

BILL ANALYSIS

Senate Research Center

S.B. 1718
By: West
Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Education Code allows for several options when a campus is low performing such as the reconstitution, repurposing, alternative management, or closure of the campus. These measures have been utilized in conjunction with campus improvement plans as well as campus intervention teams with varying results.

S.B. 1718 adds another option through the creation of a Texas Achievement School District (ASD) that will allow for the removal of campuses that are low-performing for two consecutive years from the jurisdiction of the local school district and the placement of those campuses in a statewide special purpose district staffed by experts in school turnaround if the commissioner of education chooses to do so. The superintendent of ASD will be empowered with a range of tools to turn around the campus, including repurposing the school or contracting with an alternative management organization. The school will be returned to the jurisdiction of the local district once performance is on track.

As proposed, S.B. 1718 amends current law relating to the establishment of the Texas Achievement School District for educating students attending campuses removed from the jurisdiction of a school district or charter school.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 11.405, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 11, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. TEXAS ACHIEVEMENT SCHOOL DISTRICT

Sec. 11.401. TEXAS ACHIEVEMENT SCHOOL DISTRICT ESTABLISHED. (a) Provides that the Texas Achievement School District (ASD) is hereby established as a school district under this chapter (School Districts) and an intermediate educational unit under Title 34, Code of Federal Regulations, Section 222.50, for the purpose of educating students attending any campus removed from the jurisdiction of a school district or open-enrollment charter school under Section 39.107. Defines "prior system" in this section.

(b) Requires the superintendent of ASD to report to the commissioner of education (commissioner) under a written contract for services.

(c) Provides that ASD does not have authority to impose taxes, but has authority to seek and expend federal funding and grant funding and to otherwise seek, obtain, and expend funding with the same authority as an independent school district.

(d) Authorizes ASD to provide for the supervision, management, and operation of each campus placed under its jurisdiction and receive, control, and expend the local, state, and federal funding attributable to that campus, with all the same

power and authority as the prior system subject to the requirements of this subchapter and Section 39.107, and with any other power or authority otherwise granted by law.

(e) Entitles ASD to the same level of services provided to other school districts by regional education service centers, and to participate in any state program available to school districts, including a purchasing program. Requires the commissioner, in addition, using funds appropriated for the regional education service centers, to direct that appropriate administrative facilities and support be made available to serve as the central administrative offices of ASD.

(f) Authorizes ASD to employ such staff as the superintendent deems necessary.

Sec. 11.402. **APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO ACHIEVEMENT SCHOOL DISTRICT.** (a) Provides that ASD, except as expressly provided by law, is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) Provides that ASD, except as expressly provided by law, is subject to a provision of this title (Public Education) to the extent and in the manner that such provision applies to an open-enrollment charter school under Subchapter D (Open-Enrollment Charter School), Chapter 12.

Sec. 11.403. **IMMUNITY.** Provides that ASD is immune from liability to the same extent as any other school district, and its employees and volunteers are immune from liability to the same extent as other school district employees and volunteers.

Sec. 11.404. **MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS BY ACHIEVEMENT SCHOOL DISTRICT EMPLOYEES.** (a) Requires that an employee of ASD who qualifies for membership in the Teacher Retirement System of Texas be covered under the system to the same extent a qualified employee of any other school district is covered.

(b) Provides that ASD, for each employee of ASD covered under the system, is responsible for making any contribution that otherwise would be the legal responsibility of ASD, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were that of another school district.

Sec. 11.405. **FUNDING OF STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT.** (a) Entitles ASD to receive for the education of students transferred to it funding under Chapter 42 (Foundation School Program) equal to the amount of funding per student in weighted average daily attendance to which the prior system would be entitled under Chapter 42 if it were a school district without a tier one local share for purposes of Section 42.253 (Distribution of Foundation School Fund).

(b) Provides that, in determining funding for ASD under Subsection (a), adjustments under Sections 42.102 (Cost of Education Adjustment), 42.103 (Small and Mid-Sized District Adjustment), 42.104 (Use of Small and Mid-Sized District Adjustment in Calculating Special Allotments), and 42.105 (Sparsity Adjustment) are based on the actual adjustment for the prior system. Entitles ASD, in addition to the funding provided by Subsection (a), to receive enrichment funding under Section 42.302 (Allotment) based on the actual amount for the prior system.

