

1-1 By: Shapleigh S.B. No. 618
1-2 (In the Senate - Filed February 20, 2003; February 26, 2003,
1-3 read first time and referred to Committee on Education;
1-4 March 13, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 13, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 618 By: Zaffirini

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the consequences of a public school's being considered
1-11 low-performing.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (f), Section 7.056, Education Code,
1-14 is amended to read as follows:

1-15 (f) A school district or campus that is required to develop
1-16 and implement a student achievement improvement plan under Section
1-17 39.131 or 39.132 may receive an exemption or waiver under this
1-18 section from any law or rule other than:

1-19 (1) a prohibition on conduct that constitutes a
1-20 criminal offense;

1-21 (2) a requirement imposed by federal law or rule;

1-22 (3) a requirement, restriction, or prohibition
1-23 imposed by state law or rule relating to:

1-24 (A) public school accountability as provided by
1-25 Subchapters B, C, D, and G, Chapter 39; or

1-26 (B) educator rights and benefits under
1-27 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
1-28 A, Chapter 22; or

1-29 (4) textbook selection under Chapter 31.

1-30 SECTION 2. Subsection (b), Section 12.013, Education Code,
1-31 is amended to read as follows:

1-32 (b) A home-rule school district is subject to:

1-33 (1) a provision of this title establishing a criminal
1-34 offense;

1-35 (2) a provision of this title relating to limitations
1-36 on liability; and

1-37 (3) a prohibition, restriction, or requirement, as
1-38 applicable, imposed by this title or a rule adopted under this
1-39 title, relating to:

1-40 (A) the Public Education Information Management
1-41 System (PEIMS) to the extent necessary to monitor compliance with
1-42 this subchapter as determined by the commissioner;

1-43 (B) educator certification under Chapter 21 and
1-44 educator rights under Sections 21.407, 21.408, and 22.001;

1-45 (C) criminal history records under Subchapter C,
1-46 Chapter 22;

1-47 (D) student admissions under Section 25.001;

1-48 (E) school attendance under Sections 25.085,
1-49 25.086, and 25.087;

1-50 (F) inter-district or inter-county transfers of
1-51 students under Subchapter B, Chapter 25;

1-52 (G) elementary class size limits under Section
1-53 25.112, in the case of any campus in the district that is considered
1-54 low-performing under Section 39.132 [~~39.131(b)~~];

1-55 (H) high school graduation under Section 28.025;

1-56 (I) special education programs under Subchapter
1-57 A, Chapter 29;

1-58 (J) bilingual education under Subchapter B,
1-59 Chapter 29;

1-60 (K) prekindergarten programs under Subchapter E,
1-61 Chapter 29;

1-62 (L) safety provisions relating to the
1-63 transportation of students under Sections 34.002, 34.003, 34.004,

- 2-1 and 34.008;
- 2-2 (M) computation and distribution of state aid
- 2-3 under Chapters 31, 42, and 43;
- 2-4 (N) extracurricular activities under Section
- 2-5 33.081;
- 2-6 (O) health and safety under Chapter 38;
- 2-7 (P) public school accountability under
- 2-8 Subchapters B, C, D, and G, Chapter 39;
- 2-9 (Q) equalized wealth under Chapter 41;
- 2-10 (R) a bond or other obligation or tax rate under
- 2-11 Chapters 42, 43, and 45; and
- 2-12 (S) purchasing under Chapter 44.

2-13 SECTION 3. Subsection (a), Section 29.202, Education Code,
2-14 is amended to read as follows:

2-15 (a) A student is eligible to receive a public education
2-16 grant or to attend another public school in the district in which
2-17 the student resides under this subchapter if the student is
2-18 assigned to attend a public school campus:

2-19 (1) at which 50 percent or more of the students did not
2-20 perform satisfactorily on an assessment instrument administered
2-21 under Section 39.023(a) or (c) in any two of the preceding three
2-22 years; or

2-23 (2) that was, at any time in the preceding three years,
2-24 considered ~~[identified as]~~ low-performing ~~[by the commissioner]~~
2-25 under Section 39.132 ~~[Subchapter D, Chapter 39]~~.

2-26 SECTION 4. Subsection (c), Section 39.072, Education Code,
2-27 is amended to read as follows:

2-28 (c) The agency shall evaluate against state standards and
2-29 shall, not later than August 1 of each year, report the performance
2-30 of each campus in a district and each open-enrollment charter
2-31 school on the basis of the campus's performance on the indicators
2-32 adopted under Sections 39.051(b)(1) through (7).

