

By: Talarico

H.B. No. 4230

A BILL TO BE ENTITLED

1 AN ACT

2 relating to class size limits for certain grade levels in public
3 schools.

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

5 SECTION 1. Sections 7.056(e) and (f), Education Code, are
6 amended to read as follows:

7 (e) Except as provided by Subsection (f), a school campus or
8 district may not receive an exemption or waiver under this section
9 from:

10 (1) a prohibition on conduct that constitutes a
11 criminal offense;

12 (2) a requirement imposed by federal law or rule,
13 including a requirement for special education or bilingual
14 education programs; or

15 (3) a requirement, restriction, or prohibition
16 relating to:

17 (A) essential knowledge or skills under Section
18 28.002 or high school graduation requirements under Section 28.025;

19 (B) public school accountability as provided by
20 Subchapters B, C, D, and J, Chapter 39, and Chapter 39A;

21 (C) extracurricular activities under Section
22 33.081 or participation in a University Interscholastic League
23 area, regional, or state competition under Section 33.0812;

24 (D) health and safety under Chapter 38;

- 1 (E) purchasing under Subchapter B, Chapter 44;
- 2 (F) [~~elementary school~~] class size limits under
3 Section 25.112, except as otherwise provided by that section
4 [~~Section 25.112~~];
- 5 (G) removal of a disruptive student from the
6 classroom under Subchapter A, Chapter 37;
- 7 (H) at-risk programs under Subchapter C, Chapter
8 29;
- 9 (I) prekindergarten programs under Subchapter E,
10 Chapter 29;
- 11 (J) educator rights and benefits under
12 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
13 A, Chapter 22;
- 14 (K) special education programs under Subchapter
15 A, Chapter 29;
- 16 (L) bilingual education programs under
17 Subchapter B, Chapter 29; or
- 18 (M) the requirements for the first day of
19 instruction under Section 25.0811.
- 20 (f) A school district or campus that is required to develop
21 and implement a student achievement improvement plan under
22 Subchapter A, Chapter 39A, or Section 39A.051 may receive an
23 exemption or waiver under this section from any law or rule other
24 than:
- 25 (1) a prohibition on conduct that constitutes a
26 criminal offense;
- 27 (2) a requirement imposed by federal law or rule;

1 (3) a requirement, restriction, or prohibition
2 imposed by state law or rule relating to:

3 (A) public school accountability as provided by
4 Subchapters B, C, D, and J, Chapter 39, and Chapter 39A; [~~or~~]

5 (B) educator rights and benefits under
6 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
7 A, Chapter 22; or

8 (C) class size limits for fifth, sixth, seventh,
9 and eighth grade classes under Section 25.112; or

10 (4) selection of instructional materials under
11 Chapter 31.

12 SECTION 2. Section 12.013(b), Education Code, as amended by
13 Chapters 887 (S.B. 1697) and 1046 (S.B. 1365), Acts of the 87th
14 Legislature, Regular Session, 2021, is reenacted and amended to
15 read as follows:

16 (b) A home-rule school district is subject to:

17 (1) a provision of this title establishing a criminal
18 offense;

19 (2) a provision of this title relating to limitations
20 on liability; and

21 (3) a prohibition, restriction, or requirement, as
22 applicable, imposed by this title or a rule adopted under this
23 title, relating to:

24 (A) the Public Education Information Management
25 System (PEIMS) to the extent necessary to monitor compliance with
26 this subchapter as determined by the commissioner;

27 (B) educator certification under Chapter 21 and

- 1 educator rights under Sections 21.407, 21.408, and 22.001;
- 2 (C) criminal history records under Subchapter C,
3 Chapter 22;
- 4 (D) student admissions under Section 25.001;
- 5 (E) school attendance under Sections 25.085,
6 25.086, and 25.087;
- 7 (F) inter-district or inter-county transfers of
8 students under Subchapter B, Chapter 25;
- 9 (G) ~~[elementary]~~ class size limits under Section
10 25.112, except that the limits for prekindergarten, kindergarten,
11 and first, second, third, and fourth grade classes under that
12 section apply only to a~~[, in the case of any]~~ campus in the district
13 that fails to satisfy any standard under Section 39.054(e);
- 14 (H) high school graduation under Section 28.025;
- 15 (I) special education programs under Subchapter
16 A, Chapter 29;
- 17 (J) bilingual education under Subchapter B,
18 Chapter 29;
- 19 (K) prekindergarten programs under Subchapter E,
20 Chapter 29;
- 21 (L) safety provisions relating to the
22 transportation of students under Sections 34.002, 34.003, 34.004,
23 and 34.008;
- 24 (M) computation and distribution of state aid
25 under Chapters 31, 43, and 48;
- 26 (N) extracurricular activities under Section
27 33.081;

