

SUBJECT: Public Education Code revision

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Sadler, Dear, Grusendorf, Hernandez, Hochberg, McCoulskey,
Uher, West, Williamson

0 nays

SENATE VOTE: On final passage, March 27 — 28-2 (Luna, Truan)

WITNESSES: For — G.K. Sprinkle, Texas Counseling Association; Kevin O'Hanlon,
Healthcare America Inc.; Bill Grusendorf, Texas Association of Rural
Schools

Against — None

On — Al Kauffman; Johnny Veselka, Richard Powell, Texas Association
of School Administrators; Patrick Francis, Texas Association of School
Boards; Joe Bill Watkins, Association of American Publishers; Bill Farney,
University Interscholastic League; Larry Bradley, Texas Association of
Secondary School Principals; Lonnie Hollingsworth, Texas Classrooms
Teachers Association; Bill Carpenter, Texas School Alliance; Mike
McLamore, Association of Texas Professional Educators

BACKGROUND: **Public education in Texas**

During fiscal 1993-94 the state spent roughly \$8.6 billion and local
governments spent roughly \$9.2 billion to fund the Texas public education
system. The system serves 3.6 million elementary and secondary school
students.

The Central Education Agency (CEA) guides, monitors and provides
services to the state's public education system. The CEA is composed of
the commissioner of education, the State Board of Education (SBOE) and
the Texas Education Agency (TEA).

Twenty regional education service centers established by TEA provide services and technical support to schools within their regions. These service centers are funded by the state and by fees paid by the school districts they serve.

The state has 1,046 school districts, each serving students in grades pre-kindergarten through 12. Almost 60 percent of the school districts have three or fewer campuses — typically one elementary school, one middle school, and one high school. There are over 6,300 public school campuses in Texas, and over 60 percent of these serve students in the elementary grades.

School districts — except for state-administered districts such as those administered by the Texas Department of Mental Health and Mental Retardation — are governed by locally elected boards of trustees. A board selects a district superintendent to manage the district's day-to-day operations and implement the school board's policies.

School districts have 269,690 full-time employees, including 226,560 teachers, 10,839 campus administrators, 4,049 central administrators, and 28,242 professional support staff. Teachers make up 52 percent of district staff.

Background to CSSB 1

SB 7 by Ratliff, 73rd Legislature, required that by September 1, 1995, the Central Education Agency be abolished and that the Education Code, with the exception of its school finance chapters, be repealed.

SB 7 instructed the commissioner of education to propose a revision of the Education Code, which was completed in July of 1994. SB 7 also created the Joint Select Committee to Review the Central Education Agency to focus attention on the delivery of educational programs and services in the Texas public school system.

The Joint Committee, made up of five senators, five representatives and seven public members, adopted 64 recommendations that included suggestions to adopt a single set of measurable goals for public education,

impose a zero tolerance student discipline program, create a State Board for Educator Certification and look into certain "school choice" options such as intradistrict transfers, magnet schools, and charter schools.

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POINT-BY-
POINT
ANALYSIS:

Texas Education Agency (Chapter 7)

The Texas Education Agency (TEA) under the management of the commissioner of education, accredits school districts, operates research and development programs, provides technical and curriculum assistance, monitors federal and state guideline compliance and distributes state and federal funds to school districts. In 1994-95 TEA employed approximately 1,030 staff members.

CSSB 1 provides for the TEA and the commissioner to maintain most of their current functions and to assume duties previously under the SBOE. Educational functions not specifically delegated to the TEA are reserved and would be performed by the school districts.

Commissioner of education (Chapter 7)

CSSB 1 provides that the State Board of Education (SBOE) would no longer nominate a commissioner candidate for the governor to appoint. The governor would select the commissioner, whose four-year term would coincide with the governor's. As now, the commissioner's appointment would be subject to Senate confirmation.

The bill lists 44 responsibilities for the commissioner, including providing certification for educators, adopting a teacher appraisal process and hearing appeals of school law cases.

The commissioner would retain the authority to grant schools waivers from education regulations for up to three years. However, the commissioner could not grant waivers from rules regarding essential elements, minimum graduation requirements, extracurricular activities, health and safety, class size limits, removal of disruptive students and employee rights and benefits.

Supporters say the governor should appoint the commissioner of education. The governor is known to the public and can be held accountable for appointments; most voters do not even know who their SBOE member is. In addition, under current law the SBOE's commissioner candidate must be acceptable to the governor anyway, so

having the governor appoint the commissioner directly would not affect who is chosen.

Opponents say the SBOE — not the governor — should select the commissioner of education, subject to Senate confirmation, thus assuring that the commissioner is accountable to the SBOE and more directly accountable to the public. The commissioner's accountability to the public would be greater if selected by 15 SBOE members than by the governor. The governor makes hundreds of appointments for the public to consider and speaks to all issues affecting the state, while SBOE members focus solely on education and are judged on this basis alone.

State Board of Education (Chapter 7)

The SBOE adopts rules and policies to implement the Legislature's requirements for public education. The 15 members are elected for staggered four-year terms from legislatively drawn districts. Members of the SBOE are reimbursed for their board expenses.

CSSB 1 would not change the number of members of the SBOE or the manner in which they are elected. However, the SBOE would elect its own chair rather than have the governor appoint the chair.

The SBOE would have only the authority specifically granted by statute over the state's public education system. An action taken by the board would have effect only if the board included in the record the legislative authority for the action.

The SBOE's powers and duties would include providing for school board member training, creating "special purpose" school districts (e.g. military school districts), granting charters for programs outside school district facilities and establishing criteria for certifying hearing examiners.

Supporters say the SBOE, which is elected by the voters independently of the governor, should have the authority to select its own chair. Also, SBOE members should continue to be elected by the voters rather than be appointed by the governor. Past SBOE elections have demonstrated that

voters do have an interest in who represents them on the board, and in a 1987 referendum voters strongly preferred an elected board.

Opponents say it is more appropriate for the governor to appoint the chair of the SBOE because the SBOE and the governor must work closely on educational policy.

Other opponents say SBOE members should be appointed by the governor because their electoral districts are so large that voters do not know or communicate with their representatives on the board. A smaller SBOE appointed by the governor would serve the state better because the governor could easily be held accountable for appointments. This system worked well when an appointed board served following the 1984 school reforms.

Regional Education Service Centers (Chapter 8)

Regional Education Service Centers (RESCs) — located in 20 regions throughout the state — provide local school districts and schools with technical services, assistance in educational program development and teacher training. RESCs are supported by state funds and fees assessed for those services.

CSSB 1 would allow school districts to purchase services from any RESC, not just the one in their region. The RESCs' governing boards would remain at seven members and that the commissioner would recommend to the SBOE a policy for the local selection, appointment and membership of the board.

Local school boards (Chapter 11)

CSSB 1 would provide that local school boards of trustees with three or five members may increase to seven or nine members through a resolution. The school board would also be able to limit the terms a board member may serve if the limit was approved by the district's voters.

