

BILL ANALYSIS

C.S.S.B. 8
By: Shapiro
Public Education Reform, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In Texas today, around 700 school districts have reached or are nearing the \$1.50 local school property tax ceiling. A Texas district court has ruled that the current system is unconstitutional. S.B. 8 seeks to address the problems of the current system and bring about meaningful reform.

Quality schools are essential not only for Texas students to achieve and succeed, but are necessary for the future of Texas' economy. More money alone will not solve the problems facing Texas schools today, and money alone will not prepare Texas children for success in the 21st century. The legislation provides additional resources for schools, but demands significantly improved results and increased financial and academic accountability in Texas public schools. This legislation also ensures local control so school districts may effectively meet the challenges they face. Texas must continue to raise the bar for success and encourage students, teachers, and schools to meet these higher standards.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 1A.01, SECTION 1B.01, SECTION 1B.115, SECTION 1D.01, SECTION 2A.02, SECTION 2A.14, SECTION 2A.15, SECTION 2A.18, SECTION 2B.01, SECTION 2B.03, SECTION 2B.09, SECTION 2B.11, SECTION 2B.15, SECTION 2C.01, SECTION 2C.11, SECTION 2C.12, SECTION 2D.01, SECTION 2D.06, SECTION 2D.11, SECTION 2D.12, SECTION 2D.14, SECTION 2D.15, SECTION 2D.25, SECTION 2D.28, SECTION 2D.29, SECTION 2D.30, SECTION 2D.31, SECTION 2D.33, SECTION 2E.36, SECTION 2E.37, SECTION 2E.391, SECTION 2E.44, SECTION 2F.01, SECTION 2F.06, SECTION 2F.07, SECTION 2F.09, SECTION 2F.10, SECTION 2F.11, SECTION 2G.01, SECTION 2H.01, SECTION 2K.01, SECTION 4.02, SECTION 7.04, SECTION 7.08; to the Texas Education Agency in SECTION 2D.37; to the Legislative Budget Board in SECTION 1B.01; to the Commissioner of Higher Education in SECTION 2B.01; to the State Board of Education in SECTION 2E.17, SECTION 2E.20, SECTION 2E.23, SECTION 2E.26, and SECTION 7.08; to the Educator's Professional Practices Board in SECTION 7.09; and rulemaking is transferred from the State Board of Education to the Commissioner of Education in SECTION 2D.24; from the State Board for Educator Certification to the Commissioner of Education in SECTION 2A.04, SECTION 2F.02, SECTION 2J.02, SECTION 7.03, SECTION 7.04, SECTION 7.09, SECTION 7.10, SECTION 7.11, SECTION 7.13, SECTION 7.14, SECTION 7.16, SECTION 7.17, SECTION 7.18, SECTION 7.19, SECTION 7.20, SECTION 7.27, SECTION 7.32, SECTION 7.36, SECTION 7.45; and from the State Board for Educator Certification to the Educator's Professional Practices Board in SECTION 7.41 and SECTION 7.45.

ANALYSIS

Education Funding:

CSSB 8 sets forth additional state aid or credit for districts that reduce property tax rates. The commissioner may adjust the tax rate in accounting for special circumstances. Additionally, adjustments are made for districts that fail to reduce property tax rates. Professional staff compensation is designated for the 2005 - 2006 school year. The substitute sets forth policy for public education, the purpose of the Foundation School Program, when a student is entitled to the benefits of the Foundation School Program and provides for the administration of the program. This substitute describes the method for calculating Average Daily Attendance (ADA)

as the basis for funding, as well as the method for the calculation and reporting of equalized funding elements. The substitute clarifies that any reference in law to the foundation school fund means the Texas Education Fund and requires the Legislative Budget Board (LBB) to submit reports to the commissioner of education (commissioner) and the legislature before each Regular Session regarding equalized funding elements and education spending in the state. The substitute outlines a formula structure for funding a basic education program that includes allotments for various student and district characteristics and guidelines for how these funds may be spent. Transportation and new instructional facilities allotments are also provided.

The substitute establishes an Enrichment Program that allows school districts up to \$0.15 of equalized enrichment. Districts are limited in the ability to increase enrichment tax rates subject to voter approval. Computation of enrichment aid for a district on a military installation or at a state school is specifically designated by this substitute. An updated cost of education index will be phased in and the Legislative Budget Board is required to biennially update the cost of education index. Updated adjustments for small and mid-sized districts will be phased in, and an adjustment is provided for each school district that is located in a county with a population of less than 5,000 and that contains a majority of the territory in the county. Additionally, a sparsity adjustment has been provided.

