

The State Board of Education (SBOE) proposes an amendment to §74.27, concerning innovative courses and programs. The proposed amendment would update innovative course application and approval requirements.

BACKGROUND INFORMATION AND JUSTIFICATION: After the SBOE adopted new rules concerning graduation requirements, the previously approved experimental courses were phased out as of August 31, 1998. Following the adoption of the Texas Essential Knowledge and Skills (TEKS), school districts now submit requests for innovative course approval for courses that do not have TEKS. The process currently outlined in §74.27 provides authority for the commissioner of education to approve discipline-based courses but reserves for SBOE review and approval those courses that do not fall within any of the subject areas of the foundation or enrichment curriculum.

Each year, the Texas Education Agency (TEA) provides the opportunity for school districts and other entities to submit applications for proposed innovative courses. The board last amended §74.27 in November 2022 to require that an applicant for an innovative course pilot the proposed course in a Texas school prior to seeking approval from the SBOE. At the April 2023 SBOE meeting, TEA staff provided an overview of the innovative course approval process, including key data related to historical implementation of innovative courses. At the June 2023 meeting, the SBOE Committee on Instruction discussed possible amendments to §74.27.

The proposed amendment to §74.27 would shift from the commissioner to the SBOE the authority to approve innovative courses that fall under the foundation or enrichment curriculum, specify the number of years for initial approval and renewal of innovative courses, and exempt career and technical education courses that support an approved program of study from the pilot requirement. It would also require TEA to conduct a periodic review of all approved innovative courses and identify courses for possible sunset in accordance with specific criteria.

The SBOE approved the proposed amendment for first reading and filing authorization at its September 1, 2023 meeting.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and programs, has determined that for the first five years the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by modifying the requirements for state approval of innovative courses and shifting from the commissioner to the SBOE the authority to approve innovative courses that fall under the foundation or enrichment curriculum.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing districts and entities that submit applications for innovative courses clearer guidance regarding expectations for innovative courses. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data or reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 13, 2023, and ends at 5:00 p.m. on November 13, 2023. A form for submitting public comments is available on the TEA website at <https://tea.texas.gov/about-tea/laws-and-rules/sboe-rules-tac/proposed-state-board-of-education-rules>. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in November 2023 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on October 13, 2023.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §28.002(f), which authorizes local school districts to offer courses in addition to those in the required curriculum for local credit and requires the State Board of Education to be flexible in approving a course for credit for high school graduation.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.002(f).

<rule>

§74.27. Innovative Courses and Programs.

- (a) A school district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.
 - (1) The State Board of Education (SBOE) may approve any course that does not fall within any of the subject areas listed in the foundation and enrichment curricula when the applying school district or organization demonstrates that the proposed course is academically rigorous and addresses documented student needs.
 - ~~[(2) The commissioner of education may approve a discipline-based course in the foundation or enrichment curriculum when the applying school district or organization demonstrates that the proposed course is academically challenging and addresses documented student needs.]~~
 - (2) ~~[(3)]~~ Applications shall not be approved if the proposed course significantly duplicates the content of a Texas Essential Knowledge and Skills (TEKS)-based course or can reasonably be taught within an existing TEKS-based course.
 - (3) ~~[(4)]~~ To request approval from the SBOE or the commissioner, the applying school district or organization must submit a request for approval at least six months before planned implementation that includes:
 - (A) a description of the course and its essential knowledge and skills;
 - (B) the rationale and justification for the request in terms of student need;
 - (C) data that demonstrates successful piloting of the course in Texas;
 - (D) a description of activities, major resources, and materials to be used;
 - (E) the methods of evaluating student outcomes;

- (F) the qualifications of the teacher;
 - (G) any training required in order to teach the course and any associated costs; and
 - (H) the amount of credit requested.
- (4) ~~(5)~~ To request approval from the commissioner for a career and technical education innovative course, the applying school district or organization must submit with its request for approval evidence that the course is aligned with state and/or regional labor market data.
- (5) ~~(6)~~ To request approval of a new innovative course, the applying school district or organization must submit with its request for approval evidence that the course has been successfully piloted in its entirety in at least one school in the state of Texas.
- (6) The requirements of paragraphs (3)(C) and (5) of this subsection do not apply to the consideration of a course developed to support a program of study in career and technical education.
- (7) Newly approved innovative courses shall be approved for a period of three years, and courses approved for renewal shall be approved for a period of five years.
- (8) ~~(7)~~ With the approval of the local board of trustees, a school district may offer, without changes or deletions to content ~~modifications~~ , any state-approved innovative course.
- (9) Texas Education Agency shall review all approved innovative courses once every two years and provide for consideration for sunset a list of innovative courses that meet the following criteria:
- (A) approved as an innovative course for at least three years;
 - (B) two consecutive years of zero enrollment;
 - (C) average enrollment of less than 100 students statewide;
 - (D) available at an average of fewer than 20 districts or charter schools statewide;
 - (E) duplicative of another innovative or TEKS-based course; or
 - (F) approved for implementation as a TEKS-based course.
- (b) An ethnic studies course that has been approved by the SBOE ~~commissioner~~ as an innovative course shall be considered by ~~presented to~~ the SBOE at a subsequent meeting ~~for discussion and consideration~~ for inclusion in the TEKS.
- (1) Only comprehensive ethnic studies courses in Native American studies, Latino studies, African American studies, and/or Asian Pacific Islander studies, inclusive of history, government, economics, civic engagement, culture, and science and technology, shall be considered by ~~presented to~~ the SBOE ~~for consideration~~ .
 - (2) The chair of the Committee on Instruction, in accordance with SBOE Operating Rule 2.5(b), shall collaborate with the board chair to place the item on the next available Committee on Instruction agenda following SBOE ~~commissioner~~ approval of the innovative course.