Boards could vote to elect trustees from single-member districts or from both single-member and at-large districts. Districts electing more than one trustee at large in an election could use cumulative voting.

School board members would have to wait a year after their terms ended to accept employment with the school district.

The powers and duties of a school board would be changed from "managing and governing" to "governing and overseeing" the management of public schools. Powers and duties not specifically delegated to the TEA would be reserved to the local board. The board would be required to adopt an employment policy for district personnel, a description of district administrators' responsibilities and an outline of the district's organizational structure.

The board would not be allowed to charge student fees unauthorized by the education code.

The SBOE would provide for a training course for local school board trustees that could be offered by a Regional Education Service Center or through a private organization. The bill would not require a minimum number of hours of training.

District level and site-based decision-making (Chapter 11)

CSSB 1 would require school districts to develop a district improvement plan with the assistance of a district level planning and decision-making committee. The district decision-making committee would be required to hold at least one yearly meeting after the TEA's district performance report.

The district level decision-making committee would be made up of parents, community representatives, business representatives and district professional staff members. Parents would be elected by parents, and board policy would describe a procedure for selecting community and business representatives, who would appropriately represent the community's diversity. The staff members of the decision-making committee — at least

two-thirds of whom must be teachers — would be nominated and elected by their peers.

Schools would maintain campus and site-based decision-making committees to direct and support student improvement. These committees would have the same makeup as district decision-making committees and would be involved in decisions in areas of planning, budgeting, curriculum, staffing patterns, staff development and school organization. Each campus-level committee would be required to hold at least one annual public meeting after the TEA's annual rating of the campus.

The TEA would annually survey district- and campus-level decision-making committees to determine the involvement of various interests.

Supporters say the state should seek to increase parental and community involvement in the public education process. The inclusion of parents and community representatives in the district- and campus-based decision-making committees would ensure close parental and community involvement and better decisions to serve the interests of the school district and its schools.

Opponents say while including parents, community representatives and school professionals in decision-making processes is a good idea, such decision-making committees should not be given equal powers with an elected school board, even in specified areas.

Decision-making committees should be advisory in nature and should not have veto power over school board decisions involving severance pay, student codes of conduct, and districtwide staff development, as the bill provides.

Home-rule charters (Chapter 12)

CSHB 1 would allow local voters to choose to operate their independent school district as a home-rule school district. A home-rule district would be free of state Education Code rules except for those regarding funding, financial obligations, extracurricular activities (no pass-no play),

accountability, criminal offenses, the Public Information Management System (PEIMS), student admission, and the Teacher Retirement System. A home-rule school district would be subject to federal laws and to rules specifically adopted for home-rule school districts by a two-thirds record vote of the SBOE.

A home-rule school district would be created if a majority of a school district's voters approved a home-rule charter. The home-rule charter would be written by a charter commission appointed by the local school board. The charter commission would consist of school district residents, the majority of which must be parents of school-age children. The school board would be required to appoint a charter commission if the board received a petition signed by a number of district residents equaling at least 5 percent of the number of votes cast in the district in the last gubernatorial election or if two-thirds of the board adopted a resolution to set up the commission. Once authorized to appoint a charter commission, the board would have 30 days to do so.

The home-rule charter could be amended by the board with the approval of the district voters, and voters would petition the board to amend the charter.

A home-rule district charter would have to include:

- a description of the educational program to be offered;
- elementary school class-size limits;
- student performance requirements for continuation of the charter;
- reasons for which the charter may be suspended, revoked, or placed on probation;
- a description of the governing structure of the district and campuses;
- qualifications for professional employees;
- procedures for the health and safety of students and employees, including a requirement that the district obtain a criminal history record for each employee;
- a description of how the district would adopt an annual budget;
- a description of how the district would conduct an annual audit and participate in PEIMS;
- the extent to which the code's rules on district creation, abolition, and consolidation apply to the home-rule district;

- Any other provision the charter commission considered necessary.

The SBOE would be able to place on probation, suspend, or revoke a home-rule charter if the SBOE decided the district violated the charter, did not satisfy generally accepted accounting standards of fiscal management or failed to comply with state law or agency rule.

The procedure the SBOE would adopt to suspend, revoke, or place on probation a home-rule district charter must provide an opportunity for a hearing to the district and to parents of district students

Supporters say home-rule school districts — freed from intrusive and unproductive requirements — would encourage school districts to introduce innovations in the classroom that would benefit both students and teachers.

District school boards and the voters that elect them do not need the state to tell them what is best for their students. School districts are different throughout the state and should not have one set of rules dictated to them from the TEA. Home-rule school districts would be allowed to customize academic programs to match the students they serve, including adjusting the student-teacher ratio in their classrooms. A home-rule school district would more effectively target taxpayer dollars and make better use of school district resources.

The mechanisms set up by CSSB 1 would ensure that adoption of a home-rule charter was truly a community decision, rather than a decision of a selected few. A home-rule charter would have to be discussed and developed by a charter commission made up of community members and then approved by a majority vote of the people.

Opponents say CSHB 1's proposals for home-rule school districts would allow school districts do abandon state-wide policies that have benefited Texas students, teachers and school employees. Many state requirements, such as the 22:1 student-teacher ratio for kindergarten through fourth grade, have greatly helped students and should not be abandoned.

Home rule would create chaos in the state's school districts, as 1,046 different sets of regulations emerged, and would adversely affect class size,

teacher pay and curriculum. Yet, students in each of these districts would be required to pass the same statewide achievement tests.

Due to the low voter turnout in school board elections, a home rule school district could have a small group of citizens elect a majority of the school board — a majority that might make the public schools a vehicle for advancing extreme religious or political agendas.

The state would take a great risk in placing the decisions about educational policy solely in the hands of local officials with inadequate oversight. Local school board members sometimes lack expertise in education or budgetary matters, seek election to school boards as a steppingstone to other elected offices and may not have education's best interests at heart.

All school children should be treated equally and have the same access to the same level of education. A system of home rule school districts would hurt students in districts that are poor or have low academic standards. Education should be of uniform quality statewide.

Other opponents say that while home-rule school districts are not a bad idea, the House version of the proposal would release such districts from uniform state standards that are necessary to ensure educational quality across the state. Home-rule school districts should have to comply with teacher contract and certification standards and with the requirement of a 22:1 student teacher-ratio in the lower grades.

Charter schools (Chapter 12)

Charter schools are independent public schools formed by individuals or organizations that operate according to a charter, or contract, with a public agency, such as a local school board. They operate free of most state regulations and may consist of completely new schools or existing campuses that have converted to charter status.

Eleven states have authorized creation of charter schools. Those states, listed in the order in which they passed charter legislation, are Minnesota, California, Colorado, Massachusetts, Georgia, Michigan, New Mexico,

Wisconsin, Arizona, Kansas and Hawaii. Each state's law varies in how charter schools are formed and operated.

