

BILL ANALYSIS

Senate Research Center

H.B. 1
By: Chisum (Shapiro)
Finance
4/26/2006
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current statute states that the local school district maintenance and operation tax (M&O) is capped at \$1.50. The Texas Supreme Court held in *Neeley v. West Orange-Cove Consolidated Independent School District*, that the state school finance system relies on revenues derived from a tax that, in effect, is a state property tax prohibited by the Texas Constitution. The court required the legislature to correct the constitutional violation by June 1, 2006.

As engrossed, H.B. 1 corrects the constitutional violation by providing significant additional state revenue to fund the public school system and enable school districts to exercise meaningful discretion in setting local property tax rates. The bill also contains provisions to provide financial transparency to taxpayers and parents.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.03 (Sections 42.2516 and 42.261, Education Code), SECTION 2.01 (Section 1.005, Education Code), SECTION 2.02 (Section 7.008, Education Code), and SECTION 2.04 (Section 11.003, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of higher education in SECTION 2.01 (Section 1.005, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. PUBLIC SCHOOL FINANCE AND PROPERTY TAX RELIEF

SECTION 1.01. Amends Section 41.002(a), Education Code, to prohibit a school district from having a wealth per student that exceeds \$305,000, plus an amount determined under Section 42.2516(i).

SECTION 1.02. Amends Section 42.101, Education Code, to make a conforming change.

SECTION 1.03. Amends Subchapter E, Chapter 42, Education Code, by adding Sections 42.2516 and 42.261, as follows:

Sec. 42.2516. ADDITIONAL STATE AID FOR TAX REDUCTION. (a) Entitles a school district to the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in an amount equal to the greater of certain sums.

(b) Requires the commissioner of education (commissioner), in determining the amount to which a district is entitled under Subsection (a), to include certain amounts.

(c) Provides that the amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005 (Technology Allotment) is not included in making a determination under Subsection (a).

(d) Requires the commissioner, for purposes of determining the amount of revenue to which a school district is entitled under this section, to use the average tax collection rate for the district for the 2003, 2004, and 2005 tax years.

(e) Requires the commissioner, if a school district adopts a maintenance and operations tax rate that is below the rate equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the 2005 tax year, to reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to 88.67 percent of the rate adopted by the district for the 2005 tax year.

(f) Authorizes a school district that is required to take action under Chapter 41 (Equalized Wealth Level) to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section to receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D (Purchase of Attendant Credit), Chapter 41, or the total number of nonresident students required to be educated under Subchapter E (Education of Nonresident Students), Chapter 41, as determined by the commissioner.

(g) Prohibits the commissioner, if a school district imposes a maintenance and operations tax at a rate greater than the rate equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the 2005 tax year, from reducing the amount to which the district is entitled under this section on the basis of the additional revenue collected by the district.

(h) Authorizes the commissioner to adopt rules necessary to administer this section.

(i) Requires the commissioner to determine the amount of state funds to which a school district is entitled under this section. Requires the commissioner to provide these additional amounts by increasing the guaranteed level under Section 42.302 (Allotment), the basic allotment under Section 42.101 (Basic Allotment), and the equalized wealth level under Section 41.002 (Equalized Wealth Level), so that all three formula elements provide the same yield per penny of tax effort, and continuing to increase these formula elements proportionately so as to provide school districts the amounts required under this section as much as possible through the formula adjustments while minimizing "hold-harmless" amounts outside of the formulas. Requires the total amount of state funds under this section to be limited such that the changes in state law made by H.B. 1, Acts of the 79th Legislature, 3rd Called Session, shall not exceed \$2,385,800,000. Provides that the commissioner's determination is final and is prohibited from being appealed.

Sec. 42.261. CERTAIN FUNDS APPROPRIATED FOR PURPOSE OF TAX REDUCTION. (a) Sets forth certain guidelines for funds appropriated for the purpose of tax reduction.

(b) Authorizes the commissioner to adopt rules necessary to administer this section.

