

BILL ANALYSIS

Senate Research Center

H.B. 5
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Committee of the Whole Senate
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Engrossed

DIGEST AND PURPOSE

Under current law, there are no provisions for school districts to gain additional funding through local means once they have reached the \$1.50 statutory cap on local maintenance and operations (M&O) taxes. As more districts reach the cap, without additional state aid it becomes necessary for many districts to cut programs, reduce staffing, and eliminate local tax exemptions. In addition, lawsuits filed in 2001 by school districts and taxpayers alleged that because many districts have reached the statutory cap on local M&O taxes, the current system risks becoming an unconstitutional state property tax.

H.B. 5 increases total funding to each and every district in the state by \$100 per student for the 2003-2004 school year and \$200 per student for the 2004-2005 school year. The bill ensures that no later than September 30, 2005, the Texas Legislature will have replaced the current school funding system. The bill repeals Chapters 41, 42, and 46 of the Texas Education Code as of September 30, 2005.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 10 (Section 21.413, Education Code) and SECTION 12 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amend Sections 41.0021(a) and (e), Education Code, as follows:

(a) Authorizes a school district that in the 1999-2000 school year did not offer each grade level from kindergarten through 12 to elect to have its wealth per student determined under this section for the 2003-2004 and 2004-2005 school years, notwithstanding Section 41.002.

(e) Provides that this section expires September 1, 2005, rather than 2004.

SECTION 2. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2516, as follows:

Sec. 42.2516. ADDITIONAL AID FOR 2003-2004 AND 2004-2005 SCHOOL YEARS.

(a) Provides that for the 2003-2004 school year, in addition to any other state aid to which a school district is entitled under this chapter, a district is entitled to an amount equal to the product of the number of students in average daily attendance in the district multiplied by \$150.

(b) Provides that for the 2004-2005 school year, in addition to any other state aid to which a school district is entitled under this chapter, a district is entitled to an amount equal to the product of the number of students in average daily attendance in the district multiplied by \$150.

(c) Provides that a school district that is otherwise ineligible for state aid under this chapter is entitled to state aid under this section. Provides that a school district that is required to take action under Chapter 41 to reduce its wealth per

student to the equalized wealth level is entitled to:

(1) a credit, in the amount of the state aid to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits; and

(2) if the amount of state aid to which the district is entitled under this section exceeds the total amount required under Section 41.093 for the district to purchase sufficient attendance credits to reduce its wealth per student to the equalized wealth level, state aid in an amount equal to the difference between the state aid to which the district is entitled under this section and the credit applied under Subdivision (1).

(d) Provides that in addition to any aid established by Subsection (a), for the 2003-2004 school year, a school district with less than 5,000 students in average daily attendance and a wealth per student that does not exceed the equalized wealth level under Section 41.002 is also entitled to certain additional funding.

(e) Provides that in addition to any aid established by Subsection (b), for the 2004-2005 school year, a school district with less than 5,000 students in average daily attendance and a wealth per student that does not exceed the equalized wealth level under Section 41.002 is also entitled to certain additional funding.

(f) Provides that this subsection applies only to a current employee of a school district who is entitled to the minimum salary under Section 21.402, who was employed by that district during the 2002-2003 school year, and who received funds under Article 3.50-8, Insurance Code, during the 2002-2003 school year. Requires a school district to ensure that each employee to whom this subsection applies and who is employed by the district receives the difference, if any, between \$1,000 and the amount per employee that the district receives under other law for purposes of Article 3.50-8, Insurance Code, for employees to whom this subsection applies, for the 2003-2004 school year. Prohibits a district employee from bringing a cause of action against a district under this subsection on the basis of the amount paid to the employee under this subsection if the employee's total salary for the 2003-2004 school year is a certain amount.

SECTION 3. Amends Subchapter E, Chapter 42, Education Code, by adding Section 42.2517, as follows:

Sec. 42.2517. EXCESS FUNDS FOR COST OF EDUCATION ADJUSTMENT. (a) Authorizes the commissioner of education (commissioner), if the commissioner determines that the amount appropriated for purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, to:

(1) adjust each district's cost of education adjustment under Section 42.102 to reflect current uncontrollable variations in the cost of education, particularly the cost of providing salaries and benefits to classroom teachers; and

(2) provide funding under this chapter based on the cost of education index adjusted under Subdivision (1).

(b) Requires the commissioner, if the amount available under Subsection (a) is not sufficient to provide funding based on the cost of education index adjusted under Subsection (a)(1), to rank districts by the increase in the cost of education adjustment applicable to each district under this section and provide funding under this section to districts in descending order of the amount of increase in the cost of education adjustment applicable to districts under this section, beginning with the district that has the greatest increase in the cost of education adjustment,

until no funds are available for purposes of this section.

SECTION 4. Amends Section 42.253(b), Education Code, to delete the language “for the second year of a state fiscal biennium” in relation to the final taxable value of property. Deletes the prohibition “The sum of the reductions under this subsection may not be greater than the amount necessary to fully fund the entitlement of each district.”

SECTION 5. Amends Section 42.259, Education Code, by adding Subsection (g) to require the payment from the foundation school fund for August 2005 to be made on September 1, 2005, notwithstanding Subsections (c)(8) and (d)(3).

SECTION 6. Amends Chapter 4, Education Code, by adding Section 4.003, as follows:

Sec. 4.003. STATE RESPONSIBILITY FOR PROVISION OF PUBLIC EDUCATION.