CSSB 1 would permit a local school board to grant a charter to a group of parents and teachers who want to form either an educational program on an existing public school campus (program charter), change an existing public school into a charter school (campus charter), or create a charter school to operate outside of a school district facility (outside charters).

A school board would be required to grant a campus or program charter if the board was presented with a petition signed by a majority of parents and a majority of classroom teachers at that campus. Changes in the charter would be subject to school board approval.

A school board could grant a charter for a program outside of a school district facility upon receipt of an application from any person. The school board would adopt criteria for selecting schools for outside charters, would not be able to unreasonably deny a request for a charter, but could limit the number of charters it grants each school year.

If a school board denied a charter to a program outside of a school district, the board's decision could be appealed to the SBOE. In determining whether to overrule the school board, the SBOE would use the same criteria adopted by the school board for evaluating outside charter applications.

Charter schools and programs would be exempt from school board rules and policies specified in the charter. They would also be exempt from education code rules except those that specifically apply to them. Charter schools and programs would be subject to federal law and state law regarding criminal offenses, the Public Education Information Management System (PEIMS), and state rules specifically applicable to charter schools.

Charter schools and programs would be prohibited from discrimination in admission on the basis of national origin, ethnicity, religion, or disability but could consider a student's age, grade level or academic credentials. However, students' geographic location and place of residence could be

given priority in admission selections by schools with outside charters.

All charters would have to include:

- a description of the education program;
- student performance requirements for continuation of the charter;
- reasons for which the charter could be suspended, placed on probation or revoked;
- prohibitions against discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
- a description of the program's governing structure;
- health and safety procedures for students and employees, including a requirement that the program obtain a criminal history record for each employee.
- a description of how the program would conduct an annual audit and participate in the Public Education Information Management Service (PEIMS).

Outside charters, in addition to the above requirements, would have to include a description of how the program would adopt an annual budget.

Continued operation of the charter school or program would be contingent on satisfactory student performance.

The school board would be able to place on probation, suspend or revoke a charter if the board decided a school violated its charter, did not satisfy generally accepted accounting standards of fiscal management or failed to comply with state law or agency rule.

Supporters say charter schools allow educators to be more innovative and creative and give parents and community leaders more input in public education on the local level.

Unlike other "school choice" programs, charter schools keep public funds in public schools. No public money would be diverted to private schools.

The provisions required in a school charter would protect the public from those who are only interested in making money by starting a charter school.

The vast majority of people who would start charter schools are interested in improving education rather than making money.

The state has recognized that it is important to waive certain regulations to allow schools to try innovative programs. Charter schools would give teachers and parents who want to try new ideas the maximum flexibility they need without having to request a waiver from the education commissioner.

Charter schools would have to produce results or their charters would be revoked. It is worth trying an experiment that is being attempted with some success in other states.

Opponents say those more interested in making money than in providing an education would open schools to take public dollars out of public schools. Since these educational entrepreneurs would take away from elected school boards control over hiring, budgeting, curriculum and student discipline, voters would lose control over spending tax dollars.

Charter schools could violate Judge William Wayne Justice's 1970 federal desegregation order that prohibits the state from making any changes that would result in changing the ethnic makeup of a school's student body by more than one percent. Provisions should be put in the bill to prohibit charter schools from violating Judge Justice's order.

Charter schools are not necessary to achieve the goals their supporters cite. The TEA has granted numerous waivers and approved site-based management to provide campus autonomy. Current law has permitted many opportunities for innovation free from state regulation while at the same time insuring that schools meet important state standards to protect students, teachers and school staff.

Other opponents say while charter schools may be a good idea, they should be required to retain proven educational reforms, such as the 22:1 student teacher ratio for kindergarten through fourth grade. They are public schools and use public money therefore they should not be exempt from the state's minimum employment standards for teacher contracts and certification.

Teacher recruitment and certification (Chapter 21)

CSSB 1 would require the TEA to develop a teacher recruitment program that includes a technology program for high school and college presentations. The commissioner would identify the need for teachers in specific subject areas and would encourage members of under-represented groups to enter the teaching profession.

TEA would handle certification of teachers and administrators. Current alternative certification programs would remain in place.

School districts could issue a permit to teach in their district to a person without TEA certification if the commissioner approved. Only those with at least a bachelor's degree could get a teaching permit, unless they taught only vocational courses.

Supporters say allowing districts to issue teaching permits would bring people with diverse talents and experiences into the teaching profession who otherwise would not enter because of the teacher certification process.

Opponents say allowing districts to issue teacher permits to those uncertified to teach would reduce the quality of teachers hired because there would be no state certification process to guarantee their competence. Local permits would also reduce job opportunities for those who have worked hard to earn teaching certificates. Those who do not want to go through the teacher certification process can get alternative certification under current law.

Teacher contracts (Chapter 21)

Current law provides for two types of contracts for teachers: term and continuing contracts. Term contracts are for terms of one to five years. Continuing contracts continue until the teacher is discharged or resigns. Districts require a probationary contract of two to three years before granting continuing contract status to a teacher.

About 200 of the state's 1,046 school districts use continuing contracts. These districts employ 40 to 50 percent of the state's 226,560 teachers and include major urban districts in Houston, San Antonio, El Paso and Corpus Christi.

CSSB 1 would provide that — except for teachers currently employed under continuing contracts — school districts would be required to hire teachers under term contracts that could not exceed five school years. The term contract would require that an educator be on probationary status during the first two years of employment, with the school board have the option of adding a third probationary year to evaluate the teacher. During the probationary period, the board could decide not to renew a teacher's contract, and the board's decision would be final and could not be appealed.

A superintendent could return a teacher on a term contract to probationary status at the end of any school year. The teacher would be entitled to a notice stating the reasons for the superintendent's decision and could request a hearing before the school board to review the superintendent's decision. The board's decision would be final and could not be appealed.

A teacher would have be given notice of the renewal or non-renewal of a term contract no later than the 30th day before the last day of instruction in a school year.

A teacher could be discharged at any time for good cause, as determined by the board, or because of a financial exigency that required a reduction in personnel. The school board's failure to give notice would constitute an election to employ the teacher for the following school year.

Teachers currently employed under continuing contracts would retain the rights they have under current law and would therefore be entitled to continue in a position with the school district without annual nomination or reappointment until the person resigns, retires, is released from employment because of a reduction in personnel, is dismissed or returns to probationary status.

In the *middle* of a school year a teacher under a continuing contract (or on probationary status) could be discharged for immorality, the final conviction of a felony or crime involving moral turpitude, drunkenness, repeated failure to follow directives or school policies, physical and mental incapacity, or repeated and continuing neglect of duties. At the *end* of the school year a teacher under a continuing contract could be discharged or returned to not more than three years probationary status for the reasons given for discharge during the middle of the year as well as for incompetence, failure to comply with reasonable district requirements for professional improvement, failure to pay debts, addictive drug use, excessive use of alcohol, necessary reductions in district personnel (with those reductions made in reverse order of seniority) or failure to meet accepted standards of conduct as determined by the school board.

