H.B. No. 2442

A BILL TO BE ENTITLED

AN ACT

relating to the minutes of operation required for public school districts, charter schools, and other education programs and to calculating the average daily attendance for certain education programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.081, Education Code, is amended to read as follows:

Sec. 25.081. OPERATION OF SCHOOLS. (a) Except as authorized under Subsection (b) of this section, Section 25.084, or Section 29.0821, for each school year each school district must operate ~~[so that the district provides]~~ for at least 75,600 minutes, including time allocated for ~~[of]~~ instruction, ~~[including]~~ intermissions, and recesses~~[7]~~ for students.

(b) The commissioner may approve the operation of schools ~~[instruction of students]~~ for fewer than the number of minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

(c) If the commissioner does not approve reduced operation ~~[instruction]~~ time under Subsection (b), a school district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes ~~[of instruction]~~ lost due to school closures caused by disaster, flood, extreme weather

conditions, fuel curtailment, or another calamity.

(d) The commissioner may adopt rules to implement this section, including rules:

(1) for the application, on the basis of the minimum minutes of operation [~~instruction~~] required by Subsection (a), of any provision of this title that refers to a minimum number of days of instruction under this section;

(2) to determine the minutes of operation that are equivalent to a day of instruction;

(3) defining instructional time, which may include time allocated for recess and for serving breakfast or lunch to students; and

(4) establishing the minimum number of minutes of instruction required for a full-day and a half-day program to meet the time requirements under Subsection (a).

(e) A school district or education program is exempt from the minimum minutes of operation requirement if the district's or program's average daily attendance is calculated under Section 42.005(j). The commissioner may establish the alternative minimum minutes of operation required for a district or program that is subject to Section 42.005(j). The commissioner's determination under this subsection is final and may not be appealed [~~For purposes of this code, a reference to a day of instruction means 420 minutes of instruction~~].

(f) The commissioner may proportionally reduce the amount of funding a district receives under Chapter 41, 42, or 46 and the average daily attendance calculation for the district if the

1 district operates on a calendar that provides fewer minutes of  
2 operation than required under Subsection (a).

3 SECTION 2. The heading to Section 25.082, Education Code,  
4 is amended to read as follows:

5 Sec. 25.082. [~~SCHOOL DAY,~~] PLEDGES OF ALLEGIANCE; MINUTE OF  
6 SILENCE.

7 SECTION 3. Section 29.0822(c), Education Code, is amended  
8 to read as follows:

9 (c) Except in the case of a course designed for a student  
10 described by Subsection (a)(3), a course offered in a program under  
11 this section must provide for at least the same number of  
12 instructional hours as required for a course offered in a program  
13 that meets the required minimum number of minutes of operation  
14 [~~instructional days~~] under Section 25.081 [~~and the required length~~  
15 ~~of school day under Section 25.082~~].

16 SECTION 4. Section 29.087(j), Education Code, is amended to  
17 read as follows:

18 (j) For purposes of funding under Chapters 41, 42, and 46, a  
19 student attending a program authorized by this section may be  
20 counted in attendance only for the actual number of hours each  
21 school day the student attends the program, in accordance with  
22 Section [~~Sections~~] 25.081 [~~and 25.082~~].

23 SECTION 5. Subchapter E, Chapter 29, Education Code, is  
24 amended by adding Section 29.162 to read as follows:

25 Sec. 29.162. DETERMINATION OF FULL-DAY AND HALF-DAY. The  
26 commissioner may adopt rules for this subchapter establishing  
27 full-day and half-day minutes of operation requirements as provided

1 by Section 25.081.

