

BILL ANALYSIS

C.S.H.B. 3226
By: Branch
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 41, Education Code, requires the Commissioner of Education, not later than July 15 each year, to notify a district if the Commissioner finds that, based on estimated values prior to adoption of a local tax rate and budget, the district's taxable value of property per student in weighted average daily attendance (WADA) exceeds the equalized wealth level, also known as the recapture level. A district that exceeds the recapture level must hold a one-time authorizing election on methods of distribution of recapture funds, such as purchasing attendance credits, or else face an action such as detachment of territory.

Under provisions of HB 1 enacted in the 3rd Called Special Session by the 79th Legislature, a district that is notified of Chapter 41 status and that is entitled to state revenue under the new "hold harmless" law providing for compression of tax rates can receive that state revenue through an adjustment against recapture. In other words, the district would not be required to send recapture to the state under Chapter 41, if the recapture funds sent to, and state funds received from, the state would net out.

The problem is that, under current law, districts that are newly identified as Chapter 41 districts and that would net out under this provision would still be required to hold the election on distribution of recapture funds. For example, both of the state's two largest school districts, the Dallas Independent School District and the Houston Independent School District, project that their property tax base levels per WADA next year could exceed the recapture threshold currently contained in Chapter 41, Education Code. However, the amount of recapture that would be owed would be less than the amount of the hold harmless. Holding an election on distribution of recapture funds would be unnecessary, but required under current law, and would cost Houston ISD approximately \$1 million and Dallas ISD \$500,000. The districts would have to explain to voters that the districts must hold an election, but the election would be essentially meaningless.

C.S.H.B. 3226 would allow the waiver of the local election if a district is in a position to "net out" positively when recapture funds are compared to entitlement of hold harmless state funds. It would apply to districts that have a wealth per student that exceeds the recapture threshold for the first time in 2006-07 or a later school year. The commissioner of education may consider the district to have reduced its wealth per student to the equalized wealth level by deducting the recapture amount from the hold harmless amount of state aid, in lieu of a recapture option that requires an election. It also provides for procedures for the commissioner in administering this law.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Adds Section 41.0041, Education Code, to provide that, notwithstanding any other provision of Chapter 41, Education Code, if a school district's wealth per student exceeds the equalized wealth level for the first time in the 2006-07 or a later school year, the commissioner of education may consider the district to have reduced its wealth per student to the equalized wealth level for any school year as provided by this section. Requires the commissioner, when initially identifying a school district for Chapter 41 status, to estimate the amount of state

revenue to which the district is entitled under Section 42.2516, Education Code, (“hold harmless amount”) for that school year and the cost to the district to purchase attendance credits (“recapture amount”) in an amount sufficient to reduce the district's wealth per student to the equalized wealth level for that school year. Requires the commissioner to notify a school district if the commissioner determines that the hold harmless amount exceeds the recapture amount owed. Allows a school district’s board of trustees, in lieu of exercising an option that requires an election to be held, to authorize the commissioner to withhold from the hold harmless amount an amount equal to the recapture amount.

Requires the commissioner, in calculating the amount of state revenue to be withheld, to calculate the district’s recapture amount using the final attendance and tax rate data for the school year and to award the district any available credit or discount under Subchapter D, Chapter 41, Education Code, as if the district had exercised the option to purchase an attendance credit in a timely manner. Requires the commissioner, if the final amount calculated for the cost for the district for its recapture amount for a school year exceeds the hold harmless amount for that year, to withhold the entire hold harmless amount for that year and withhold the additional amount of the cost for the district to reduce the district's wealth per student to the equalized wealth level for that year from the hold harmless amount for a subsequent school year, and the district is not required to take any further action to reduce its wealth per student for that year. Provides that an action by the board of trustees of a school district authorizing the commissioner to withhold state revenue from the district under this section is valid without voter authorization.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

There are changes in Subsections (c) and (d) of proposed Section 41.0041, Education Code, to remove the 10 percent differential for notification by the commissioner and to add a settle-up process in a future year.

(c) Under the bill as filed, the commissioner’s notification of the district would occur if the amount of state revenue to which the district is entitled under Section 42.2516, Education Code (hold harmless) exceeds the cost to the district to purchase attendance credits under Subchapter D in an amount sufficient to reduce the district’s wealth per student to the equalized wealth level for that school year by more than 10 percent. Under the committee substitute, the notification would occur if the hold harmless amount exceeds the cost to the district to purchase attendance credits in an amount sufficient to reduce the district’s wealth per student to the equalized wealth level for that school year.

(d) Under the bill as filed, if the final amount calculated for the cost for the district to reduce its wealth per student to the equalized wealth level for a school year exceeds the amount of state revenue to which the district is entitled under Section 42.2516, Education Code, (hold harmless) for that year, the commissioner shall withhold the entire amount of hold harmless for that year and may not withhold any additional state aid under the Education Code to which the district is entitled for that year. Under the committee substitute, if the final amount calculated for the cost for the district to reduce its wealth per student to the equalized wealth level for a school year exceeds the amount of hold harmless for that year, the commissioner shall withhold the entire amount of hold harmless for that year and withhold the additional amount of the cost for the district to reduce the district’s wealth per student to the equalized wealth level for that year from the hold harmless for a subsequent school year.