Supporters say the law should make it easier to fire incompetent or out-of-control educators. Continuing contract educators are the only class of public school employees who cannot be fired in middle of the school year for good cause.

Frustrated by a cumbersome dismissal process, administrators often set up revolving-door situations in which bad educators are rotated among schools. In more severe cases — such as those involving child abuse — educators are often shuffled into make-work positions where they have no contact with children or are told to stay at home while taxpayers foot the bill for their salaries for up to a year or more.

Continuing contracts amount to life tenure and make it very difficult to fire those teachers who hold them. Term contracts are a sensible alternative, and this bill provides that term contracts could last up to 5 years, even though most term contracts for teachers are only for one year.

The hearing procedures provided by this bill would ensure that personality conflicts would not be the sole reason for the removal of a teacher.

Opponents say the hiring and firing of teachers is often highly politicized and that teachers need protection from administrators who would dismiss them for reasons not related to job performance, such as personal conflicts.

Good, creative educators could be fired even if their only wrongdoing was disagreeing with a principal's management style.

Schools should concentrate on finding and keeping good educators rather than firing bad ones. Simple procedures already exist for firing bad educators. Getting rid of continuing contracts would remove teacher job security, which is a valuable non-salary inducement to attract and keep talented individuals to the teaching profession.

Other opponents say local school districts should have the option of offering continuing contracts to their teachers, as under current law, instead of being forced by the state to offer only fixed-term contracts. Large urban areas need to offer something better than a year-to-year chance of reemployment if they want to attract and keep good teachers. Giving local school districts the option to decide whether they will offer continuing contracts would be more in keeping with CSSB 1's spirit of local control.

Contract hearing procedures (Chapter 21)

Under current law educators (teachers, principals, librarians and counselors) who are on term contracts and continuing contracts (only teachers are eligible for continuing contracts) may request a hearing before a school board considering whether to not renew, suspend or terminate their contracts. Educators under a term contract may have a hearing before a hearing examiner if the local board permits, but teachers under continuing contracts may not.

CSSB 1 would allow an educator to request a hearing before the school board or a committee of the board in cases of the termination, nonrenewal, or suspension of a teacher's term contract. On the request of the board *or* the teacher, a hearing could be held before a hearing examiner.

Hearing examiners would have to be certified by the SBOE, have a license to practice law in Texas, and not have represented or have had their firms represent a school district employee, employee association, administrator, or school district in the two years prior to the hearing. The commissioner would maintain a list of qualified hearing examiners.

The commissioner would set the hearing examiner's hourly rates of compensation, which the school district would pay along with the costs of a certified shorthand reporter at the hearing and the production of any original hearing transcript. Each party would bear its respective costs, including the cost of discovery, if any, and attorney's fees.

At the hearing the burden of proof would be on the school district administration, which would be required to prove its case by a preponderance of the evidence.

Hearing examiners would hear evidence, develop a record of the facts for the school board to consider and issue a recommendation to the board. The board could agree to hear oral arguments from each party at a meeting to consider the examiners recommendations. The board could accept, reject or modify a examiner's conclusions of law or recommended action but could not modify the examiner's record of facts unless it determined that the findings of fact were not supported by substantial evidence.

If the board and the teacher both agreed before the hearing that the decision of the hearing examiner was binding, then the examiner's decision could not be appealed to the commissioner or a court. However, if there was no such agreement, an appeal could be made to the commissioner, who would consider the appeal by looking only at the record of the local hearing. The commissioner could not overturn a school board's decision unless the decision was arbitrary, capricious, or unlawful or was not supported by substantial evidence.

Either party could appeal the decision of the commissioner to a district court in the county in which the school district is located or, upon agreement, to a Travis County district court. The district court could reverse the commissioner's decision only if the commissioner's conclusions of law were erroneous or if the decision was not supported by substantial evidence.

Teachers under probationary or continuing contracts could contest actions to dismiss them by requesting a hearing before the school board, which could be held in public at the teacher's or school board's request. The teacher would have the right to be represented by counsel, hear and present

evidence and cross-examine adverse witnesses. A teacher would have the right to appeal to the commissioner, and either party could appeal the commissioner's decision to a Travis County district court.

A school board would be allowed, with the approval of a district-level committee, to adopt a severance pay policy. The severance pay would have to be an amount equal to at least 5 percent of the annual salary multiplied by the number of years the educator had been employed by the district. When severance pay was provided, the board would not have to give the reason for renewal or provide a hearing, and the educator could not appeal the board's decision to not renew.

Supporters say CSSB 1 would streamline the long, drawn out hearing and appeals process for handling contract disputes between school districts and educators on term contracts. The current hearings and appeals process is overly and unnecessarily cumbersome. CSSB 1 would ensure that educator contract disputes are handled efficiently, would protect teachers' due process rights and expand teachers' rights by allowing them to request a hearing examiner to hear their case. The board would no longer have the sole right to request a hearing examiner.

Opponents say requiring a hearing examiner if either party requested one would in practice turn into a requirement for hearing examiners for all hearings. This would create a burden on many local school districts where hearing officers have not been necessary in the past because the local school board handled a teacher's case fairly. Locally elected school boards should continue to have control over how to dismiss an educator.

Districts should not be allowed to fire a term contract teacher without a reason, a hearing or an appeal by choosing instead to grant severance pay.

Other opponents say that while CSSB 1 would streamline the hearing and appeals process for dealing with educators on term contracts, it would grandfather in existing hearing and appeals provisions for teachers who are on continuing contracts. The bill should be amended to bring continuing contracts under the more streamlined hearing and appeal process that would apply to the new type of fixed-term contracts.

Also, the commissioner should not have the authority to order reinstatement and back pay when a teacher's suspension, termination, or contract renewal is reversed on appeal.

Teacher and administrator appraisal (Chapter 21)

CSSB 1 would allow school districts to use either their own or the commissioner's recommended teacher appraisal process. Teachers would be appraised at least once a year, would not have to be told when they would be appraised and would have the right to a review and rebut the appraisal and request a second appraisal.

Teachers of extracurricular subjects would be appraised only on their classroom teaching performance.

Administrators would be evaluated annually using a process and criteria developed by the commissioner. School district funds could not be used to pay an administrator who had not been appraised in the preceding 15 months. A principal's appraisal would have to include consideration of the school's performance on the academic excellence indicators and the campus performance objectives.

The commissioner could award performance incentives to principals identified through the evaluation as high-performing. Principals ranked in the top quarter could receive awards of up to \$10,000; those in the second quarter, \$5,000. In addition, seven high-performing principals would be appointed by the governor to advise the commissioner on developing the system for evaluating principals.