2-33 SECTION 5. Subchapter G, Chapter 39, Education Code, is
2-34 amended by amending Section 39.131 and adding Sections 39.132
2-35 through 39.138 to read as follows:

2-36 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a district
2-37 does not satisfy the accreditation criteria, the commissioner shall
2-38 take any of the following actions, listed in order of severity, to
2-39 the extent the commissioner determines necessary:

2-40 (1) issue public notice of the deficiency to the board
2-41 of trustees;

2-42 (2) order a hearing conducted by the board of trustees
2-43 of the district for the purpose of notifying the public of the
2-44 unacceptable performance, the improvements in performance expected
2-45 by the agency, and the sanctions that may be imposed under this
2-46 section if the performance does not improve;

2-47 (3) order the preparation of a student achievement
2-48 improvement plan that addresses each academic excellence indicator
2-49 for which the district's performance is unacceptable, the
2-50 submission of the plan to the commissioner for approval, and
2-51 implementation of the plan;

2-52 (4) order a hearing to be held before the commissioner
2-53 or the commissioner's designee at which the president of the board
2-54 of trustees of the district and the superintendent shall appear and
2-55 explain the district's low performance, lack of improvement, and
2-56 plans for improvement;

2-57 (5) arrange an on-site investigation of the district;

2-58 (6) appoint an agency monitor to participate in and
2-59 report to the agency on the activities of the board of trustees or
2-60 the superintendent;

2-61 (7) appoint a master to oversee the operations of the
2-62 district;

2-63 (8) appoint a management team to direct the operations
2-64 of the district in areas of unacceptable performance or require the
2-65 district to obtain certain services under a contract with another
2-66 person;

2-67 (9) if a district has been rated as academically
2-68 unacceptable for a period of one year or more, appoint a board of
2-69 managers to exercise the powers and duties of the board of trustees;

3-1 or

3-2 (10) if a district has been rated as academically
3-3 unacceptable for a period of two years or more:

3-4 (A) annex the district to one or more adjoining
3-5 districts under Section 13.054; or

3-6 (B) in the case of a home-rule school district or
3-7 open-enrollment charter school, order closure of all programs
3-8 operated under the district's or school's charter.

3-9 (b) [~~(a-1)~~] This subsection applies regardless of whether a
3-10 district has satisfied the accreditation criteria. If for a period
3-11 of one year or more a district has had a master or management team
3-12 assigned, the commissioner may appoint a board of managers, a
3-13 majority of whom must be residents of the district, to exercise the
3-14 powers and duties of the board of trustees.

3-15 Sec. 39.132. SANCTIONS FOR CAMPUSES. (a) [~~(b)~~] If a
3-16 campus performance is below any standard under Section 39.073(b),
3-17 the campus is considered a low-performing campus and the
3-18 commissioner may take any of the following actions, listed in order
3-19 of severity, to the extent the commissioner determines necessary:

3-20 (1) issue public notice of the deficiency to the board
3-21 of trustees;

3-22 (2) order a hearing conducted by the board of trustees
3-23 at the campus for the purpose of:

3-24 (A) notifying the public of the unacceptable
3-25 performance, the improvements in performance expected by the
3-26 agency, and the sanctions that may be imposed under this section if
3-27 the performance does not improve within a designated period of
3-28 time; and

3-29 (B) [~~of~~] soliciting public comment on the initial
3-30 steps being taken to improve performance;

3-31 (3) order the preparation of a report regarding the
3-32 parental involvement program at the campus and a plan describing
3-33 strategies for improving parental involvement at the campus;

3-34 (4) order the preparation of a report regarding the
3-35 effectiveness of the district- and campus-level planning and
3-36 decision-making committees established under Subchapter F, Chapter
3-37 11, and a plan describing strategies for improving the
3-38 effectiveness of those committees;

3-39 (5) order the preparation of a student achievement
3-40 improvement plan that addresses each academic excellence indicator
3-41 for which the campus's performance is unacceptable, the submission
3-42 of the plan to the commissioner for approval, and implementation of
3-43 the plan;

3-44 (6) order a hearing to be held before the commissioner
3-45 or the commissioner's designee at which the president of the board
3-46 of trustees, the superintendent, and the campus principal shall
3-47 appear and explain the campus's low performance, lack of
3-48 improvement, and plans for improvement;

3-49 (7) appoint a special campus intervention team to:
3-50 (A) conduct a comprehensive on-site evaluation
3-51 of the [~~each low-performing~~] campus to determine the cause for the
3-52 campus's low performance and lack of progress;

