

BILL ANALYSIS

S.B. 644
By: Shapiro
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A natural disaster such as Hurricane Ike impairs school districts by creating staffing, transportation, and facilities issues. Many students also can be displaced to another campus within the district or to another district. Although current Texas law has some mechanisms to assist affected districts, most of those mechanisms are inadequate to meet the needs of the affected districts.

School district budgets are a product of student attendance numbers and property values, and natural disasters impact both, creating difficulty for districts in planning and rebuilding.

S.B. 644 requires the commissioner of education to adjust the average daily attendance of a school district all or part of which is located in an area declared a disaster area by the governor if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster. The bill sets forth modifications, adjustments, and reimbursements under the public school finance system and contract delegation authority for a school district located in a disaster area.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

S.B. 644 amends the Education Code to require the commissioner of education to adjust the average daily attendance (ADA) of a school district all or part of which is located in an area declared a disaster area by the governor if the district experiences a decline in ADA that is reasonably attributable to the impact of the disaster. The bill requires that the adjustment be sufficient to ensure that the district receives funding comparable to the funding that the district would have received if the decline in ADA reasonably attributable to the impact of the disaster had not occurred. The bill requires the commissioner to make the adjustment for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster. The bill exempts a district receiving such an adjustment from existing law capping the funding for a school district that experiences a decline of two percent or more in ADA on the basis of an ADA not to exceed 98 percent of the district's actual ADA in the preceding year. The bill prohibits a district that receives an adjustment for a decline in ADA because of a declared disaster from receiving any additional adjustment permissible because of a disaster, flood, extreme weather condition, fuel curtailment, or other calamity that has a significant effect on the district's attendance. The bill establishes that a district's adjusted ADA under these provisions is considered to be the district's ADA for Foundation School Program purposes.

S.B. 644 requires the commissioner, for purposes of provisions relating to the equalized wealth level and the instructional facilities and existing debt allotments, to adjust the taxable value of

property of a school district all or part of which is located in an area declared a disaster area by the governor as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster. The bill provides that any additional funding to which a school district is entitled as a result of this adjustment is in addition to the amount of funding to which the district is entitled under the hold harmless provision providing additional state aid to offset the loss of local tax revenue attributable to the reduction in a district's tax rate by the state compression percentage. The bill establishes that a decision of the commissioner concerning this adjustment is final and may not be appealed.

S.B. 644 authorizes a district all or part of which is located in an area declared a disaster area by the governor and that incurs disaster remediation costs as a result of the disaster to apply to the commissioner, during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, for reimbursement of disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement. The bill adds a temporary provision, set to expire September 1, 2011, to authorize a district to seek reimbursement of disaster remediation costs paid by the district on or after September 1, 2008. The bill authorizes the commissioner to provide reimbursement costs only if funds are specifically appropriated for that purpose or if Foundation School Program funds are available for that purpose, based on a determination by the commissioner that the amount appropriated for the Foundation School Program, including the facilities component, exceeds the amount to which districts are entitled under provisions relating to the Foundation School Program formulas and through the instructional facilities and existing debt allotments.

S.B. 644 requires a district seeking reimbursement to provide the commissioner with adequate documentation of the costs for which the district seeks reimbursement. The bill requires the commissioner, if the amount of money available for reimbursement of disaster remediation costs is not sufficient to fully reimburse each district's disaster remediation costs, to reduce the amount of assistance provided to each district proportionately.

S.B. 644 makes a district that is required to purchase attendance credits under state law eligible to receive assistance for disaster remediation costs in the same manner as any other district. The bill authorizes such a district, at its discretion, to receive assistance either as a payment of state aid or as a reduction in the total amount required to be paid by the district for attendance credits.

S.B. 644 provides that amounts provided to a district for disaster remediation costs are in addition to the amount of funding to which the district is entitled under the hold harmless provisions described above relating to the tax rate reduction by the state compression percentage.

S.B. 644 requires the commissioner to adopt rules necessary to implement provisions relating to reimbursement of disaster remediation costs, including rules defining "disaster remediation costs" and specifying the type of documentation required to be provided to the commissioner. The bill authorizes the commissioner to permit a district to use the amount provided to it to pay the costs of replacing a facility instead of repairing the facility. The bill requires the commissioner to ensure that a district that elects to replace a facility does not receive an amount for reimbursement that exceeds the lesser of the amount that would be provided to the district if the facility were repaired or the amount necessary to replace the facility. The bill establishes that its provisions do not require the commissioner to provide any requested reimbursement, and that a decision of the commissioner regarding reimbursement is final and may not be appealed.

S.B. 644 authorizes the board of trustees of a school district, in the event of a catastrophe, emergency, or natural disaster affecting the district, to delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

S.B. 644 provides that it does not make an appropriation and that it takes effect only if a specific appropriation for the implementation of its provisions is provided in a general appropriations act of the 81st Legislature.

EFFECTIVE DATE

September 1, 2009.