Teacher duties and pay (Chapter 21)

CSHB 1 would require from teachers a minimum service of 190 days for a 10-month contract, 210 days for an 11-month contract and 230 days for a 12-month contract. Contracts would continue to provide for 180 days for instruction and three days for teacher preparation, but staff development would increase from 20 hours (three days) to 49 hours (seven days).

Teachers would continue to be required to teach at least four hours each day.

Teachers would have 225 minutes per week for planning and preparation for periods of no less than 45 minutes. Teachers and full-time librarians would have at least a 30-minute duty free lunch period.

Teachers would receive salaries based on the current minimum salary structure. (The current minimum salary is \$1,700.) Teachers who were on the career ladder would be grandfathered in.

Advocates of a teacher pay raise say retaining the state's minimum salary schedule would be a mistake, especially since CSSB 1 adds 4 additional staff development days without additional compensation. Teacher salaries are too low. Texas has approximately 400,000 certified teachers, but only 226,560 of them are actually teaching and there are approximately 300,000 teaching positions to fill. One of the reasons so few of the state's certified teachers choose to teach is that during the last decade Texas teachers' salaries have slipped from 21st to 35th in the nation.

According to one study between 35 percent to 45 percent of teachers are seriously considering leaving the profession, primarily because of salary and working conditions. The same study found that — partly because between 42 to 46 percent of teachers are their family's primary breadwinners — fully one-third of all teachers work summer jobs and nearly one-fourth are moonlighting during the school year to make ends meet.

Over the last decade teachers have increased student performance, reduced dropouts, and accepted more duties and responsibilities. In order to attract more teachers to the profession and retain the hard working teachers the state already has, Texas should increase teachers' salaries.

Class size (Chapter 25)

Current law requires that each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. A school district may not enroll more than 22 students in classes from kindergarten through fourth grade.

CSSB 1 would retain current class size rules but would allow a school district to choose any 12-week period to be exempt from class size requirements if the district population includes migrant workers. Other school districts would be exempt from the requirement during the last 12 weeks of the school year. Home-rule school districts and charter schools would be exempt from class size requirements.

Supporters say the 22:1 student ratio should be required in all schools, including charter and home-rule district schools. According to a study by the Educational Research Service, reducing class size has improved academic achievement in kindergarten through third grade, resulted in higher reading and math achievements for some students, and boosted achievements of poor and minority students. Smaller classes also improve teacher attitudes and morale.

Home-rule school districts and charter schools should have the option to experiment with different class sizes to suit their students' needs. Voters and parents would have enough input into their local school board or charter school to protect their child's best interest.

Opponents say that the cost of mandating a 22:1 student teacher ratio does not yield correspondingly high achievement benefits. Small classes are expensive. According to the US Department of Education, if the average class size were reduced by just one student for one year, the cost would be \$5 billion. Although some studies have shown that smaller classes raise student achievement in kindergarten through third grade and in classes where there is a 15:1 ratio, a study by Arizona State found that size had little to do with student achievement in classes of 20 to 40 pupils.

Other opponents say that if the 22:1 ratio is appropriate for non-charter schools, it is appropriate for charter and home-rule district schools as well. A successful school reform such as mandating small class sizes should not be tampered with.

Prayer in schools (Chapter 25)

CSHB 1 would specify that a public student has, "an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school." No one could require, encourage or coerce a student to engage in or refrain from such prayer or meditation during any school activity.

Supporters say the prayer provision would adequately protect a student's right to pray while not violating the current judicial interpretations of the First Amendment. In addition, the provision respects the rights of other students not to be coerced into religious observance.

Opponents say that the prayer provision would do nothing to give students more rights than they have now. Local school boards should be given authority to institute a moment of silence each day for their students to aid in bringing a sense of values back into the class room. CSSB 1 would not give any help to school boards that currently are afraid to institute a moment of silence in their schools because of a lack of clarity in the law.

Other opponents say that nothing in state law prevents local boards from instituting a moment of silence in their schools, and the decision should remain a local one.

Parental rights (Chapter 26)

CSSB 1 would provide that a parent — defined as a person standing in parental relation — would be granted certain rights to encourage parental participation in schools. Parental rights would be given the broadest legal interpretation possible, subject to a school district's legitimate operational, health and safety concerns. School boards would be required to promptly

and fairly provide due process to a parent who alleges that a right has been denied. The bill would further require school boards to establish at least one parent-teacher organization at each school. Parents would have the right to:

- petition the school board to consider or reconsider an assignment or transfer of their child to a particular school;
- request assignment of a child to a particular class and teacher;
- request the addition of a specific academic class in keeping with the essential elements;
- request that their child be permitted to attend class for credit above their child's grade level unless the board expects the student cannot perform satisfactorily;
- request that their child be permitted to graduate and participate in graduation ceremonies, if their child completes each course required for graduation.

The board's decision on class and teacher assignments would be final and without appeal.

Parents would be entitled to see all teaching materials, textbooks, teaching aids and all school records — test scores, reports, evaluations, etc. — concerning their child. Parents would be entitled to review all tests, including any state assessment test, after it is administered. Parents would also be entitled to notification of the administering of any state assessment test.

Districts would have to get written parental consent to video- or audio-tape a child for the purpose of interrogating or disciplining the child or for evaluating a teacher's performance, but not for the purpose of safety, cocurricular or extracurricular activities.

Parents would be entitled to remove their child from any class or school activity that conflicts with the parent's religious, moral, or ethical beliefs. Parents could exempt their child from receiving instruction concerning a disease if it conflicts with the teachings of a well-established church to which the parent and child belong. However, these provisions would not

exempt a child from having to satisfy the grade level and graduation requirements of the district and the TEA.

School districts would be required to provide each student's parent with a document that lists their parental rights and the school board's phone number, address, meeting place, meeting time and board procedures for addressing problems, requests, or complaints.

Except as required by law, a school board would be required to hold its meetings within the boundaries of the district.

Supporters say if parents are to be involved in their children's education, they should have specific rights to follow their children's progress in school and to influence their child's course of study. The rights outlined in the bill are reasonable and in keeping with many provisions already in the code.

Schools are not the only place where students receive an education. Parents are a child's first and most influential teachers, but too often they are prevented from input about how their children are educated.

The bill would allow schools to specify when parents can look at educational materials, thereby preventing parents from interfering with a teacher's instructional duties. The bill specifies which student records a parent would have access to, and confidential, unrecorded conversations between a student and teacher are not among those records.

Parents should have the right to remove their child from courses that would morally, ethically, or religiously compromise a child's beliefs. The bill would provide that giving parents this right would not prevent a child from meeting the state and district educational requirements.

The fear of lawsuits over the meaning of the parental rights provisions is groundless. The provisions of this bill are clear enough, and opponents are merely using potential lawsuits as a bogeyman.

It is important for school boards to meet within district boundaries so that parents can attend. School boards can find other ways to work together other than meeting in joint sessions outside of the school district.