SECTION 1.04. Amends Section 42.302(a), Education Code, to make a conforming change.

SECTION 1.05. Amends Section 42.302, Education Code, by adding Subsection (f), to entitle a school district, if the district imposes a maintenance and operations tax at a rate greater than the rate equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the 2005 tax year, to receive an allotment under this section on the basis of that greater tax effort.

SECTION 1.06. Amends Section 21.402(a), Education Code, to redefine "FS" in a specific formula.

SECTION 1.07. Amends Section 30.003, Education Code, by adding Subsection (f-1), as follows:

(f-1) Requires the commissioner to determine the total amount that the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf would have received from school districts in accordance with this section if ___B. No. ____, Acts of the 79th Legislature, 3rd Called Session, 2006, had not reduced the districts' share of the cost of providing education services. Requires that amount, minus any amount the schools do receive from school districts, to be set aside as a separate account in the foundation school fund and appropriated to those schools for educational purposes.

SECTION 1.08. Amends Section 44.004, Education Code, by adding Subsection (c-1), to require the notice described by Subsection (c) to state certain information in a distinct row or on a separate or individual line for certain taxes.

SECTION 1.09. Amends Section 26.08, Tax Code, by amending Subsections (i) and (k) and adding Subsections (n), (o), (p), and (q), as follows:

(i) Provides that for purposes of this section, the effective maintenance and operations tax rate of a school district, rather than the rollback tax rate of a school district, is a certain amount.

(k) Provides that for purposes of this section for the 2006, 2007, or 2008 tax year, for a school district that is entitled to certain funds, the effective maintenance and operations tax rate of the district is the sum of certain amounts. Makes a conforming change. Deletes existing text relating to the 2003, 2004, and 2005 tax years.

(n) Sets forth, for purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was less than \$1.50 per \$100 of taxable value.

(o) Sets forth, for purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was \$1.50 per \$100 of taxable value.

(p) Sets forth, for purposes of this section, the rollback tax rate of a school district permitted by special law on April 1, 2006, to impose a maintenance and operations tax at a rate greater than \$1.50 per \$100 of taxable value.

(q) Prohibits a school district described by Subsection (p) from adopting a maintenance and operations tax rate that exceeds the sum of the tax rate described by Subsection (p)(1)(A) and \$0.17 per \$100 of taxable value, notwithstanding Section 45.003 (Bond and Tax Elections), Education Code, or any other law.

SECTION 1.10. (a) Reenacts and amends Section 31.01(c), Tax Code, as amended by Chapters 1255 and 1368, Acts of the 79th Legislature, Regular Session, 2005, to delete existing text relating to requirements of the tax bill or a separate statement accompanying the tax bill.

(b) Amends Section 31.01, Tax Code, by adding Subsection (d-1), to provide that this subsection applies only to a school district. Requires the tax bill or separate statement, in addition to stating the total tax rate for the school district, to state certain information separately.

(c) Repealer: Section 31.01(c-1) (Tax Bills), Tax Code, as added by Chapter 1255, Acts of the 79th Legislature, Regular Session.

(d) Repealer: Section 31.01(c-1) (Tax Bills), Tax Code, as added by Chapter 1368, Acts of the 79th Legislature, Regular Session.

(e) Makes application of this section prospective, notwithstanding Section 4.01 of this Act.

(f) Provides that if this Act is passed by the legislature without receiving a vote of two-thirds of all the members elected to each house and is approved by the governor, any action taken before the effective date of this Act in preparation for the implementation of the amendment made by this Act to Section 31.01 (Tax Bills), Tax Code, by an officer or employee of a taxing unit that the officer or employee determines is necessary or appropriate and that the officer or employee would have been authorized to take the action had this section been in effect at the time of the action is validated as of the effective date of this Act. Provides that a tax bill or separate statement accompanying the tax bill mailed before the effective date of this section that is in compliance with Section 31.01, Tax Code, as amended by this Act, is validated as of the effective date of this Act.