2 SECTION 6. Section 30A.104(a), Education Code, is amended  
3 to read as follows:

4 (a) A course offered through the state virtual school  
5 network must:

6 (1) be in a specific subject that is part of the  
7 required curriculum under Section 28.002(a);

8 (2) be aligned with the essential knowledge and skills  
9 identified under Section 28.002(c) for a grade level at or above  
10 grade level three; and

11 (3) be the equivalent in instructional rigor and scope  
12 to a course that is provided in a traditional classroom setting  
13 during[÷

14 [~~(A)~~] a semester of 90 instructional days[÷~~and~~

15 [~~(B)~~ a school day that meets the minimum length  
16 of a school day required under Section 25.082].

17 SECTION 7. Section 37.008(a), Education Code, is amended to  
18 read as follows:

19 (a) Each school district shall provide a disciplinary  
20 alternative education program that:

21 (1) is provided in a setting other than a student's  
22 regular classroom;

23 (2) is located on or off of a regular school campus;

24 (3) provides for the students who are assigned to the  
25 disciplinary alternative education program to be separated from  
26 students who are not assigned to the program;

27 (4) focuses on English language arts, mathematics,

1 science, history, and self-discipline;

2 (5) provides for students' educational and behavioral  
3 needs;

4 (6) provides supervision and counseling; and

5 (7) employs only teachers who meet all certification  
6 requirements established under Subchapter B, Chapter 21[~~, and~~

7 [~~(8) provides not less than the minimum amount of~~  
8 ~~instructional time per day required by Section 25.082(a)~~].

9 SECTION 8. Section 42.005, Education Code, is amended by  
10 amending Subsection (a) and adding Subsections (i), (j), (k), (l),  
11 and (m) to read as follows:

12 (a) In this chapter, average daily attendance is:

13 (1) the quotient of the sum of attendance for each day  
14 of the minimum number of days of instruction as described under  
15 Section 25.081(a) divided by the minimum number of days of  
16 instruction;

17 (2) for a district that operates under a flexible year  
18 program under Section 29.0821, the quotient of the sum of  
19 attendance for each actual day of instruction as permitted by  
20 Section 29.0821(b)(1) divided by the number of actual days of  
21 instruction as permitted by Section 29.0821(b)(1); ~~[or]~~

22 (3) for a district that operates under a flexible  
23 school day program under Section 29.0822, the average daily  
24 attendance as calculated by the commissioner in accordance with  
25 Sections 29.0822(d) and (d-1); or

26 (4) for a district that operates a half-day program,  
27 one-half of the average daily attendance calculated under

Subdivision (1).

(i) A district that operates a half-day prekindergarten program is eligible to receive the half-day average daily attendance calculation under Subsection (a)(4) if the district's prekindergarten program provides at least 32,400 minutes of instruction to students.

(j) Notwithstanding Subsection (a), the commissioner may calculate the average daily attendance of a district using an alternative minimum amount of minutes of operation for:

(1) a dropout recovery school or program; and

(2) a school program offered at a residential or correctional facility.

(k) The commissioner may determine the qualifications to be considered a dropout recovery school for the purposes of Subsection (j). The qualifications selected by the commissioner may differ from the qualifications required for a dropout recovery school under Sections 12.137 and 39.0548.

(l) On application from an open-enrollment charter school or a charter school operating under Subchapter E, Chapter 12, the commissioner shall calculate the average daily attendance for the school using an alternative minimum amount of minutes of operation if:

(1) during the 2014-2015 school year, the school was eligible to earn a full average daily attendance calculation under the applicable law governing the school during that school year; and

(2) the school provides at least the same amount of

1 instruction to students as the school provided during the 2014-2015  
2 school year and is no longer eligible to earn the full average daily  
3 attendance during the current school year.

4 (m) To assist school districts in implementing this section  
5 as amended by H.B. 2442, Acts of the 85th Legislature, Regular  
6 Session, 2017, or similar legislation, the commissioner may waive a  
7 requirement of this section or adopt rules to implement this  
8 section. This subsection expires September 1, 2018.