Opponents say current law already permits parents to do many of the things listed under CSSB 1's parental rights provisions. However, the bill goes too far to expand what parents can do and will lead to many legal battles to determine what certain ambiguous terms mean.

While parents' rights are important, they should not interfere with the teacher's need to serve the best interest of the student. CSSB 1 would improperly allow parents to inspect all teaching materials, which could take valuable time away from a teacher for classroom preparation and instruction. Allowing parents to have access to records and notes concerning a student would improperly allow parents to uncover what a student told a teacher or counselor in confidence, such as a student's pregnancy.

The provision allowing parents to remove a child from a class or school activity due to religious, moral, or ethical beliefs is overly broad because it would allow parents to take their children out of class for almost any reason, thus interfering with the school's duty to educate the student.

Lawsuits would proliferate to determine what legal standard is established by the terms "broadest legal interpretation possible" and "legitimate operational concerns." In addition, requiring "due process" for a parent's complaint about a right being denied would create an incredibly high standard of review — a level too high to be applied simply because a student is denied placement in a certain teacher's classroom.

Requiring school boards to meet within the boundaries of their school districts would prohibit joint meetings with other school boards to consider cooperative alternative education programs or other shared facilities issues.

Other opponents say that if the code grants parents rights, the code should also require parents to have responsibilities, such as ensuring that their children attend school on time and obey school rules.

Student curriculum and advancement (Chapter 28)

CSHB 1 would maintain current law with regard to curriculum for pre-kindergarten through grade 12 school districts.

The required curriculum would include: English language arts and other languages, mathematics, science, health, physical education, fine arts, social studies, economics — with an emphasis on the free enterprise system and its benefits — business education and Texas and U.S. history as individual subjects and in reading courses.

The SBOE would designate essential elements of each subject and would provide for optional subjects in addition to those listed in the code.

A student would be promoted based only on academic achievement or demonstrated proficiency. Parents would be given written notice every six weeks of their child's performance. Districts would develop examinations to determine whether a student could advance a grade level in primary school or gain additional credit in secondary school.

A Texas Advance Placement Incentive Program would give monetary awards to students, teachers, and schools for their success in advanced placement or international baccalaureate programs. Such awards would be subject to availability of funds collected from donations, grants and legislative appropriations.

Education programs (Chapter 29)

CSSB 1 would allow school districts to apply for funding for an extended-year program not to exceed 30 instructional days for at-risk students in kindergarten through eighth grade. Class size would be limited to 12 students. Students attending at least 85 percent of an extended program would be promoted to the next grade level unless the parent requested otherwise. Districts would provide transportation to students required to attend this program.

Districts could require a student whose grade in a subject was lower than 70 to attend tutorials to which the district would provide transportation.

CSSB 1 maintains programs for bilingual, special language, gifted and talented, kindergarten, prekindergarten, vocational, adult, and community education.

Public education grants (Chapter 29)

CSSB 1 would allow a student attending a low-performing school to transfer to another public school in the student's district or any other district chosen by the student's parent. A low-performing school would be one that in the past three years either had been identified as such by the commissioner or comptroller or had 50 percent or more of its students performing unsatisfactorily on a state assessment test.

Receiving schools could accept or reject a student's application. The student's home district would count the departing student in its average daily attendance for school finance purposes. The student's public education grant would be the total state and local funding per student for the home district. Home districts would provide transportation to and from the school the student would otherwise attend.

Supporters say public education grants would help parents of children in low performing schools find an alternative public school that best meets their child's educational needs. Public education grants would also encourage competition among public schools to attract students and to retain the students they have now. Public education grants would, in effect, be public school vouchers, but unlike private school vouchers they would not have the disadvantage of taking public money out of public schools and giving them to private schools. Public education grants give parents school choice with out affecting the financial well being of the public school system.

Opponents say the concept of vouchers should be applied to private schools. If CSSB 1 should allow school choice for private schools for the same reasons it allows choice for public schools.

Textbooks (Chapter 31)

CSSB 1 would require the SBOE to adopt textbooks to be distributed without charge to public school students. The SBOE would adopt traditional textbooks for six years of use and electronic textbooks — computer software, on-line services — for use not longer than four years. SBOE would compile two lists of recommended traditional and electronic textbooks: one list with textbooks that conform to the SBOE's essential elements, the other with textbooks that do not. Local school districts would select one textbook from either the conforming or nonconforming list for each subject and grade level for use during the entire adoption cycle. The current textbook funding system would be maintained.

Supporters say that CSSB 1 would continue to have the SBOE provide needed guidance in the selection of textbooks while at the same time giving districts the opportunity to choose textbooks that would not have to conform to the SBOE's essential elements. The bill would also take an important step for the future by providing for the selection of electronic textbooks.

Opponents say that local boards should be able to choose their textbooks not only from a list provided by the SBOE but also from lists that they themselves prepare based on the input they receive from their communities.

Others argue that the approach of having two different cycles for the purchase of traditional and electronic textbooks would present a system that is risky and uncertain to publishers and, therefore, might discourage participation. The purchasing cycle should be the same for instructional materials regardless of type.

No pass-no play (Chapter 33)

Under current law a student who receives a grade of less than 70 in more than one class during any six-week grade-reporting period is suspended from extracurricular activities during the subsequent six-week reporting period, except the period in which the school is recessed for the summer or during the first grading period of the year, on the basis of grades from the

final period of the previous year. A school principal can waive a suspension if the unsatisfactory grade was in an advanced or honors class.

CSSB 1 would limit the no pass-no play policy to a suspension of three weeks from an extracurricular activity if a student did not receive a grade lower than 70 during that period. Students could practice and rehearse, but could not compete or perform. Advance placement and honors students would continue to be exempted.

Home-rule schools and private schools participating in the University Interscholastic League would be included in the pass-no play policy.

Supporters say the current no pass-no play six-week suspension is too long a period to bar a student from participating in extracurricular activities. For many students the no pass-no play suspension has resulted in alienation and rejection from their teammates and peers. Removed from the positive influence of a coach or school sponsor, some students get involved in gang-related activities.

A six-week suspension period was established not for any academic reason but so that teachers could avoid the mid-term refiguring of grades. A three-week suspension is a long enough period to provide students with a motivation to improve their grades. No additional paperwork would be needed because grades are already checked every three weeks.

Allowing students to participate in extracurricular practices and rehearsals during their suspension from playing or performing would ensure that students get peer pressure to motivate them to raise their grades. Furthermore, students would be ready to participate fully in the extracurricular activity once the suspension is over. In addition, athletes would more likely avoid injuries once they return to the field if they are allowed to continue practices.

Opponents say changing the no pass-no play rules would place extracurricular activities above academics and take away an incentive for students to keep up with their course work. Students who are failing a class need to spend more time studying, not playing sports or enjoying other extracurricular activities. Under the present 6 week rule, coaches and

teachers are more motivated to provide extra academic attention and tutoring.