3-53 (B) recommend actions, including reallocation of
3-54 resources and technical assistance, changes in school procedures or
3-55 operations, staff development for instructional and administrative
3-56 staff, intervention for individual administrators or teachers,
3-57 waivers from state statute or rule, or other actions the team
3-58 considers appropriate;

3-59 (C) assist in the development of a campus plan
3-60 for student achievement; and

3-61 (D) assist the commissioner in monitoring the
3-62 progress of the campus in implementing the campus plan for
3-63 improvement of student achievement; or

3-64 (8) if a campus has been a low-performing campus for a
3-65 period of one year or more, appoint a board of managers composed of
3-66 residents of the district to exercise the powers and duties of the
3-67 board of trustees of the district in relation to the campus[~~, or~~

3-68 [~~(9) if a campus has been a low-performing campus for a~~
3-69 ~~period of two years or more, order closure of the school program on~~

4-1 ~~the campus].~~

4-2 (b) If a campus has been a low-performing campus for a
 4-3 period of two consecutive years or more, the commissioner shall
 4-4 reconstitute the campus. In reconstituting the campus, a special
 4-5 campus intervention team shall be assembled for the purpose of
 4-6 deciding which educators may be retained at that campus. An
 4-7 educator who is not retained shall be assigned to another position
 4-8 in the district.

4-9 Sec. 39.133. ANNUAL REVIEW. [~~(c)~~] The commissioner shall
 4-10 review annually the performance of a district or campus subject to
 4-11 this subchapter [~~section~~] to determine the appropriate actions to
 4-12 be implemented under this subchapter [~~section~~]. The commissioner
 4-13 must review at least annually the performance of a district for
 4-14 which the accreditation rating has been lowered due to unacceptable
 4-15 student performance and may not raise the rating until the district
 4-16 has demonstrated improved student performance. If the review
 4-17 reveals a lack of improvement, the commissioner shall increase the
 4-18 level of state intervention and sanction unless the commissioner
 4-19 finds good cause for maintaining the current status.

4-20 Sec. 39.134. COSTS PAID BY DISTRICT. [~~(d)~~] The costs of
 4-21 providing a monitor, master, management team, or special campus
 4-22 intervention team shall be paid by the district. If the district
 4-23 fails or refuses to pay the costs in a timely manner, the
 4-24 commissioner may:

4-25 (1) pay the costs using amounts withheld from any
 4-26 funds to which the district is otherwise entitled; or

4-27 (2) recover the amount of the costs in the manner
 4-28 provided for recovery of an overallocation of state funds under
 4-29 Section 42.258.

4-30 Sec. 39.135. MASTER OR MANAGEMENT TEAM. (a) [~~(e)~~] The
 4-31 commissioner shall clearly define the powers and duties of a master
 4-32 or management team appointed to oversee the operations of the
 4-33 district.

4-34 (b) At least every 90 days, the commissioner shall review
 4-35 the need for the master or management team and shall remove the
 4-36 master or management team unless the commissioner determines that
 4-37 continued appointment is necessary for effective governance of the
 4-38 district or delivery of instructional services.

4-39 (c) A master or management team, if directed by the
 4-40 commissioner, shall prepare a plan for the implementation of action
 4-41 under Section 39.131(a)(9) [~~Subsection (a)(9)~~] or (10). The master
 4-42 or management team:

4-43 (1) may direct an action to be taken by the principal
 4-44 of a campus, the superintendent of the district, or the board of
 4-45 trustees of the district;

4-46 (2) may approve or disapprove any action of the
 4-47 principal of a campus, the superintendent of the district, or the
 4-48 board of trustees of the district;

4-49 (3) may not take any action concerning a district
 4-50 election, including ordering or canceling an election or altering
 4-51 the date of or the polling places for an election;

4-52 (4) may not change the number of or method of selecting
 4-53 the board of trustees;

4-54 (5) may not set a tax rate for the district; and

4-55 (6) may not adopt a budget for the district that
 4-56 provides for spending a different amount, exclusive of required
 4-57 debt service, from that previously adopted by the board of
 4-58 trustees.

4-59 Sec. 39.136. BOARD OF MANAGERS. (a) [~~(f)~~] A board of
 4-60 managers may exercise all of the powers and duties assigned to a
 4-61 board of trustees of a school district by law, rule, or regulation.
 4-62 This subchapter [~~section~~] applies to a district governed by a board
 4-63 of managers in the same manner that this subchapter [~~section~~]
 4-64 applies to any other district.