SECTION 1.11. Amends Section 311.013, Tax Code, by adding Subsection (n), to provide that this subsection applies only to a certain school district. Requires the district, in addition to the amount otherwise required to be paid into the tax increment fund, to pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction, not to exceed the amount the school district realizes from the reduction in the school district's taxable value under Section 403.302(d)(5) (Determination of School District Property Values), Government Code.

SECTION 1.12. Amends Section 403.302, Government Code, by amending Subsections (d) and (i) and adding Subsection (d-1), as follows:

(d) Redefines "taxable value."

(d-1) Requires the comptroller of public accounts (comptroller), for a school district for which in the 2005 tax year a deduction from taxable value is made under Subsection (d)(4), to certify to the commissioner a final taxable value for the 2005 tax year, calculated as if the reduction in the school district's ad valorem tax rate and the method of calculating the amount of the deduction from taxable value under Subsection (d)(5) required by ___B. No. ____, Acts of the 79th Legislature, 3rd Called Session, 2006, took effect September 1, 2005. Provides that this subsection expires September 1, 2007.

(i) Makes conforming changes.

SECTION 1.13. (a) Amends Section 11.26, Tax Code, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Provides that if in the current tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead in the preceding tax year, the amount of the limitation provided by this section on the homestead in the current tax year is equal to the lesser of a certain amount, notwithstanding the other provisions of this section and except as provided by Subsection (a-2).

(a-2) Provides that the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to a certain amount, notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was a tax year before the 2006 tax year.

(b) Amends Section 42.2511(a), Education Code, to entitle a school district to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter M (Study of school district Property Values), Chapter 403, Government Code, does not fully

compensate the district for ad valorem tax revenue lost due to certain factors, notwithstanding any other provision of this chapter.

(c) Amends Section 403.302, Government Code, by amending Subsection (j) and adding Subsection (j-1), as follows:

(j) Requires the comptroller, for purposes of Section 42.2511 (Additional State Aid for Homestead Exemption), Education Code, to certify to the commissioner certain final values.

(j-1) Requires the comptroller, for purposes of applying Subsection (j)(3) in the 2007-2008 school year, to compute the final value under that subsection as if the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1) or (a-2) (Limitation of School Tax on Homesteads of elderly or Disabled), Tax Code, as applicable, had taken effect in the 2006 tax year. Provides that this subsection expires September 1, 2008.

(d) Provides that this section only applies to an ad valorem tax year that begins on or after January 1, 2007.

(e) Effective date, this section: January 1, 2007. Makes application of this section contingent upon voter approval of a certain constitutional amendment.

SECTION 1.14. (a) Requires the secretary of state, not later than September 1, 2006, to prepare a certain notice and distribute a copy of the notice to tax assessor for each school district in this state.

(b) Requires the tax assessor for each school district in this state, on October 1, 2006, or as soon thereafter as practicable to mail a copy of the notice to each owner of taxable property as shown on the appraisal roll for the school district. Provides that the tax assessor should include a copy of the notice with each tax bill for the school district for the 2006 tax year, if practicable. Requires that no statewide official other than the secretary of state be authorized to distribute the information required by this section.

(c) Provides that this section expires January 1, 2007.

ARTICLE 2. FISCAL ACCOUNTABILITY

SECTION 2.01. Amends Chapter 1, Education Code, by adding Section 1.005, as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS; SHARING STUDENT INFORMATION. (a) Defines "center."

(b) Authorizes the commissioner of education and the commissioner of higher education to establish not more than three centers for education research (center) for conducting research described by Subsections (e) and (f).

(c) Authorizes a center to be established as part of certain state entities and institutions of education.

(d) Authorizes a center to be operated under a memorandum of understanding between the commissioner of education, the commissioner of higher education, and the governing board of an educational institution described by Subsection (c)(3). Requires the memorandum of understanding to require certain state education officials to provide direct, joint supervision of the center under this section.

(e) Requires a center to conduct research for the benefit of education in this state, including research relating to the impact of state and federal education programs, the performance of educator preparation programs, public school finance, and the

best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices.