CSSB 8 sets forth the financing for the Foundation School Program. School districts are entitled to additional state aid for tax credits. Professional staff salaries and additional state aid is provided for employees who are subject to the minimum salary schedule. The commissioner is authorized to set aside funds for crisis intervention funding. A school district is entitled to additional state aid in an amount determined by the commissioner using the formula provided. Adjustments are provided for the rapid decline in taxable value of property, optional homestead exemptions, for unpaid taxes of a major taxpayer, and for districts not offering all grade levels, and in the event of an appraisal appeal. The substitute also sets guidelines for additional transitional aid for a school district, provides for the implementation of revenue maintenance provisions for districts under a countywide equalization system, and provides for temporary limitations on aid. The substitute sets forth provisions as to the distribution of the Texas Education Fund. The Texas Education Agency (TEA) and comptroller are required to submit designated information to the legislature. Deliberate falsification of school records is to be promptly and fully reported to specified entities. Each school district's share of the Foundation School Program is determined by a formula as designated by this legislation. TEA is to recover any over-allocation of funds a school district has received.

CSSB 8 provides for additional equalization and provides limitations on aid for certain districts. The definition for a capped district is provided. Provisions as to funding are set forth for the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf. The substitute provides that a school district subject to equalization actions may elect to have its taxable value of property computed in a manner that recognizes its optional homestead exemption. The substitute sets forth provisions as to how a school district's actions with respect to its optional homestead exemption will be considered in the calculation of the amount of attendance credits that the district may purchase. The substitute also provides that the amount of state and local revenue school districts are required to use to purchase attendance credits is related to the amount of enrichment tax revenue available to school districts and the target percentile for district enrichment tax revenue. The substitute includes other provisions related to equalization, equalization actions and establishes minimum tax rates of capped districts.

Additionally, the substitute provides that notices for proposed tax rates are to provide distinct information such as designated headings.

A district may not adopt a tax rate for the maintenance and operations of the district that exceeds the sum of the maximum rates unless the rate is approved by a two-thirds vote of the qualified voters in an election. Each time a district adopts a tax rate for the maintenance and operations of the district exceeding the rate levied in the preceding school year the school district must obtain voter authorization, limited exceptions apply. A tax bill or a statement accompanying a tax bill for a school district is to state in a distinct row specified tax rates. The substitute outlines provisions for school districts participating in reinvestment zones. The substitute outlines adjustments for taxable values for designated school districts as specified by this legislation. The substitute includes other provisions related to school district tax rates.

School Facilities:

In order to be financed with state or local tax funds any portable, modular building must be inspected to ensure compliance as designated by this substitute. The LBB in cooperation with TEA is to study existing instructional facilities in the state including the date of construction, information relating to the condition of the facility and other factors.

Social Security Contributions:

The substitute sets forth the portion the state will pay of the costs incurred by districts that cover their employees under the social security program.

Education Employees:

CSSB 8 provides that a school district employee may communicate directly with a member of the board of trustees, exceptions apply. TEA is to develop a school leadership pilot program for principals in order to improve leadership skills, student achievement and teacher retention. An educational diagnostician is to hold an appropriate certificate or permit in order to be employed by a school district. Additional criteria are included in the standards for accountability for educator preparation programs. A process for terminating teacher contracts for financial exigency is outlined. The factor in the minimum salary schedule is replaced with a dollar amount and school districts are required to increase salaries for a classroom teacher, full-time nurse, full-time librarian, and full-time certified counselor as provided. Exceptions are established in providing the minimum salary. Teachers may be compensated by school districts above the required amount based on the teacher's ability to improve student academic performance. The substitute provides a designated salary supplement for certain retirement-eligible classroom teachers. The substitute establishes guidelines for a mentor program. The substitute creates an educator excellence incentive program to provide incentive payments to employees demonstrating superior success in student achievement growth. The substitute outlines provisions by which eligible employees may designate a portion of their compensation as health care supplementation. The substitute includes duties for speech-language assistants and for supervising speech-language pathologists.