No serious evidence suggests that juvenile crime has increased among students who have been suspended from activities under no pass-no play. Gang activity is no higher in Texas than in states that do not have suspension rules. Reducing the suspension period to three weeks and allowing students who are suspended to continue to practice and rehearse demonstrates little commitment to get a student to concentrate on academics. Furthermore, students cannot practice for hours a week and still have time to bring up their grades.

Transportation (Chapter 34)

The state currently provides a transportation allotment based on the average number of students transported divided by the approved daily route miles traveled plus the cost of operating the transportation system. Standing children are not allowed on buses of school districts receiving transportation funding.

Districts with more than 50 buses must comply with certain alternative-fuel provisions.

CSSB 1 would maintain the state's transportation allotment (Chapter 42) and withhold state funds to districts that allow standing children on buses. Districts could continue to contract with transportation companies. Alternative-fuel requirements would be eliminated.

Safe schools (Subtitle G)

CSHB 1 would require each school district — with the advice and consent of its district-level committee — to adopt a student code of conduct and set up alternative education programs on and off the school campus for students with serious disciplinary problems. The bill would also provide for a juvenile justice alternative education program and would allow school districts to establish school-community guidance centers to locate and help

children with problems hindering their education. Districts would also be required to adopt and use a discipline management program that would be included in the district improvement plan.

The district-adopted student code of conduct would specify violations that would require:

- a teacher to transfer student to a local-off campus alternative program;
- a principal to transfer a student to a local off-campus alternative program or to a regional alternative education program.

The conduct code would also require a teacher to transfer to an on-campus alternative education program a student whose disruptive, abusive or threatening conduct interfered with the teacher's teaching and other students' learning. The teacher would file with the school principal a written report documenting the student's code violation, which would then be have to be to be sent to the student's parents and guardians.

A principal would have to transfer a student to a local off-campus alternative education program if the student violated the student code of conduct and has been previously suspended or transferred to the school's on-campus alternative program three times in one school year. The principal could also transfer to an off-campus program students who continue to violate the code of conduct while attending the school's on-campus program.

A principal or director of a local off-campus alternative education program could transfer students who continue to violate the code of conduct while in the off-campus program to a regional alternative education program.

Only a juvenile court would be able transfer students to a juvenile justice alternative education program

School districts would be required to fund the on-campus, off-campus, regional, and juvenile justice alternative education programs with the same expenditures it provides per student for the regular education program.

Alternative education programs would have to focus on English language arts, math, science, history and self-discipline. Students sent to an alternative education program would be required to stay no more than five days in an on-campus program and 90 days in an off-campus program. Students or their parents and guardians would be allowed to appeal a decision to send students to an alternative education program.

If a teacher made a reasonable objection to a student's return to the teacher's classroom, the principal would have to place the student in another class if practicable.

Supporters say violence on school campuses has become a major problem. During the 1992-93 school year, 69 percent of teachers reported student assaults on other students and one-fifth of those assaults involved deadly weapons. CSSB 1 provides a plan that would help make schools safer, give teachers rights to remove disruptive students from their classroom, and ensure that students with discipline problems receive the attention they need rather than being turned out on to the streets.

CSSB 1 provides that student conduct codes would be developed on the local level rather than be mandated by the state so that local teachers and parents could determine what their community and schools consider acceptable and unacceptable behavior.

Disruptive students would remain in school or in an alternative education program for their own and the community's good. Such students are not likely to improve their behavior if they are kicked out of school.

Giving disruptive students three chances to improve their behavior while they are in the regular classroom or on-campus program is reasonable and fair. Such students are more likely to change their behavior if they are in the familiar setting of their own school rather than in an off-campus setting, but the bill provides that students who continue to cause disruptions in an on-campus alternative education program could be removed immediately to a off-campus program.

CSSB 1 would allow teachers to remove disruptive students from their classrooms but gives the school principal enough flexibility to return the student to the classroom after being disciplined. The discipline of a student should not be exclusively under the teacher's control. Since teachers are evaluated in part by how well their students perform, some teachers might remove a student to raise the overall academic performance of their classes. In addition, the principal should have the ultimate authority to make disciplinary decisions to ensure that all students are treated consistently and fairly.

Opponents say that CSSB 1, rather than defining which serious offenses would require removal of a student, would create a local-discretion law that would be weaker than current law concerning a teacher's ability to keep disruptive students out of the regular classroom.

Far from being a zero-tolerance proposal, this provision would allow a student who commits a violation of the locally defined code of conduct to commit two more offenses before being removed to an off-campus alternative program. Furthermore, a teacher's ability to keep disruptive students out of the classroom would be quite weak because CSSB 1 would allow a principal to decide if the teacher's refusal to accept the student is reasonable, and if deemed reasonable, whether it is "practicable" to put the student in another classroom. This is even weaker than current law, which lets the teacher appeal against the return of a disruptive student to the superintendent or school board.

CSSB 1 does not provide for sufficient state funding for the alternative education program. It will cost more money to educate students in alternative education programs, but the state, while mandating such programs, does not provide additional money for them, thereby creating tremendous financial burdens on school districts.

Other opponents say that while the safe schools program in the House proposal is a good idea, the bill should not contain any language that would limit the flexibility of principals to return disciplined students to the classroom. Principals are ultimately responsible for their schools and should not have their decisions involving student discipline vetoed by teachers, even in a limited way.

Accountability (Chapter 39)

CSSB 1 would maintain the state's current accountability system. The bill would require the SBOE to establish a statewide program to assess the academic performance of elementary and secondary students. The SBOE, when modifying its assessment program, would be directed to consider the importance of maintaining the stability of its assessment program.

The SBOE would establish a statewide program to test non-exempt students in grades 3 through 8 in reading and math every year. Non-exempt high school students would have to take state exit-level tests in math, social studies, science, English language arts (including writing), would have to pass the reading, writing, and math exit-level tests to graduate, and would be given multiple opportunities to re-take the exit-level tests while they are in high school. Districts would provide an intensive program of instruction for students not passing state assessment tests so that they would be at grade level at the end of the next regular school term.

The SBOE would determine which students, due to physical or mental impairments, would be exempt from taking the state's assessment tests. By December 1996 the commissioner would propose to the Legislature an assessment system for evaluating the progress of these students. By the 1998-1999 school year the performance of exempted students would be required in the district and campus report cards and in the Academic Excellence Indicator System (AEIS), a set of indicators of the quality of learning on a campus used to determine campus accreditation.

District and campus report cards would be published annually by each school board, would have to be discussed in a public school board hearing, and would be used as a primary tool to evaluate the district, the superintendent, school principals and teachers.

In addition to the Successful School Awards, the SBOE could recognize, financially reward, and exempt from certain requirements districts and campuses rated as exemplary.

Sanctions and solutions would be provided for districts and campuses that failed to meet state accreditation standards.

School finance (Subtitle I)

CSSB 1 would make no change to the small-district adjustment and would maintain the present school finance system.