9 SECTION 9. Section 25.082(a), Education Code, is repealed.

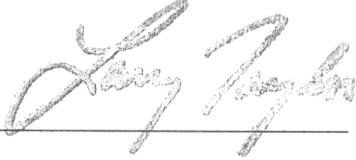
10 SECTION 10. This Act applies beginning with the 2018-2019  
11 school year.

12 SECTION 11. This Act takes effect immediately if it  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for immediate  
16 effect, this Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

*Leta Spauld*  
Secretary of the Senate

By: 

H.B. No. 2442

Substitute the following for H.B. No. 2442:

By: 

C.S. H.B. No. 2442

A BILL TO BE ENTITLED

AN ACT

relating to the minimum amount of student instruction required to be provided by public schools and education programs and calculation of average daily attendance for public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 25.081(a), (b), and (c), Education Code, are amended to read as follows:

(a) Except as authorized under [~~Subsection (b) of~~] this section, Section 25.084, or Section 29.0821, for each school year each school district must operate so that the district provides for at least 180 days of instruction for students. A district may elect to provide less than 180 days of instruction for students if the district provides at least 75,600 minutes of instruction, including intermissions and recesses, for students.

(b) The commissioner may approve the instruction of students for fewer than the number of days or minutes required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

(c) If the commissioner does not approve reduced instruction time under Subsection (b), a school district may add additional days to the district's normal school calendar or additional minutes to the end of the district's normal school hours as necessary to compensate for days or minutes of instruction lost due to school closures caused by disaster, flood, extreme weather



1 conditions, fuel curtailment, or another calamity.

2 SECTION 2. Section 25.082, Education Code, is amended by  
3 amending Subsection (a) and adding Subsection (a-1) to read as  
4 follows:

5 (a) A school day shall be at least seven hours each day,  
6 including intermissions and recesses, except as provided by  
7 Subsection (a-1).

8 (a-1) Subsection (a) does not apply to a campus that only  
9 operates a program authorized as a half-day program by law or by  
10 rule or to a charter school operating under Chapter 12.

11 SECTION 3. Section 42.005, Education Code, is amended by  
12 amending Subsection (a) and adding Subsections (a-1), (g-1), and  
13 (i) through (o) to read as follows:

14 (a) In this chapter, average daily attendance is:

15 (1) the quotient of the sum of attendance for each day  
16 [~~of the minimum number of days~~] of instruction as described under  
17 Section 25.081(a) divided by the actual [~~minimum~~] number of days of  
18 instruction;

19 (2) for a district that operates under a flexible year  
20 program under Section 29.0821, the quotient of the sum of  
21 attendance for each actual day of instruction as permitted by  
22 Section 29.0821(b)(1) divided by the number of actual days of  
23 instruction as permitted by Section 29.0821(b)(1); or

24 (3) for a district that operates under a flexible  
25 school day program under Section 29.0822, the average daily  
26 attendance as calculated by the commissioner in accordance with  
27 Sections 29.0822(d) and (d-1).

1       (a-1) For purposes of calculating average daily attendance,  
2 a student is eligible for inclusion on the basis of a full day of  
3 attendance if the student is enrolled for at least 240 minutes of  
4 instructional time.

5       (g-1) The commissioner shall adopt rules to calculate  
6 average daily attendance for students participating in a blended  
7 learning program in which classroom instruction is supplemented  
8 with applied workforce learning opportunities, including  
9 participation of students in internships, externships, and  
10 apprenticeships.

11       (i) A district or a charter school operating under Chapter  
12 12 that operates a prekindergarten program is eligible to receive  
13 one-half of average daily attendance under Subsection (a) if the  
14 district's or charter school's prekindergarten program provides at  
15 least:

16               (1) 32,400 minutes of instructional time to students;

17 or

18               (2) 180 days of instruction to students, with a number  
19 of hours of instruction per day that results in the equivalent of  
20 32,400 minutes of instructional time.