State and Regional Governance:

CSSB 8 allows the establishment of public education research centers. The substitute continues the Texas Education Agency until 2017 and requires the Sunset Advisory Commission to review regional education service centers. Each school district is required to participate in Public Education Information Management System (PEIMS). Additionally, each school district, public charter district and higher education institution is to participate in an electronic student records system. The agency is authorized to receive gifts, grants, and donations to perform any educational function. A comprehensive monitoring system is to be developed to monitor the overall compliance and performance of school districts and charter schools. Additionally, an informal review is established to challenge certain agency decisions. The commissioner may issue a subpoena relevant to an audit or investigation and may file suit to enforce the subpoena. A performance based grant system is established by this substitute. The commissioner shall adopt rules prescribing training for members of regional education service center boards of directors. Other duties, reporting, and evaluations for regional education service centers are modified. The substitute promotes cooperative shared service arrangements. The substitute establishes a 5-year cycle for reviewing the essential knowledge and skills and provides that it is the intent of the legislature to continue alignment with the required curriculum. The substitute includes provisions relating to special education due process hearings. For purposes of accountability, a student placed in a disciplinary alternative education program is reported as if the student were enrolled at the student's assigned campus.

School District Governance and Other Operations:

The agency is to develop a management information system for funds allocated to schools for the purpose of providing services to students at risk of dropping out. School board trustees will serve four year terms and school board elections will be held on the uniform election date in November in even numbered years; school districts shall use the regular county precinct and polling places.

CSSB 8 provides for removal of trustees for not attending board meetings and places limitations on the financial benefits a superintendent may receive. The substitute modifies provisions for

the assignment and transfer of a student. The school year shall begin on the first Tuesday after Labor Day and must end no later than June 7, exceptions are included.

The substitute allows for consolidated funding for programs and services for students who are at risk of dropping out of school and includes other provisions. The substitute also modifies eligibility for student participation in an extracurricular activity or UIL competition. The substitute includes requirements for expenditures on direct instructional activities as set forth.

Accountability:

The commissioner shall adopt procedures to make financial information provided by school districts available on the agency website. TEA shall establish an online clearinghouse of best practices of campuses and school districts. Exemplary districts and campuses will be subject only to the restrictions of open-enrollment charter schools as approved by the commissioner exceptions are provided. The substitute provides for bilingual pre-kindergarten education for students with limited English proficiency as available and in applicable schools.

School districts have the ability to provide for an optional flexible school day program for students in ninth through twelfth grade who have dropped out of school or who are at risk of dropping out of school. The adequate yearly progress standard is determined by the No Child Left Behind Act of 2001 and is used to measure indicators of education success to determine the progress of a campus towards academic achievement. The substitute aligns state law with federal requirements. The substitute provides for "Education. Go Get it Week."

The commissioner shall provide for the administration of assessment instruments accommodations are provided as necessary. Assessment instruments may include questions testing a broader range of knowledge and skills for the purpose of differentiating student achievement. Performance levels established by the Texas Higher Education Coordinating Board represents the level of academic achievement indicating a student is prepared for college course work. Additionally, the TEA is to adopt appropriate instruments to measure alternate academic achievement for students participating in special education programs. Assessment instrument release dates are set forth. TEA is required to develop or acquire ongoing computer-adaptive interactive assessment tools and make them available to public schools at no cost. The commissioner is to develop end-of-course assessment instruments, including Algebra I, and may require their administration. The State Board of Education is to determine the satisfactory performance level on end-of-course assessment instruments. If a student performs satisfactorily on the designated end-of-course assessment the commissioner by rule may exempt a student from other comparable assessments. A joint legislative oversight committee is established to monitor the development and establishment of end-of-course assessment instruments. The substitute amends the education code in providing for college preparation assessments as designated by this legislation. The commissioner shall determine a method by which TEA may measure incremental growth by a student from one year to the next on an assessment instrument. The substitute includes criminal penalties related to the administration of assessment instruments. The commissioner is to notify a superintendent of any objection to district's dropout data.

CSSB 8 modifies the academic excellence indicators. The commissioner shall determine the accreditation status of each school district. The substitute includes provisions for an academic accountability system and measures postsecondary readiness. The substitute governs special accreditation investigations. Additionally, the substitute authorizes other investigations including on-site, desk or data based investigations. A school district or public charter district that wishes to challenge certain accreditation, accountability, or performance decisions must petition for an informal review. Final decisions by the commissioner relating to these issues may not be appealed.

CSSB 8 implements a state incentive award program for improving student performance on at-risk campuses. School districts not satisfying the accreditation criteria, academic performance standards or financial accountability as determined are to be sanctioned and reviewed by the commissioner. Sanctions are set forth within the legislation. The substitute modifies provisions relating to the submission of a comprehensive report to the legislature and other designated officials. The substitute amends the financial accountability rating system. The substitute adds additional requirements for the annual financial management report. TEA is to submit a report to

the Legislature relating to linking school district financial management performance and academic performance. The substitute creates a requirement for an accountant conducting annual school district audits except as provided.