A school facilities down payment program would be created in which a school district with property wealth below \$205,500 and a total effective tax rate of \$1.30 per \$100 or a debt rate of 20 cents per \$100 could apply to the commissioner for state assistance for instructional facilities.

(For additional detail o school finance issues, see the House Research Organization Session Focus, Number 74-12, *School Finance Issues Remain After Ruling*, May 1, 1995.)

Other changes to the Education Code

CSSB 1 would allow for detachment, annexation, consolidation, abolition, and creation of school districts through petition and resolution processes.

Schools operated by the Texas Department of Criminal Justice would remain in the Education Code.

Governance of proprietary schools would be moved from the TEA to the Texas Higher Education Coordinating Board. (Proprietary schools are privately owned educational institutions providing business and technical training at the post-secondary level.)

Private schools would be allowed to join the University Interscholastic League (UIL) if they played by UIL rules. The UIL rules would sunset on January 1, 1997.

Vouchers

CSSB 1 does not provide for publicly funded private school vouchers; the Senate-passed version includes a pilot program for school vouchers. Private school vouchers are fixed sums of public money provided to the families of school age children to pay for tuition at a private school. The

voucher amount could equal or be less than the cost of educating a child in the public school system. Families wishing to send their children to schools costing more than the voucher was worth could supplement the voucher with cash payments.

The only currently operating publicly funded private school voucher program is in Milwaukee, Wisconsin, where low income families — families with incomes below \$25,900 for a family of four — are eligible for \$3,209 vouchers from the state to attend non-sectarian private schools. The enrollment limitation means that 1,450 children are eligible.

Supporters of vouchers say currently only the wealthy can decide to send their children to public or private school, while low-income families often can only afford to send their children to public schools with low academic and safety standards. The central premise of a voucher program is that publicly funded education should benefit children, not governmental institutions. Parents in a free society — rich or poor — should have the right to choose their children's schools.

Vouchers would improve public schools by forcing them to compete for students with private schools. Competition would hold public schools accountable for the education they provide and give them an incentive to improve their performance.

Students would use vouchers to attend schools that are more likely to meet their educational needs because they or their parents chose the school. In addition, studies have shown that private schools, with their emphasis on discipline and high standards, produce better academic results and have more parental involvement than many public schools.

While one study has shown that the academic performance of students in the Milwaukee voucher program is not significantly different from their counterparts in Milwaukee public schools, the results of the Milwaukee program are still not complete. But students from particularly disadvantaged backgrounds did as well in voucher schools as did their public school peers, despite the fact that the cost of the Milwaukee voucher program was approximately half as much as the cost of the public school student's education.

Voucher proposals would provide more money for students who remain in public schools because only a certain percentage of a district's expenditure on the child would go with the child to the private school. The rest stays with the home district, which could increase its per-student spending.

Some of the voucher programs proposed are only pilot programs that would be apply to limited number of students. A student voucher program would be a great opportunity for Texas to boldly experiment with a new way to educate children.

Opponents of vouchers say that vouchers would severely damage the public schools by taking much needed financial and human resources out of the public school system.

At a time when Texas public schools are underfunded, it would be irresponsible to take public money out of public schools to give to private schools. A recent study by the University of Texas LBJ School of Public Affairs estimates that a pilot voucher program in 60 school districts would cost up to \$97 million. Even with fewer students schools would still have to pay for the maintenance of buildings, the salaries of teachers, and other costs that would remain unchanged.

Perhaps even more devastating to public schools than the loss of money would be the loss of students and parents who are concerned about education. Vouchers would be an incentive for good students and supportive parents to abandon their public school rather than support and improve the public school they are in now.

There is no evidence to support the conclusion that vouchers raise student achievement. Indeed, in the Milwaukee schools one study concluded that "no significant impact on education achievement" has been achieved by the voucher program. Last year 23 percent of the participants quit for various reasons.

Claims that private schools are better than public schools are highly questionable. A recent *Money* magazine survey showed that 10 percent of all public schools — about 2,000 nationwide — are as outstanding academically as the nation's 1,500 most prestigious and selective private

schools. More innovation and support of public schools, not less, would improve education generally.

Some of the voucher programs before the House may be unconstitutional because they would provide public money to sectarian (religious) schools, thus violating the First Amendment's separation of church and state. In addition, some voucher proposals may violate the Texas Supreme Court's ruling in *Love v. Dallas*, which prohibits the sending of local taxpayer dollars across district lines. Other proposals may face legal challenges because they would allow locally raised revenue to be distributed without the approval of the local taxing authority that raised it.

A voucher program would be meaningless in over three-quarters of Texas counties, where there are no private schools to choose.

NOTES:

The principal differences between CSSB 1 and the Senate-passed version of SB 1 are:

- Vouchers — CSSB 1 proposes public school vouchers, known as public education grants, which would allow students in low-performing public schools to use grants to pay to go to another public school either inside or outside of their home district; SB 1 proposes a pilot private school voucher program .
- Home rule districts — CSSB 1 would free home-rule districts from more state provisions than SB 1.
- Charter schools — CSSB 1 provides for an unlimited number of charter schools; SB 1 provides for 20.
- Teacher salaries — CSSB 1 retains current law; SB 1 provides a \$92-million pay scale adjustment that would increase teachers' state minimum salaries.
- Teacher's contracts — CSSB 1 requires term contracts for new teachers and grandfathers in teachers currently on continuing contracts; SB 1 would allow both term and continuing contracts.

- Teacher certification board — SB 1 would create State Board for Educator Certification; CSSB 1 leaves oversight of educators with the TEA.
- No pass-no play — For failure to pass courses, CSSB 1 provides a three-week suspension from extracurricular activities. SB 1 provides a three-week suspension for the first non-passing grades and a six-week suspension for subsequent failures to pass. Both CSSB 1 and SB 1 would allow students to attend practices during suspension.
- School year — CSSB 1 maintains 180 teaching days and adds 10 days for teacher preparation and staff development; SB 1 provides for 175 teaching days and 10 days for teacher preparation and staff development.
- Textbooks — CSSB 1 and SB 1 both provide for state adoption with more local choice.
- Tests for diploma — CSSB 1 maintains the exit-level test; SB 1 replaces the exit-level test with end-of-course tests.
- Commissioner of education — under CSSB 1 the governor would choose the commissioner; SB 1 would continue to have the SBOE nominate the commissioner.
- SBOE chair — CSSB 1 has the SBOE elect its chair, SB 1 has the governor choose the chair.
- Local trustees — CSSB 1 has term limits for trustees; SB 1 allows for voter recall of trustees.
- Finance — CSSB 1 maintains current law; SB 1 modifies the small district adjustment and transportation formula.
- Facilities — CSSB 1 provides facilities grants to medium-wealth school districts, which, if fully funded would cost \$346 million for the fiscal 1996-97 biennium. SB 1 would make \$286 million available for use in leveraging funds for school facilities, with \$100 million of that amount used for existing debt service.