

By: McClendon

H.B. No. 95

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Section 25.0811, Education Code, is amended to
6 read as follows:

7 Sec. 25.0811. FIRST DAY OF INSTRUCTION. (a) A school
8 district may not begin instruction for students for a school year
9 before the week in which August 21 falls. For purposes of this
10 subsection, Sunday is considered the first day of the week.

11 (b) If a school district intends to apply under Section
12 7.056 for a waiver of the prohibition prescribed by Subsection (a),
13 the district must:

14 (1) at least 60 days before the date the district
15 submits the application for the waiver, publish notice in a
16 newspaper having general circulation in the district:

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

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

22 (C) the newspaper notice shall be placed no
23 earlier than 30 days before the hearing date on the waiver and no
24 later than seven days before the hearing date on the waiver; and

1 (D) the newspaper notice must contain an email
2 address for community members to use to submit comments on the
3 waiver request. Emails and other written correspondence that is
4 received by the school district on the waiver request must be
5 included in the documents submitted by the school district in its
6 waiver request to the Texas Education Agency; and

7 (2) hold a public hearing concerning the date of the
8 first day of instruction for students, provided that:

9 (A) the public hearing cannot be held on the same
10 day as another event offered by the school district or by an entity
11 funded by the school district, if the event is promoted to parents
12 within the school district; and

13 (B) the public hearing cannot be held earlier
14 than one calendar year before the proposed school start date.

15 (c) The application for a waiver of the prohibition
16 prescribed by Subsection (a) must include a summary of the opinions
17 expressed at the public hearing held under Subsection (b)(2),
18 including any consensus of opinion expressed concerning the date of
19 the first day of instruction for students. The summary must
20 indicate which comments at the public hearing were from
21 participants who reside outside of the school district and do not
22 have a child that is a student within the district.

23 (d) The completed "Application for Waiver" and all required
24 information regarding the waiver request must arrive to the office
25 of the Commissioner no later than 120 calendar days prior to the
26 proposed school start date. An "Application for expedited and
27 general state waivers" form must be completed and returned along

1 with proof that the district met the statutory criteria.

2 (e) As a matter of law, the burden of proof is on the school
3 district to show that there is a consensus of support in the
4 community to request a waiver to begin the school year prior to the
5 week of August 21.

6 (f) The school district may not prohibit, require, or
7 intimidate its employees or other individuals into attending,
8 testifying, or registering an opinion in favor of or against a
9 waiver request by the school district.

10 SECTION 5. Section 7.056(e), Education Code, is amended to
11 read as follows:

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

15 (1) a prohibition on conduct that constitutes a
16 criminal offense;

17 (2) a requirement imposed by federal law or rule,
18 including a requirement for special education or bilingual
19 education programs; or

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

22 (A) essential knowledge or skills under Section
23 28.002 or minimum graduation requirements under Section 28.025;

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

26 (C) extracurricular activities under Section
27 33.081;

- 1 (D) health and safety under Chapter 38;
- 2 (E) purchasing under Subchapter B, Chapter 44;
- 3 (F) elementary school class size limits, except
- 4 as provided by 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; or
- 16 (L) bilingual education programs under
- 17 Subchapter B, Chapter 29.
- 18 (M) procedures and documentation requirements
- 19 under Subchapter C, Chapter 25 for applying for a waiver from the
- 20 school start date.

21 SECTION 6. The changes in law provided by this Act take
22 effect beginning with the 2004-2005 school year.

23 SECTION 7. This Act takes effect September 1, 2003.