(f) Provides that the commissioner of education and the commissioner of higher education under the memorandum of understanding described by Subsection (d), may require a center to conduct certain research projects considered of particular importance to the state, as determined by the commissioners; and requires the commissioners, not later than the 45th day before the date a research project required to be conducted under this subsection is scheduled to begin, to notify the governor, the Legislative Budget Board, and the governing body of the educational institution in which the center is established that the research project is required.

(g) Sets forth certain authorizations and requirements for a center conducting research under this section.

(h) Authorizes the commissioner of education and the commissioner of higher education to accept gifts and grants to be used in operating one or more centers, and to impose by rule reasonable fees, as appropriate, for the use of a center's research, resources, or facilities.

(i) Provides that this section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(j) Requires the commissioner of education and the commissioner of higher education to adopt rules as necessary to implement this section.

(k) Authorizes the commissioner of education, in implementing this section, to use funds appropriated to the Texas Education Agency (agency) and available for that purpose, including Foundation School Program funds.

SECTION 2.02. Amends Subchapter A, Chapter 7, Education Code, by adding Sections 7.008 and 7.009, as follows:

Sec. 7.008. PUBLIC ACCESS TO PEIMS DATA. (a) Requires the commissioner of education with the assistance of an advisory panel described by Subsection (b), to develop a request for proposal for a qualified third-party contractor to develop and implement procedures to make available, through the TEA Internet website, all financial and academic performance data submitted through the Public Education Information Management System (PEIMS) for school districts and campuses.

(b) Requires the commissioner to appoint an advisory panel to assist the commissioner in developing requirements for a system that is easily accessible by the general public and contains information of primary relevance to the public. Requires the advisory panel to consist of certain persons.

(c) Requires the procedures developed under this section to provide certain information and provide a certain purpose.

(d) Provides that this section does not authorize the disclosure of student information that is prohibited from being disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). Requires the commissioner to adopt rules to protect the confidentiality of student information.

(e) Requires the procedures to make available, through the TEA Internet website, all financial and academic performance information for school districts and campuses as described by this section to be implemented not later than August 1, 2007. Provides that this subsection expires August 1, 2009.

Sec. 7.009. BEST PRACTICES; CLEARINGHOUSE. (a) Requires TEA, in coordination with the Legislative Budget Board (LBB), to establish an online clearinghouse of information relating to best practices of campuses and school districts regarding instruction, public school finance, resource allocation, and business practices. Sets forth requirements for TEA relating to the information provided in the online clearinghouse.

(b) Requires TEA to solicit and collect certain education information from the LBB, centers for education research established under Section 1.005, and exemplary or recognized school districts and open-enrollment charter schools.

(c) Requires TEA to contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses and school districts as provided by this section. Provides that in addition to any other considerations required by law, the agency must consider an applicant's demonstrated competence and qualifications in analyzing campus and school district practices in awarding a contract under this subsection.

(d) Authorizes the commissioner of education to purchase from available funds curriculum and other instructional tools identified under this section to provide for use by school districts.

SECTION 2.03. Amends Subchapter C, Chapter 7, Education Code, by adding Section 7.061, as follows:

Sec. 7.061. FUNDING FOR CERTAIN PURPOSES. Requires the commissioner of education, to the extent not specifically prohibited by state or federal law, to use federal funds, including consolidated administrative or innovative program funds, for certain purposes.

SECTION 2.04. Amends Subchapter A, Chapter 11, Education Code, by adding Section 11.003, as follows:

Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Requires the commissioner of education, not later than December 1, 2006, to evaluate the feasibility of including a certain uniform indicator that measures effective administrative management through the use of cooperative shared services arrangements. Requires the commissioner, upon determining that the adoption of a uniform indicator described by this subsection is feasible, by rule to include the indicator in a certain financial accountability rating system for school districts beginning with the 2007-2008 school year. Provides that this subsection expires September 1, 2009.

(b) Requires each regional education service center to make certain notifications and evaluations.