- 1 (O) health and safety under Chapter 38;
- 2 (P) the provisions of Subchapter A, Chapter 39;
- 3 (Q) public school accountability and special
- 4 investigations under Subchapters A, B, C, D, and J, Chapter 39, and
- 5 Chapter 39A;
- 6 (R) options for local revenue levels in excess of
- 7 entitlement under Chapter 49;
- 8 (S) a bond or other obligation or tax rate under
- 9 Chapters 43, 45, and 48;
- 10 (T) purchasing under Chapter 44; and
- 11 (U) [~~(T)~~] parental options to retain a student
- 12 under Section 28.02124.

13 SECTION 3. Section 12.104(b), Education Code, as amended by
14 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.
15 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular
16 Session, 2021, is reenacted and amended to read as follows:

- 17 (b) An open-enrollment charter school is subject to:
 - 18 (1) a provision of this title establishing a criminal
 - 19 offense;
 - 20 (2) the provisions in Chapter 554, Government Code;
 - 21 and
 - 22 (3) a prohibition, restriction, or requirement, as
 - 23 applicable, imposed by this title or a rule adopted under this
 - 24 title, relating to:
 - 25 (A) the Public Education Information Management
 - 26 System (PEIMS) to the extent necessary to monitor compliance with
 - 27 this subchapter as determined by the commissioner;

- 1 (B) criminal history records under Subchapter C,
2 Chapter 22;
- 3 (C) reading instruments and accelerated reading
4 instruction programs under Section 28.006;
- 5 (D) accelerated instruction under Section
6 28.0211;
- 7 (E) high school graduation requirements under
8 Section 28.025;
- 9 (F) special education programs under Subchapter
10 A, Chapter 29;
- 11 (G) bilingual education under Subchapter B,
12 Chapter 29;
- 13 (H) prekindergarten programs under Subchapter E
14 or E-1, Chapter 29, except class size limits for prekindergarten
15 classes imposed under Section 25.112, which do not apply;
- 16 (I) class size limits for fifth, sixth, seventh,
17 and eighth grade classes under Section 25.112;
- 18 (J) extracurricular activities under Section
19 33.081;
- 20 (K) [~~(J)~~] discipline management practices or
21 behavior management techniques under Section 37.0021;
- 22 (L) [~~(K)~~] health and safety under Chapter 38;
- 23 (M) [~~(L)~~] the provisions of Subchapter A,
24 Chapter 39;
- 25 (N) [~~(M)~~] public school accountability and
26 special investigations under Subchapters A, B, C, D, F, G, and J,
27 Chapter 39, and Chapter 39A;

1 (O) [~~(N)~~] the requirement under Section 21.006
2 to report an educator's misconduct;

3 (P) [~~(O)~~] intensive programs of instruction
4 under Section 28.0213;

5 (Q) [~~(P)~~] the right of a school employee to
6 report a crime, as provided by Section 37.148;

7 (R) [~~(Q)~~] bullying prevention policies and
8 procedures under Section 37.0832;

9 (S) [~~(R)~~] the right of a school under Section
10 37.0052 to place a student who has engaged in certain bullying
11 behavior in a disciplinary alternative education program or to
12 expel the student;

13 (T) [~~(S)~~] the right under Section 37.0151 to
14 report to local law enforcement certain conduct constituting
15 assault or harassment;

16 (U) [~~(T)~~] a parent's right to information
17 regarding the provision of assistance for learning difficulties to
18 the parent's child as provided by Sections 26.004(b)(11) and
19 26.0081(c) and (d);

20 (V) [~~(U)~~] establishment of residency under
21 Section 25.001;

22 (W) [~~(V)~~] school safety requirements under
23 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114,
24 37.1141, 37.115, 37.207, and 37.2071;

25 (X) [~~(W)~~] the early childhood literacy and
26 mathematics proficiency plans under Section 11.185;

27 (Y) [~~(X)~~] the college, career, and military

1 readiness plans under Section 11.186; and

2 (Z) [~~(X)~~] parental options to retain a student
3 under Section 28.02124.