Instructional Materials:

CSSB 8 requires TEA to review state and federally funded grant programs designed to improve academic performance to determine which funds may be used to enhance the use of technology in public schools. "Instructional materials" replaces the use of the word "textbook" and definitions are set forth. A publisher may submit instructional materials to the State Board of Education (SBOE) for approval. The SBOE is to adopt rules to penalize publishers who knowingly fail to correct factual errors as designated by this legislation. The SBOE shall meet biannually to approve instructional materials and must approve or reject each submitted instructional material. The Department of Information Resources may execute a contract for the purchase or licensing of approved instructional materials and model contracts shall be developed. Publishers are to provide information to public schools describing the publisher's approved instructional materials. Special instructional materials may be provided for the blind and visually impaired. Additionally, SBOE shall approve instructional materials for bilingual education classes. Approved electronic instructional materials may be offered to school districts annually on a subscription basis. Publishers of approved instructional materials may update those materials as provided by contract. School districts are to annually certify to the TEA that instructional materials are aligned with the essential knowledge and skills. The substitute governs the selection, purchase, distribution and handling of instructional materials. School districts may use local funds to purchase instructional materials. The substitute also lays out the duties of publishers of instructional materials. The substitute provides for the appointment of an advisory committee for technology and implementation to assist the agency. Each school district is entitled to a designated allotment for each student in ADA to be used for instructional materials and technology. The substitute provides for school districts to use designated funds for targeted technology programs as described. The commissioner has the ability to make instructional materials available through public broadcasting stations for the purpose of instruction and professional development. The substitute establishes technology grants as designated. The agency shall expand the technology immersion pilot program as set forth by this legislation. To the extent practicable and appropriate TEA shall provide for and require school districts to administer computer-adaptive assessment instruments. A public school may purchase instructional materials under a blanket purchase order.

Bilingual Education and Special Education Programs:

CSSB 8 creates various classes of certification for dual language educators and establishes a dual language education pilot project. The Higher Education Coordinating Board is required to notify educational aides as to the existence of the educational aide exemption. The substitute describes circumstances by which students may enter into, exit from, or be placed in a bilingual or special language program and creates provisions for evaluation and re-enrollment of students transferred out of such programs. The commissioner shall create a measure of progress toward English proficiency.

High Academic Achievement Programs:

CSSB 8 provides for the creation of Texas governor's schools which may be administered by a public senior college or university as approved by the commissioner. The substitute requires the commissioner to consider adopting indicators relating to high achievement to be considered when assigning a district an exemplary rating and makes conforming amendments to the annual report that must be published by the board of trustees.

Prekindergarten Programs:

CSSB 8 states that before a school district may implement a prekindergarten program the district is required to investigate the possibility of sharing program sites and coordinate the use of those sites as designated by the legislation. The commissioner may adopt rules relating to the operation of prekindergarten, early childhood care and education programs that receive state funds.

School Discipline:

CSSB 8 entitles parents to prompt notice of specified disciplinary action taken against their child. Non-custodial parents are entitled to notice as designated. The substitute also makes

changes to monitoring and reporting requirements related to disciplinary placement and expulsion. The substitute outlines expulsion provisions for a student with a disability who receives special education services.

Criminal History Records Information:

CSSB 8 requires the collection of fingerprints from designated individuals as specified by this legislation. State education authorities are authorized to obtain all state and national criminal history records as designated. The substitute stipulates that the commissioner shall set fees associated with covering the costs of obtaining fingerprints and conduct criminal background reviews. The substitute includes other provisions related to criminal history record information and fingerprints.

Health and Safety:

CSSB 8 requires the commissioner to develop and adopt a safety training program. Individuals as designated by this substitute such as coaches and trainers must complete the safety training program. Students must complete and sign the medical and safety forms. A student's parent or guardian must also sign the forms. This substitute includes other safety precautions and measures for full implementation of this section and requires school compliance and enforcement of the safety training program. The agency and UIL shall investigate the availability of funds for purchasing automated external defibrillators. The substitute provides for contracts to be made for transportation with the juvenile board. The substitute governs donations for safety or lap belts for school district's school buses. The substitute outlines procedures for the student to self-administer anaphylaxis medicine.

Public Charter Districts:

CSSB 8 repeals the open-enrollment charter school subchapter of the Texas Education Code and dissolves open-enrollment charters. The substitute provides for general provisions and applicability of certain laws to public charter districts. A reference in law to an open-enrollment charter school means a public charter district or public charter campus. The substitute governs the charter issuance and administration for a public charter district including application, determination of acceptable performance and revocation. The substitute also outlines the powers and duties of governing bodies of charter holders, public charter districts and management companies including the restrictions, training requirements and financial reporting requirements. The substitute includes provisions for funding and financial operations of public charter districts. Additionally, the substitute governs the operation of public charter districts including admission policies, transportation and expulsion of students. The substitute governs public charter district employees and sets forth the powers and duties of the commissioner over specified entities. The substitute creates a blue ribbon charter campus pilot program. The substitute states that a college or university charter school and governing body of the school are subject to certain regulations and procedures that govern a public senior college or university.