(a) Provides that it is the policy of this state that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to the student's educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) Requires the public school finance system of this state to adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort, considering all state and local tax revenues of districts after acknowledging all legitimate student and district cost differences.

(c) Provides that it is the policy of this state that not later than September 1, 2007, the legislature is required to provide state funding in an amount that constitutes at least 50 percent of the cost of maintaining and operating the public school system.

SECTION 7. Amends Section 46.033, Education Code, as follows:

Sec. 46.033. ELIGIBLE BONDS. Replaces “2000-2001” with “2002-2003” in relation to the school year.

SECTION 8. Amends Section 46.034(c), Education Code, to make a conforming change.

SECTION 9. Amends Section 46.034, Education Code, by adding Subsections (d) and (e), as follows:

(d) Provides that, notwithstanding any other provision of this chapter, if the appropriation to support newly eligible bonds for the 2003-2004 school year and the 2004-2005 school year is not sufficient to provide the state aid that school districts are entitled to under Section 46.032, the commissioner is directed to reduce the \$35 guaranteed level of state and local support per student per cent of tax effort for newly eligible debt only to the level necessary to fund the sum of the allotments within the appropriated amount. Provides that the guaranteed level for eligible debt through the 2000-2001 school year is not affected by this adjustment. Requires the commissioner to make this determination as soon as practicable, prior to the beginning of the school year. Provides that the decision of the commissioner is final and prohibits any appeal.

(e) Provides that Section 46.034(d) and this subsection expire effective September 1, 2005.

SECTION 10. Amends Subchapter I, Chapter 21, Education Code, by adding Section 21.413, as follows:

Sec. 21.413. CLASSROOM SUPPLY REIMBURSEMENT PROGRAM. (a) Requires the commissioner to establish a reimbursement program under which the commissioner

provides funds to a school district for the purpose of reimbursing classroom teachers in the district who expend personal funds on classroom supplies. Requires a school district to match any funds provided to the district under the reimbursement program with local funds to be used for the same purpose.

(b) Requires the commissioner to adopt rules for the local allocation of funds provided to a school district under the reimbursement program. Requires a school district to allow each classroom teacher in the district who is reimbursed under the reimbursement program to use the funds in the teacher's discretion, except that the funds must be used for the benefit of the district's students. Prohibits a school district from using funds received under the reimbursement program to replace local funds used by the district for the same purpose.

(c) Requires the commissioner to identify state and federal funds available for use under the reimbursement program, including funds subject to the Education Flexibility Partnership Act of 1999 (20 U.S.C. Section 5891a et seq.), and its subsequent amendments, as well as consolidated administrative funds.

(d) Requires the commissioner to establish the reimbursement program for implementation beginning not later than the 2005-2006 school year. Authorizes the commissioner to implement the reimbursement program only if funds are specifically appropriated by the legislature for the program or if the commissioner identifies available funds, other than general revenue funds, that may be used for the program.

SECTION 11. Repealer: Chapters 41 (Equalized Wealth Level), 42 (Foundation School Program), and 46 (Assistance With Instructional Facilities and Payment of Existing Debt) and Section 45.002 (Maintenance Taxes), Education Code.

SECTION 12. (a) Provides that the repeal by Section 11 of this Act of Section 45.002, Education Code, does not impair any obligation created by the issuance or execution of any lawful agreement or evidence of indebtedness before September 1, 2004, that matures after that date and that is payable from the levy and collection of a maintenance tax under that section or another law, and authorizes an independent school district, on and after September 1, 2004, to levy, assess, and collect a maintenance tax, at a rate not greater than the rate required to pay such obligations but only for so long as those obligations remain outstanding and unpaid.

(b) Authorizes a school district that, before September 1, 2004, issues bonds, notes, or other evidences of indebtedness under Chapter 45, Education Code, or other applicable law or enters into a lease-purchase agreement under Subchapter A, Chapter 271, Local Government Code, to continue, before, on, and after September 1, 2004, to receive state assistance with respect to such payments to the same extent the district would have been entitled to receive the assistance under Chapter 42 or 46, Education Code, as those chapters existed before repeal by this Act, and the former law is continued in effect for that purpose, notwithstanding the repeal by Section 11 of this Act of Chapters 41, 42, and 46, Education Code, and Section 45.002, Education Code. Authorizes the commissioner to adopt rules to implement this subsection.

(c) Provides that the repeal by Section 11 of this Act of Chapters 41, 42, and 46, Education Code, and Section 45.002, Education Code, does not limit, modify, or eliminate the authority of a school district to perform certain functions.

(d) Prohibits the commissioner from refusing to grant assistance to a school district under Chapter 42 or 46, Education Code, in connection with public securities, lease-purchase agreements, credit agreements, or other obligations, including those described by Subchapter A, Chapter 271, Local Government Code, on the basis that the district's authority to levy a maintenance tax is repealed effective September 1, 2004.

SECTION 13. Requires the commissioner to adopt rules and establish the classroom supply

reimbursement program as required by Section 21.413, Education Code, as added by this Act, not later than August 1, 2005.

SECTION 14. (a) Effective date: September 1, 2003, except as provided by Subsection (b) of this section.

(b) Provides that Sections 6 and 11 of this Act take effect September 1, 2004, but only if, before that date:

(1) the legislature has enacted a school finance system to replace the system established by Chapters 41, 42, 45, and 46, Education Code;

(2) the Act enacting a school finance system in compliance with Subdivision (1) of this subsection affirmatively states that the system is a comprehensive school finance system for the entire state; and

(3) the school finance system enacted in compliance with Subdivision (1) of this subsection has become law.