21       (j) A district or charter school is eligible to earn full  
22 average daily attendance under Subsection (a) if the district or  
23 school provides at least 43,200 minutes of instructional time to  
24 students enrolled in:

25               (1) a dropout recovery school or program operating  
26 under Section 12.1141(c) or Section 39.0548;

27               (2) an alternative education program operating under

1 Section 37.008, if Section 25.082(a) does not apply to the program;

2 (3) a school program located at a day treatment  
3 facility, residential treatment facility, psychiatric hospital, or  
4 medical hospital;

5 (4) a school program offered at a correctional  
6 facility; or

7 (5) a school operating under Section 29.259.

8 (k) A charter school operating under a charter granted under  
9 Chapter 12 before September 1, 2015, is eligible to earn full  
10 average daily attendance under Subsection (a), as that subsection  
11 existed immediately before September 1, 2015, for:

12 (1) all campuses of the charter school operating  
13 before September 1, 2015; and

14 (2) any campus or site expansion approved on or after  
15 September 1, 2015.

16 (l) A school district campus described by Section  
17 25.082(a-1) or charter school may operate more than one program and  
18 be eligible for full average daily attendance for each program if  
19 the programs operated by the district campus or charter school  
20 satisfy all applicable state and federal requirements.

21 (m) In accordance with rules adopted by the commissioner,  
22 each charter school operating under Chapter 12 shall notify the  
23 commissioner if the charter school will provide:

24 (1) at least 180 days of instruction for students; or

25 (2) less than 180 days of instruction for students,  
26 but at least 75,600 minutes of instruction, including intermissions  
27 and recess.

1       (n) The commissioner shall adopt rules necessary to  
2 implement this section, including rules that:

3           (1) establish the minimum amount of instructional time  
4 per day that allows a school district or charter school to be  
5 eligible for full average daily attendance, which may differ based  
6 on the instructional program offered by the district or charter  
7 school;

8           (2) establish the requirements necessary for a school  
9 district or charter school to be eligible for one-half of average  
10 daily attendance, which may differ based on the instructional  
11 program offered by the district or charter school; and

12           (3) proportionally reduce the average daily  
13 attendance for a school district if any campus or instructional  
14 program in the district provides fewer than the required minimum  
15 days or minutes of instruction to students.

16       (o) To assist school districts in implementing this section  
17 as amended by H.B. 2442, Acts of the 85th Legislature, Regular  
18 Session, 2017, or similar legislation, the commissioner may waive a  
19 requirement of this section or adopt rules to implement this  
20 section. This subsection expires at the end of the 2018-2019 school  
21 year.

22       SECTION 4. Section 25.081(e), Education Code, is repealed.

23       SECTION 5. This Act applies beginning with the 2017-2018  
24 school year.

25       SECTION 6. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

*L. Taylor*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: L. Taylor

1 Amend C.S.H.B. No. 2442 (senate committee printing) in  
2 SECTION 3 of the bill, amending Section 42.005, Education Code, by  
3 striking added Section 42.005(a-1) and substituting the following:  
4 (a-1) For purposes of calculating average daily attendance,  
5 a student must be enrolled for at least 240 minutes of instructional  
6 time to be eligible for a full day of attendance.

ADOPTED

V V  
MAY 24 2017

*L. Taylor*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: L. Taylor

1 Amend C.S.H.B. No. 2442 (senate committee printing) by  
2 adding the following appropriately numbered SECTIONS to the bill  
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Section 21.401, Education Code, is amended by  
5 amending Subsection (b) and adding Subsection (c-1) to read as  
6 follows:

7 (b) Except as provided by Subsection (c-1), an [An] educator  
8 employed under a 10-month contract must provide a minimum of 187  
9 days of service.

10 (c-1) If a school district anticipates providing less than  
11 180 days of instruction for students during a school year, as  
12 indicated by the district's academic calendar, the district may  
13 reduce the number of days of service required by this section  
14 proportionately. A reduction by the district does not reduce an  
15 educator's salary.

