

By: McClendon, Casteel

H.B. No. 95

Substitute the following for H.B. No. 95:

By: Hochberg

C.S.H.B. No. 95

A BILL TO BE ENTITLED

AN ACT

relating to the first day of instruction of a school year for public school students.

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

SECTION 1. Section 25.0811, Education Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) If a school district intends to apply under Section 7.056 for a waiver of the prohibition prescribed by Subsection (a), the district must:

(1) at least 60 days and no later than seven days before the date the district submits the application for the waiver, publish notice in a newspaper having general circulation in the district:

(A) stating that the district intends to apply for a waiver of the prohibition concerning the date of the first day of instruction for students; ~~and~~

(B) specifying the date on which the district intends to begin instruction for students; and

(C) containing an address to submit comments on the waiver request.

(2) hold a public hearing concerning the date of the first day of instruction for students, provided that the public hearing cannot be held earlier than 16 months before the proposed

1 school start date. All speakers at the public hearing must fill out  
2 a witness card that indicates witness name and address and support  
3 or opposition to the waiver.

4 (3) submit a summary of the correspondence on the  
5 waiver in the documents submitted in the waiver request to the  
6 agency. Correspondence must be received by the district within 30  
7 days of the public hearing to be considered by the district or the  
8 agency.

9 (c) The application for a waiver of the prohibition  
10 prescribed by Subsection (a) must include a summary of the opinions  
11 expressed at the public hearing held under Subsection (b)(2),  
12 including any consensus of opinion expressed concerning the date of  
13 the first day of instruction for students. The summary must  
14 indicate the number of witnesses at the public hearing supporting  
15 and opposing the waiver.

16 (d) The completed "Application for Waiver" and all required  
17 information regarding the waiver request must arrive to the office  
18 of the commissioner no later than 120 calendar days prior to the  
19 proposed school start date. An "Application for expedited and  
20 general state waivers" form must be completed and returned along  
21 with proof that the district met the statutory criteria.

22 SECTION 2. Section 21.407, Education Code, is amended by  
23 amending Subsection (b) to read as follows:

24 (b) A school district board of trustees or school district  
25 employee may not directly or indirectly coerce any teacher to  
26 refrain from participating in political affairs in the teacher's  
27 community, state, or nation. A school district may not prohibit,

1 require, or coerce its employees or school district students into  
2 attending, testifying, or registering an opinion in favor of or  
3 against a waiver request made by the school district under Section  
4 25.811.

5 SECTION 3. Section 7.056, Education Code, is amended by  
6 amending Subsections (b), (c), and (e) to read as follows:

7 (b) A school campus or district seeking a waiver, other than  
8 a waiver from the first date for instruction under Section 25.0811,  
9 must submit a written application to the commissioner not later  
10 than the 31st day before the campus or district intends to take  
11 action requiring a waiver. A school district seeking a waiver from  
12 the first date for instruction under Section 25.0811 must submit a  
13 written application to the commissioner not later than the 120th  
14 day before the district intends to take action requiring a waiver.  
15 The application must include:

16 (1) a written plan approved by the board of trustees of  
17 the district that states the achievement objectives of the campus  
18 or district and the inhibition imposed on those objectives by the  
19 requirement, restriction, or prohibition; and

20 (2) written comments from the campus- or  
21 district-level committee established under Section 11.251.

22 (c) If the commissioner objects to an application for a  
23 waiver, other than a waiver from the first date for instruction  
24 under Section 25.0811, the commissioner must notify the school  
25 campus or district in writing that the application is denied not  
26 later than the 30th day after the date on which the application is  
27 received. For an application for a waiver from the first date of

1 instruction the commissioner must notify the school district in  
2 writing that the application is denied not later than the 60th day  
3 after the date on which the application is received. If the  
4 commissioner does not notify the school campus or district of an  
5 objection within that time, the application is considered granted.

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

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

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

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

16 (A) essential knowledge or skills under Section  
17 28.002 or minimum graduation requirements under Section 28.025;

18 (B) public school accountability as provided by  
19 Subchapters B, C, D, and G, Chapter 39;

20 (C) extracurricular activities under Section  
21 33.081;

22 (D) health and safety under Chapter 38;

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

24 (F) elementary school class size limits, except  
25 as provided by Section 25.112;

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

1 (H) at-risk programs under Subchapter C, Chapter  
2 29;

3 (I) prekindergarten programs under Subchapter E,  
4 Chapter 29;

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

8 (K) special education programs under Subchapter  
9 A, Chapter 29; ~~or~~

10 (L) bilingual education programs under  
11 Subchapter B, Chapter 29; or

12 (M) procedures and documentation requirements  
13 under Subchapter C, Chapter 25 for applying for a waiver from the  
14 school start date, except in a situation where there is a threat to  
15 the health, safety, or welfare of school district students or  
16 employees.

17 SECTION 4. The changes in law provided by this Act take  
18 effect beginning with the 2004-2005 school year.

19 SECTION 5. This Act takes effect September 1, 2003.