(c) Requires the commissioner, in determining funding for ASD under Subsection (a), to apply the same adjustment factor provided under Section 42.101 (Basic Allotment) to calculate the regular program allotment as for the prior system.

(d) Entitles ASD to funds that are available to other school districts from the Texas Education Agency (TEA) or the commissioner in the form of grants or other discretionary funding. Entitles ASD to a pro-rata share of all revenue to the prior system from the agency or the commissioner in the form of grants or other discretionary funding.

(e) Entitles ASD to share in the available school fund apportionment and other privileges the same as the prior system. Requires ASD to report its student attendance and receive funding as any other district.

(f) Requires that the amount the prior system is entitled to receive under Chapter 42 be reduced by the amount received by ASD under this section, including the tier one local share.

(g) Requires the commissioner to adopt rules under this section.

Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. Requires ASD to have the right to use any school building and all facilities and property otherwise part of the campus and recognized as part of the facilities or assets of the campus prior to its placement in ASD, and to have access to such additional facilities as are typically available to the campus, its students, and faculty and staff prior to its placement in ASD. Requires that such use be unrestricted, except that ASD is required to be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property are maintained in as good an order as when the right of use was acquired by ASD.

Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. Authorizes ASD to require the prior system to provide school support or student support services for a campus transferred from its jurisdiction including but not limited to student transportation, school food service, or student assessment for special education eligibility that are compliant with all laws and regulations governing such services. Requires ASD to reimburse the actual cost of such services to the prior system. Requires the commissioner or the commissioner's designee, if a dispute arises between ASD and the prior system regarding the actual cost of services to be reimbursed, to determine the cost to be reimbursed.

Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. Requires that funds received by ASD under Section 11.405 be used for the operation and administration of campuses transferred from prior systems to ASD.

SECTION 2. Amends Subsection (f), Section 39.106, Education Code, to authorize the commissioner, notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Subsection (a) is not fully implementing the campus intervention team's recommendations or targeted improvement plan or updated plan, to order the reconstruction or removal of the campus as provided by Section 39.107.

SECTION 3. Amends the heading to Section 39.107, Education Code, to read as follows:

Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE MANAGEMENT, CLOSURE OR REMOVAL OF CAMPUS TO ACHIEVEMENT SCHOOL DISTRICT.

SECTION 4. Amends Section 39.107, Education Code, as follows:

(a)(1) Redesignates existing Subsection (a) as Subsection (a)(1). Authorizes the commissioner, after a campus has been identified as unacceptable for three consecutive years, to order the reconstruction or removal, rather than the reconstruction or reconstitution, of the campus to the ASD established by Section 11.401.

(2) Authorizes the students assigned to attend the campus to choose to attend the campus under the jurisdiction of ASD or to exercise an option, made available by the prior system, to attend another campus remaining under the jurisdiction of the prior system.

(3) Provides that only students who were eligible to attend a campus under the prior system are authorized to attend that campus at ASD.

(a-1) Makes no changes to this subsection.

(b) Authorizes a campus subject to this section, effective on a date determined by the commissioner after consulting with the superintendent of ASD, to be removed from the jurisdiction of the school district or open-enrollment charter school and transferred to the jurisdiction of ASD. Provides that the district or charter holder from which the campus was transferred, on such date, becomes the "prior system" under this section.

(c)(1) Requires the removed campus to be reorganized and reformed, as necessary, and operated by ASD.

(2) Requires ASD, rather than a campus intervention team, to decide which educators may be retained at that campus in the superintendent's sole discretion. Authorizes an educator, if ASD does not retain the educator, to be assigned to another position by the prior system.

(3) Requires a certified teacher with regular and direct responsibility for providing classroom instruction to students who is employed at the transferred campus by the prior system to be given priority consideration for employment in a comparable position by the ASD's superintendent. Authorizes a person employed by the prior system at a transferred campus to choose to remain in the employ of the prior system and, in that case, the prior system is required to retain and reassign such person consistent with its contractual obligations or policies regarding the retention and reassignment of employees.