16 SECTION \_\_\_\_\_. Section 21.401, Education Code, as amended by  
17 this Act, applies only to a contract executed on or after the  
18 effective date of this Act. A contract executed before the  
19 effective date of this Act is governed by the law in effect on the  
20 date the contract was executed, and the former law is continued in  
21 effect for that purpose.

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2442** by King, Ken (Relating to the minimum amount of student instruction required to be provided by public schools and education programs and calculation of average daily attendance for public school students. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Education Code to provide school districts the choice of basing each school year on a minimum of 75,600 minutes, or 180 days, of instruction. The bill would require a school day to be at least seven hours each day unless the campus operates a program authorized as a half-day program or a charter school operating under Chapter 12, of the Education Code.

The bill would require the Commissioner of Education to adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships.

The bill would amend the Education Code to provide for a minimum number of minutes or days of instruction based on the type of educational program provided.

Based on information provided by the Texas Education Agency, this analysis assumes that any costs associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would apply beginning with the 2017-18 school year.

**Local Government Impact**

Local education agencies and charter schools would have additional flexibility in their operations.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, AH, RC



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 22, 2017**

**TO:** Honorable Larry Taylor, Chair, Senate Committee on Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2442** by King, Ken (Relating to the minimum amount of student instruction required to be provided by public schools and education programs and calculation of average daily attendance for public school students.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Education Code to provide school districts the choice of basing each school year on a minimum of 75,600 minutes, or 180 days, of instruction. The bill would require a school day to be at least seven hours each day unless the campus operates a program authorized as a half-day program or a charter school operating under Chapter 12, of the Education Code.

The bill would require the Commissioner of Education to adopt rules to calculate average daily attendance for students participating in a blended learning program in which classroom instruction is supplemented with applied workforce learning opportunities, including participation of students in internships, externships, and apprenticeships.

The bill would amend the Education Code to provide for a minimum number of minutes or days of instruction based on the type of educational program provided.

Based on information provided by the Texas Education Agency, this analysis assumes that any costs associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would apply beginning with the 2017-18 school year.

**Local Government Impact**

Local education agencies and charter schools would have additional flexibility in their operations.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, AH, RC

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 12, 2017**

**TO:** Honorable Larry Taylor, Chair, Senate Committee on Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2442** by King, Ken (Relating to the minutes of operation required for public school districts, charter schools, and other education programs and to calculating the average daily attendance for certain education programs.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would modify Chapter 29 of the Education Code related to the number of minutes required in a school year and the Commissioner of Education's authority to determine the number of minutes required for a full-day and half-day of operation and an alternative minimum of minutes of operation under certain circumstances.

The Texas Education Agency indicates that any additional cost associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would apply beginning with the 2018-19 school year.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, AH

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 17, 2017

**TO:** Honorable Dan Huberty, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2442** by King, Ken (Relating to the minutes of operation required for public school districts, charter schools, and other education programs and to calculating the average daily attendance for certain education programs.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would modify Chapter 29 of the Education Code related to the number of minutes required in a school year and the Commissioner of Education's authority to determine the number of minutes required for a full-day and half-day of operation and an alternative minimum of minutes of operation under certain circumstances.

The Texas Education Agency indicates that any additional cost associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would apply beginning with the 2018-19 school year.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, AH

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 3, 2017**

**TO:** Honorable Dan Huberty, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2442** by King, Ken (Relating to the minutes of operation required for public school districts, charter schools, and other education programs and to calculating the average daily attendance for certain education programs.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would modify Chapter 29 of the Education Code related to the number of minutes that are required in a school year and the Commissioner of Education's authority to determine the number of minutes required for a full-day and half-day of operation and an alternative minimum amount of minutes of operation under certain circumstances.

The Texas Education Agency indicates that any additional cost associated with implementing the provisions of the bill could be absorbed within existing resources.

The bill would apply beginning with the 2017-18 school year.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 701 Texas Education Agency

**LBB Staff:** UP, THo, AM, AH