(c) Requires each regional education service center to assist a school district board of trustees in entering into an agreement with another district or political subdivision, a regional education service center, or a certain institution of higher education, for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions.

(d) Authorizes the commissioner to require a district or an open-enrollment charter school to enter into an agreement for a cooperative shared services arrangement if the commissioner determines that the financial management performance of the district or school is unsatisfactory.

SECTION 2.05. Amends Subchapter D, Chapter 11, Education Code, by adding Section 11.170, as follows:

Sec. 11.170. INTERNAL AUDITOR. Requires the board of trustees of a school district, if a district employs an internal auditor, to select the internal auditor and for the internal auditor to report directly to the board.

SECTION 2.06. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.0041, as follows:

Sec. 44.0041. PUBLICATION OF SUMMARY OF PROPOSED BUDGET. Requires a school district, concurrently with the publication of notice of the budget under Section 44.004 (Notice of Budget and Tax Rate Meeting; Budget Adoption), to post a summary of the proposed budget on the school district's Internet website; or if the district has no Internet website, in the district's central administrative office. Requires the budget summary to include certain information.

SECTION 2.07. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.0061, as follows:

Sec. 44.0061. REVIEW OF ACCOUNTING SYSTEM. (a) Requires the commissioner of education to contract with a qualified third-party contractor to conduct a comprehensive review of the accounting systems used by school districts under Section 44.007 (Accounting System; Report).

(b) Requires the third-party contractor conducting the review under this section to provide certain recommendations and evaluations.

(c) Requires the commissioner, before January 1, 2007, to submit a report to the legislature describing the results of the review conducted under this section.

(d) Provides that this section expires January 2, 2007.

SECTION 2.08. Amends Section 44.007, Education Code, by adding Subsection (e), as follows:

(e) Requires the State Board of Education (SBOE) to prepare a report for the 80th Legislature evaluating the benefits of providing school districts with standardized accounting software that would meet the requirements of this section and any other appropriate sections. Requires the report to consider any savings and costs to school districts from having such software provided, including any savings to districts from no longer paying programming costs in response to changes in state law or agency or SBOE rules. Authorizes the report to consider software accessed by alternative methods, such as web-based methods or network-based methods, as may be most economical for districts of different sizes. Requires the report to also consider any accountability benefits from making the information collected by such software available on an ongoing basis to the agency and to the public, and personnel and other costs required for the agency to review this information continuously to alert school board members and superintendents of areas of potential waste or fraud. Provides that this subsection expires September 1, 2007.

SECTION 2.09. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.011, as follows:

Sec. 44.011. SPENDING TARGETS FOR DISTRICT EXPENDITURES. (a) Requires the commissioner of education to annually establish and publish the proposed expenditures for each school district as determined by the commissioner based on an evaluation of information relating to the best practices of certain campuses and districts. Requires the commissioner to consider unique characteristics of the district, including the district's size.

(b) Requires the proposed expenditures to be determined as required by Subsection (a) to include amounts for certain expenditures, district operations, and any other category designated by the commissioner.

(c) Requires SBOE, if the board of trustees of a school district intends to exceed the proposed expenditures established by the commissioner under this section, to adopt and publish a resolution that includes an explanation justifying the board's actions.

ARTICLE 3. APPROPRIATION

SECTION 3.01. Provides that there is appropriated to TEA for distribution to the school districts of this state in accordance with Chapters 41 and 42, Education Code, as amended by this Act, the amount of \$2,385,800,000 in fiscal year 2007 from any funds in the State Treasury not otherwise appropriated.

SECTION 3.02. Repealer: Rider 97 the following appropriations to the Texas Education Agency in Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act) (Contingency Appropriation H.B. 2 and H.B. 3), as amended by Chapter 2, Acts of the 79th Legislature, 1st Called Session, 2005.

ARTICLE 4. APPLICATION AND EFFECTIVE DATE

SECTION 4.01. Makes application of this Act prospective to the 2006-2007 school year.

SECTION 4.02. Effective date: upon passage or the 91st day after adjournment.