Abolishment of State Board for Educator Certification; Transfer of Powers and Duties:

CSSB 8 abolishes the State Board for Educator Certification and transfers its powers and duties to the commissioner of education and TEA. The substitute creates the Educator's Professional Practices Board to oversee actions related to the educator's code of ethics and this board is subject to the Texas Sunset Act. The substitute also establishes an advisory board to recommend standards for certification to the commissioner and makes conforming changes to replace references to the State Board of Educator Certification with either the commissioner or agency. The substitute creates temporary certificates which may be issued for superintendents, principals or assistant principals.

The P-16 Council shall develop and adopt a school readiness certification system as set forth.

Conforming Amendments:

CSSB 8 makes changes throughout the education, government, insurance, labor, tax and other codes to conform to provisions in the substitute.

Repealers:

CSSB 8 includes various repealers in the acts of the 79th legislature and the education, government, insurance, tax and other codes necessary to conform to provisions in the substitute.

EFFECTIVE DATE

Effective date: the 91st after adjournment, except as otherwise provided by this Act. Makes application of this Act contingent upon the passage of H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

A number of significant changes and differences exist between the substitute and the original bill. The substitute differs from the original by adding a provision that provides additional state aid or credit to districts that reduce property tax rates for the 2004 tax year. The substitute modifies the provision to provide money to districts for staff compensation. The substitute includes an adjustment for districts that fail to reduce property taxes. The substitute deletes the definition of "wealth per student." The substitute modifies the definitions and provisions for the allotment in Section 42.252. The substitute deletes the provision allowing access to local enrichment without voter approval. The substitute deletes the provision stating that any increase in the total state funds due to the application of the cost of education adjustment must not exceed an amount specifically appropriated for that purpose. The substitute modifies the small and mid-sized district adjustment. The substitute modifies the professional staff salaries requirement. The substitute modifies the additional transitional aid portion of the bill. The substitute deletes a provision in the distribution of the Texas education fund relating to agreements between school districts and public charter districts. The substitute provides for additional equalization and provides limitations on aid for certain districts. The definition for a capped district is also provided in the substitute. The substitute differs from the original by including a provision to recognize the optional homestead exemption as described. The substitute modifies the purchase of attendance credits for certain districts. The substitute includes provisions for maximum tax rates for capped districts.

The substitute differs from the original by including a provision allowing the commissioner to establish standards for adequacy of school facilities including mandatory inspections for portable buildings as designated. The substitute modifies the minimum monthly salary schedule as designated. The substitute modifies the educator excellence incentive program. The substitute establishes a 5-year cycle for reviewing the essential knowledge and skills and provides that it is the intent of the legislature to continue alignment with the required curriculum. The substitute deletes the State Board of Education's ability to participate in group benefits programs as set forth. The substitute establishes that school board trustees will serve four year terms and school board elections will be held on the uniform election date in November in even numbered years; school districts shall use the regular county precinct and polling places.

The substitute deletes specific provisions relating to employment policies. The substitute includes provisions for the assignment and transfer of a student. The substitute modifies provisions relating to expenditures for direct instructional activities. The substitute includes the creation of "Education. Go Get it Week."

The substitute requires TEA to develop or acquire ongoing computer-adaptive interactive assessment tools and make them available to public schools at no cost. The substitute differs from the original by including provisions relating to the development, administration, and development of end-of-course exams. The substitute modifies provisions relating to college preparation assessments. The substitute increases the maximum appropriation for the state incentive program for improving student performance on at-risk campuses.

The substitute differs from the original by modifying the instructional materials submission and review process. It also modifies provisions relating to the correction of factual errors. The substitute deletes a provision relating to parallel review and approval process for printed and text-based electronic instructional materials. The substitute modifies the provision of a designated allotment for each student in ADA to be used for instructional materials and technology. The substitute modifies the use designated funds for targeted technology programs as described. The substitute includes technology grants as designated.

The substitute differs from the original by modifying the provisions relating to prekindergarten programs. The substitute includes provisions relating to donations for safety or lap belts for school district's school buses. The substitute modifies provisions relating to wage increases for certain professional staff of public charter districts.

The substitute renumbers sections and subsections accordingly and provides for technical and conforming changes throughout.