4 SECTION 4. Section 12A.004(a), Education Code, is amended
5 to read as follows:

6 (a) A local innovation plan may not provide for the
7 exemption of a district designated as a district of innovation from
8 the following provisions of this title:

9 (1) a state or federal requirement applicable to an
10 open-enrollment charter school operating under Subchapter D,
11 Chapter 12;

12 (2) Subchapters A, C, D, and E, Chapter 11, except that
13 a district may be exempt from Sections 11.1511(b)(5) and (14) and
14 Section 11.162;

15 (3) state curriculum and graduation requirements
16 adopted under Chapter 28; ~~and~~

17 (4) academic and financial accountability and
18 sanctions under Chapters 39 and 39A; and

19 (5) class size limits for fifth, sixth, seventh, and
20 eighth grade classes under Section 25.112.

21 SECTION 5. Section 25.112, Education Code, is amended by
22 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
23 read as follows:

24 (a) Except as otherwise authorized by this section, a school
25 district may not enroll more than 22 students in a prekindergarten,
26 kindergarten, first, second, third, ~~or~~ fifth, sixth,
27 seventh, or eighth grade class. That limitation does not apply

1 during:

2 (1) any 12-week period of the school year selected by
3 the district, in the case of a district whose average daily
4 attendance is adjusted under Section 48.005(c); or

5 (2) the last 12 weeks of any school year in the case of
6 any other district.

7 (a-1) Notwithstanding Subsection (a), the limit under that
8 subsection for a fifth, sixth, seventh, or eighth grade class
9 applies beginning with:

10 (1) for a fifth grade class, the 2024-2025 school
11 year;

12 (2) for a sixth grade class, the 2025-2026 school
13 year;

14 (3) for a seventh grade class, the 2026-2027 school
15 year; and

16 (4) for an eighth grade class, the 2027-2028 school
17 year.

18 (a-2) Subsection (a-1) and this subsection expire September
19 1, 2029.

20 SECTION 6. Sections 39.232(b) and (d), Education Code, are
21 amended to read as follows:

22 (b) A school campus or district is not exempt under this
23 section from:

24 (1) a prohibition on conduct that constitutes a
25 criminal offense;

26 (2) requirements imposed by federal law or rule,
27 including requirements for special education or bilingual

1 education programs; or

2 (3) a requirement, restriction, or prohibition
3 relating to:

4 (A) curriculum essential knowledge and skills
5 under Section 28.002 or high school graduation requirements under
6 Section 28.025;

7 (B) public school accountability as provided by
8 Subchapters B, C, D, and J and Chapter 39A;

9 (C) extracurricular activities under Section
10 33.081;

11 (D) health and safety under Chapter 38;

12 (E) purchasing under Subchapter B, Chapter 44;

13 (F) [~~elementary school~~] class size limits,
14 except as provided by Subsection (d) or Section 25.112;

15 (G) removal of a disruptive student from the
16 classroom under Subchapter A, Chapter 37;

17 (H) at risk programs under Subchapter C, Chapter
18 29;

19 (I) prekindergarten programs under Subchapter E,
20 Chapter 29;

21 (J) rights and benefits of school employees;

22 (K) special education programs under Subchapter
23 A, Chapter 29; or

24 (L) bilingual education programs under
25 Subchapter B, Chapter 29.

26 (d) The commissioner may exempt an exemplary school campus
27 under Subchapter G from [~~elementary~~] class size limits for

1 prekindergarten, kindergarten, first, second, third, and fourth
2 grade classes under this section if the school campus submits to the
3 commissioner a written plan showing steps that will be taken to
4 ensure that the exemption from the class size limits will not be
5 harmful to the academic achievement of the students on the school
6 campus. The commissioner shall review achievement levels annually.
7 The exemption remains in effect until the commissioner determines
8 that achievement levels of the campus have declined.

9 SECTION 7. To the extent of any conflict, this Act prevails
10 over another Act of the 88th Legislature, Regular Session, 2023,
11 relating to nonsubstantive additions to and corrections in enacted
12 codes.

13 SECTION 8. This Act takes effect September 1, 2023.