4-65 (b) If the commissioner appoints a board of managers to
 4-66 govern a district, the powers of the board of trustees of the
 4-67 district are suspended for the period of the appointment and the
 4-68 commissioner shall appoint a district superintendent.
 4-69 Notwithstanding any other provision of this code, the board of

5-1 managers may amend the budget of the district.

5-2 (c) If the commissioner appoints a board of managers to
 5-3 govern a campus, the powers of the board of trustees of the district
 5-4 in relation to the campus are suspended for the period of the
 5-5 appointment and the commissioner shall appoint a campus principal.
 5-6 Notwithstanding any other provision of this code, the board of
 5-7 managers may submit to the commissioner for approval amendments to
 5-8 the budget of the district for the benefit of the campus. If the
 5-9 commissioner approves the amendments, the board of trustees of the
 5-10 district shall adopt the amendments.

5-11 (d) A master or a member of a management team appointed to
 5-12 serve on a board of managers may continue to be compensated as
 5-13 determined by the commissioner.

5-14 (e) At the direction of the commissioner but not later than
 5-15 the second anniversary of the date the board of managers of a
 5-16 district was appointed, the board of managers shall order an
 5-17 election of members of the district board of trustees. The election
 5-18 must be held on a uniform election date on which an election of
 5-19 district trustees may be held under Section 41.001, Election Code,
 5-20 that is at least 180 days after the date the election was ordered.
 5-21 On qualification of members for office, the board of trustees
 5-22 assumes all of the powers and duties assigned to a board of trustees
 5-23 by law, rule, or regulation.

5-24 Sec. 39.137. SPECIAL CAMPUS INTERVENTION TEAM. [(g)] A
 5-25 special campus intervention team appointed under this subchapter
 5-26 [section] may consist of teachers, principals, other educational
 5-27 professionals, and superintendents recognized for excellence in
 5-28 their roles and appointed by the commissioner to serve as members of
 5-29 a team.

5-30 Sec. 39.138. IMMUNITY FROM CIVIL LIABILITY. [(h) If the
 5-31 commissioner appoints a board of managers to govern a district, the
 5-32 powers of the board of trustees of the district are suspended for
 5-33 the period of the appointment and the commissioner shall appoint a
 5-34 district superintendent. Notwithstanding any other provision of
 5-35 this code, the board of managers may amend the budget of the
 5-36 district.

5-37 [(i) If the commissioner appoints a board of managers to
 5-38 govern a campus, the powers of the board of trustees of the district
 5-39 in relation to the campus are suspended for the period of the
 5-40 appointment and the commissioner shall appoint a campus principal.
 5-41 Notwithstanding any other provision of this code, the board of
 5-42 managers may submit to the commissioner for approval amendments to
 5-43 the budget of the district for the benefit of the campus. If the
 5-44 commissioner approves the amendments, the board of trustees of the
 5-45 district shall adopt the amendments.

5-46 [(j)] An employee, volunteer, or contractor acting on
 5-47 behalf of the commissioner under this subchapter is immune from
 5-48 civil liability to the same extent as a professional employee of a
 5-49 school district under Section 22.051.

5-50 SECTION 6. Subsection (c), Section 302.006, Labor Code, is
 5-51 amended to read as follows:

5-52 (c) To be eligible to receive a scholarship awarded under
 5-53 this section, a person must:

5-54 (1) be employed in a child-care facility, as defined
 5-55 by Section 42.002, Human Resources Code;

5-56 (2) intend to obtain a credential, certificate, or
 5-57 degree specified in Subsection (b);

5-58 (3) agree to work for at least 18 additional months in
 5-59 a child-care facility, as defined by Section 42.002, Human
 5-60 Resources Code, that accepts federal Child Care Development Fund
 5-61 subsidies and that, at the time the person begins to fulfill the
 5-62 work requirement imposed by this subdivision, is located:

5-63 (A) within the attendance zone of a public school
 5-64 campus considered low-performing under Section 39.132 [~~39.131(b)~~],
 5-65 Education Code; or

5-66 (B) in an economically disadvantaged community,
 5-67 as determined by the commission; and

5-68 (4) satisfy any other requirements adopted by the
 5-69 commission.

6-1 SECTION 7. (a) Except as provided by Subsection (b) of
6-2 this section, this Act applies beginning with the 2004-2005 school
6-3 year.

6-4 (b) Subsection (b), Section 39.132, Education Code, as
6-5 added by this Act, applies beginning with the 2005-2006 school
6-6 year.

6-7 SECTION 8. This Act takes effect September 1, 2003.

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