(4) Requires the prior system, for the purposes of any benefit or right requiring continuous service or based on years of service, to grant leave of absence to a person employed by ASD who was employed at a campus when it was transferred under this section. Requires the prior system to consider the period while ASD operated the campus to be service time if the employee returns to the prior system's employment, but the prior system need not provide benefits during such leave.

(5) Requires that the benefits and privileges of any person employed in a campus by ASD or employed by any operator of an ASD campus pursuant to any contract with ASD who was not employed by the prior system at the time the campus was transferred to ASD be those determined by ASD or the operator at the time of such employment in compliance with applicable law.

(b-1)-(b-2) Makes no changes to these subsections.

(d) Requires ASD to retain jurisdiction over any campus transferred to it until the commissioner, in consultation with ASD's superintendent, enters into an agreement with the prior system for return of the campus to the prior system.

(e) Requires the commissioner, when a campus in ASD achieves an acceptable level of performance under this Chapter, to direct ASD to seek agreement for the return of the campus to the prior system. Requires that an agreement between the commissioner and the prior system for the return of the campus include all of the following:

(1) Details for the operation of the campus by the prior system, including provisions for the continuation of the programs that have provided the basis for the academic achievement by the students and any charter granted under this Section.

(2) Provisions providing for the employment status of all persons employed by ASD or by the operator of the campus who were not employed by the prior system at the time the campus was transferred to ASD.

(3) Provisions for the means and timetable for the campus' transition and return to the prior system.

(f) Requires the commissioner, when a campus has been operating pursuant to arrangements established by ASD for three years, yet has failed to achieve and maintain an acceptable level of performance under this Chapter, to:

(1) address the failure to turn around the campus within three years in the next statewide plan under Section 11.409,

(2) record these steps for annual reporting as required by Section 39.332 (Comprehensive Annual Report).

(d)-(e) Makes no change to these subsections.

(e-1) Makes no change to this subsection.

(g)(1) Redesignates existing Subsection (e-2) as Subsection (g)(1). Makes no further changes to this subsection.

(2) Creates this subsection from existing text. Requires the commissioner, if the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents of a majority of the students enrolled at a campus to which Subsection (f), rather than Subsection (e), applies, specifying an action described by Subsection (e)(1), (2), (3) or (g)(4) that the parents request the commissioner to order, to, except as otherwise authorized by this subsection, order the specific action requested.

(3) Authorizes the commissioner, if a campus governing body established by ASD under this section, rather than if the board of trustees of the school district in which the campus is located, presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific action authorized under Subsection (g)(4), rather than Subsection (e), other than the specific action requested in the parents' petition and a written explanation of the basis for the governing body's request, to order the action requested by the governing body. Makes conforming changes.

(5) Redesignates existing Subsection (e-3) as Subsection (g)(5). Requires the signature of only one parent for purposes of Subsection (g)(2), rather than Subsection (e-2).

(e-3) Makes no change to this subsection.

(f)-(h) Makes no change to these subsections.

(g) Redesignates existing Subsection (i) as Subsection (g) and makes no further change to this subsection.

(j)-(n) Makes no change to these subsections.

(h) Redesignates existing Subsection (o) as Subsection (h). Prohibits the funding for a campus operated by ASD or a managing entity from being less than the funding of the other campuses in the prior system, rather than district, on a per student basis so that ASD or a managing entity receives at least the same funding the campus would otherwise have received.

(p) Makes no change to this subsection.

(i) Redesignates existing Subsection (q) as Subsection (i) and makes no further change to this subsection.

(r) Makes no change to this subsection.

SECTION 5. Amends Section 39.108, Education Code, as follows:

Sec. 39.108. ANNUAL REVIEW. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Requires that annual district or campus reviews by the commissioner required by Subsection (a) form the basis of the reporting required by Section 39.332(b)(23).

SECTION 6. Amends Section 39.332(b), Education Code, by adding Subdivision (23) to require that the report contain a listing and description of the status of each campus under the jurisdiction of ASD and a summary of the reforms implemented and progress of the campus.

SECTION 7. Provides that this Act applies beginning with the 2013-2014 school year.

SECTION 8. Effective date: upon passage or September 1, 2013.