

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 644  
By: Shapiro et al.  
Education  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A natural disaster, such as Hurricane Ike, has the ability to impair school districts and create personnel, transportation, and facilities issues. Displaced students can also result from natural disasters and they may be displaced to another campus within the same district or 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. Natural disasters impact both, creating difficulty for districts to plan and rebuild.

C.S.S.B. 644 provides that a school district located in a disaster area as declared by the governor may, for a period of two years following the date of the disaster proclamation, receive a reduction in the amount to be paid by the district for attendance credits equal to the amount of any disaster remediation costs paid by the district during that period for which it does not anticipate recovering through certain sources. The bill requires the commissioner of education, for the two-year period following the date of the disaster proclamation, to adjust the average daily attendance (ADA) for a district that experiences a decline in ADA that is directly attributable to the impact of the disaster. The bill also provides for an adjustment to the taxable value of property that has been affected by the state of disaster and reimbursement for disaster remediation costs, and authorizes the board of trustees of the district, in the event of a catastrophe, emergency, or natural disaster affecting a school district, to delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under this subchapter if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff. The bill authorizes the commissioner of education to permit a school district to use certain funds to pay the costs of replacing, rather than repairing, a facility under certain conditions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 41.0931, Education Code) and SECTION 3 (Section 42.2524, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 41, Education Code, by adding Section 41.0931, as follows:

Sec. 41.0931. DISASTER REMEDIATION COSTS. (a) Provides that this section applies only to a district all or part of which is located in an area declared a disaster area by the governor under Chapter 418 (Emergency Management), Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) Provides that, subject to Subsection (c), for the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, the total amount required to be paid by a district for attendance credits under Section 41.093 (Cost) is reduced by the amount of any 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.

(b-1) Provides that for purposes of determining the reduction under this section to which a district is entitled for the 2009-2010 school year, disaster remediation costs paid by the district after September 1, 2008, are included if the costs meet all other requirements imposed by this section. Provides that this subsection expires September 1, 2010.

(c) Requires a district, in order to receive a reduction under this section, to provide the commissioner of education (commissioner) with acceptable documentation of disaster remediation costs paid by the district.

(d) Requires the commissioner to adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (c).

(e) Authorizes the commissioner, notwithstanding any other provision of this section, to permit a district to use funds available to the district as a result of a reduction under this section to pay the costs of replacing a facility instead of repairing the facility. Requires the commissioner to ensure that a district that elects to replace a facility does not receive a reduction that exceeds the lesser of the amount that would be available to the district if the facility were repaired, or the amount necessary to replace the facility.

SECTION 2. Amends Subchapter A, Chapter 42, Education Code, by adding Section 42.0051, as follows:

Sec. 42.0051. AVERAGE DAILY ATTENDANCE FOR DISTRICTS IN DISASTER AREA. (a) Requires the commissioner to adjust the average daily attendance for a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

(b) 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 average daily attendance reasonably attributable to the impact of the disaster had not occurred.

(c) Requires the commissioner to make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

(d) Provides that Section 42.005(b)(2) (regarding certain formulas used for funding a school that experiences a decline of two percent or more in average daily attendance rates due to circumstances other than the closure or reduction in personnel of a military base) does not apply to a district that receives an adjustment under this section.

(e) Prohibits a district that receives an adjustment under this section from receiving any additional adjustment under Section 42.005(d) (regarding the commissioner's abilities to adjust the average daily attendance of a school district in which certain calamities have significantly affected attendance rates) for the decline in average daily attendance on which the adjustment under this section is based.

(f) Provides that for purposes of this title, a district's adjusted average daily attendance under this section is considered to be the district's average daily attendance as determined under Section 42.005 (Average Daily Attendance).

SECTION 3. Amends Subchapter E, Chapter 42, Education Code, by adding Sections 42.2523 and 42.2524, as follows:

Sec. 42.2523. ADJUSTMENT FOR PROPERTY VALUE AFFECTED BY STATE OF DISASTER. (a) Requires the commissioner, for purposes of Chapters 41 (Equalized Wealth Level) and 46 (Assistance with Instructional Facilities and Payment of Existing Debt) and this chapter, 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 under Chapter 418, Government Code, as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster.

(b) Provides that any additional funding to which a school district is entitled as a result of the adjustment required by this section is in addition to the amount of funding to which the district is entitled under Section 42.2516(b) (regarding a school district's entitlement to state revenue based on average daily attendance rates).

(c) Provides that a decision of the commissioner under this section is final and is prohibited from being appealed.

Sec. 42.2524. REIMBURSEMENT FOR DISASTER REMEDIATION COSTS. (a) Provides that this section applies only to a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) Authorizes a district, during the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, to apply to the commissioner 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.

(b-1) Authorizes a district to seek reimbursement of disaster remediation costs paid by the district on or after September 1, 2008. Provides that this subsection expires September 1, 2011.

(c) Authorizes the commissioner to provide reimbursement under this section only if the commissioner determines that the amount appropriated for the Foundation School Program, including the facilities component as provided by Chapter 46 (Assistance with Instructional Facilities and Payment of Existing Debt), exceeds the amount to which districts are entitled under this chapter and Chapter 46.

(d) Requires a district seeking reimbursement under this section to provide the commissioner with adequate documentation of the costs for which the district seeks reimbursement.

(e) Requires the commissioner, if the amount of money available for purposes of this section is not sufficient to reimburse each district's disaster remediation costs, to give priority to reimbursing costs incurred by districts that do not purchase attendance credits under Section 41.093.

(f) Prohibits a district from obtaining reimbursement under this section for the payment of any disaster remediation costs that resulted in a reduction under Section 41.0931 of the district's cost of attendance credits.

(g) Provides that amounts provided to a district under this section are in addition to the amount to which the district is entitled under Section 42.2516 (Additional State Aid for Tax Reduction).

(h) Requires the commissioner to adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (d).

(i) Authorizes the commissioner, notwithstanding any other provision of this section, to permit a district to use amounts provided to a district under this section to pay the costs of replacing a facility instead of repairing the facility. Requires the commissioner to ensure that a district that elects to replace a facility does not receive an amount under this section 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.

(j) Provides that this section does not require the commissioner to provide any requested reimbursement. Provides that a decision of the commissioner regarding reimbursement is final and is prohibited from being appealed.

SECTION 4. Amends Section 44.0312, Education Code, by adding Subsection (c), to authorize the board of trustees of a district, notwithstanding any other provision of this code, in the event of a catastrophe, emergency, or natural disaster affecting a school district, to delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under this subchapter if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

SECTION 5. Effective date: September 1, 2009.