

AN ACT

relating to the disaster contingency fund and relief for school districts located in a disaster area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 418.073(c), Government Code, as added by Chapter 1250 (H.B. 2694), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) A state or ~~[agency,~~ local government~~[, or other eligible]~~ entity that participates in disaster preparation or disaster recovery may request and receive funding from the disaster contingency fund to pay for~~+~~

~~[(1) extraordinary]~~ costs incurred by the state or local government entity in preparing for or recovering from ~~[implementing preventive measures taken before or during an emergency, and~~

~~[(2) costs incurred in repairing damage suffered during]~~ a disaster ~~[for which:~~

~~[(A) the presiding officer of a municipal or county government has declared a local state of disaster for affected areas within the jurisdiction of the municipality or county, and~~

~~[(B) the governor has also declared a state of disaster for the affected county or counties].~~

SECTION 2. Section 418.073, Government Code, is amended by

1 adding Subsections (f), (g), and (h) to read as follows:

2 (f) A state or local government entity or other eligible
3 entity that receives funding from the disaster contingency fund to
4 pay for costs associated with disaster recovery and that
5 subsequently receives reimbursement from the federal government,
6 an insurer, or another source for those same costs shall reimburse
7 the disaster contingency fund for the reimbursed amounts. In
8 developing rules and procedures under Subsection (d) the governor's
9 division of emergency management shall prescribe accounting and
10 other procedures necessary to efficiently and effectively
11 implement this subsection.

12 (g) Money in the disaster contingency fund may be used to
13 pay for a disaster risk financing instrument using a parametric
14 index based on affected population to leverage available funds and
15 receive proceeds greater than appropriated amounts to pay for
16 extraordinary expenses.

17 (h) Money in the disaster contingency fund may be used to
18 provide to a local government entity that is suffering financial
19 hardship as a result of a disaster declared under this chapter funds
20 for the purpose of providing local matching funds for Federal
21 Emergency Management Agency qualifying projects.

22 SECTION 3. Subchapter D, Chapter 41, Education Code, is
23 amended by adding Section 41.0931 to read as follows:

24 Sec. 41.0931. DISASTER REMEDIATION COSTS. (a) This
25 section applies only to a district all or part of which is located
26 in an area declared a disaster area by the governor under Chapter
27 418, Government Code, and that incurs disaster remediation costs as

1 a result of the disaster.

2 (b) Subject to Subsection (c), for the two-year period
3 following the date of the governor's initial proclamation or
4 executive order declaring a state of disaster, the total amount
5 required to be paid by a district for attendance credits under
6 Section 41.093 is reduced by the amount of any disaster remediation
7 costs that the district pays during that period and does not
8 anticipate recovering through insurance proceeds, federal disaster
9 relief payments, or another similar source of reimbursement.

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

16 (c) To receive a reduction under this section, a district
17 must provide the commissioner with acceptable documentation of
18 disaster remediation costs paid by the district.

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

23 (e) Notwithstanding any other provision of this section,
24 the commissioner may permit a district to use funds available to the
25 district as a result of a reduction under this section to pay the
26 costs of replacing a facility instead of repairing the facility.
27 The commissioner shall ensure that a district that elects to

1 replace a facility does not receive a reduction that exceeds the
2 lesser of:

3 (1) the amount that would be available to the district
4 if the facility were repaired; or

5 (2) the amount necessary to replace the facility.

6 SECTION 4. Subchapter A, Chapter 42, Education Code, is
7 amended by adding Section 42.0051 to read as follows:

8 Sec. 42.0051. AVERAGE DAILY ATTENDANCE FOR DISTRICTS IN
9 DISASTER AREA. (a) From funds specifically appropriated for the
10 purpose or other funds available to the commissioner for that
11 purpose, the commissioner shall adjust the average daily attendance
12 of a school district all or part of which is located in an area
13 declared a disaster area by the governor under Chapter 418,
14 Government Code, if the district experiences a decline in average
15 daily attendance that is reasonably attributable to the impact of
16 the disaster.

17 (b) The adjustment must be sufficient to ensure that the
18 district receives funding comparable to the funding that the
19 district would have received if the decline in average daily
20 attendance reasonably attributable to the impact of the disaster
21 had not occurred.

22 (c) The commissioner shall make the adjustment required by
23 this section for the two-year period following the date of the
24 governor's initial proclamation or executive order declaring the
25 state of disaster.

26 (d) Section 42.005(b)(2) does not apply to a district that
27 receives an adjustment under this section.

1 (e) A district that receives an adjustment under this
2 section may not receive any additional adjustment under Section
3 42.005(d) for the decline in average daily attendance on which the
4 adjustment under this section is based.

5 (f) For purposes of this title, a district's adjusted
6 average daily attendance under this section is considered to be the
7 district's average daily attendance as determined under Section
8 42.005.

9 SECTION 5. Subchapter E, Chapter 42, Education Code, is
10 amended by adding Sections 42.2523 and 42.2524 to read as follows:

11 Sec. 42.2523. ADJUSTMENT FOR PROPERTY VALUE AFFECTED BY
12 STATE OF DISASTER. (a) For purposes of Chapters 41 and 46 and this
13 chapter, the commissioner shall adjust the taxable value of
14 property of a school district all or part of which is located in an
15 area declared a disaster area by the governor under Chapter 418,
16 Government Code, as necessary to ensure that the district receives
17 funding based as soon as possible on property values as affected by
18 the disaster.

19 (b) The commissioner may fund adjustments under this
20 section using funds specifically appropriated for the purpose or
21 other funds available to the commissioner for that purpose.

22 (c) Any additional funding to which a school district is
23 entitled as a result of the adjustment required by this section is
24 in addition to the amount of funding to which the district is
25 entitled under Section 42.2516(b).

26 (d) A decision of the commissioner under this section is
27 final and may not be appealed.

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

6 (b) During the two-year period following the date of the
7 governor's initial proclamation or executive order declaring a
8 state of disaster, a district may apply to the commissioner for
9 reimbursement of disaster remediation costs that the district pays
10 during that period and does not anticipate recovering through
11 insurance proceeds, federal disaster relief payments, or another
12 similar source of reimbursement.

13 (b-1) A district may seek reimbursement of disaster
14 remediation costs paid by the district on or after September 1,
15 2008. This subsection expires September 1, 2011.

16 (c) The commissioner may provide reimbursement under this
17 section only if funds are available for that purpose as follows:

18 (1) reimbursement for a school district not required
19 to take action under Chapter 41 may be provided from:

20 (A) amounts appropriated for that purpose,
21 including amounts appropriated for those districts for that purpose
22 to the disaster contingency fund established under Section 418.073,
23 Government Code; or

24 (B) Foundation School Program funds available
25 for that purpose, based on a determination by the commissioner that
26 the amount appropriated for the Foundation School Program,
27 including the facilities component as provided by Chapter 46,

1 exceeds the amount to which districts are entitled under this
2 chapter and Chapter 46; and

3 (2) reimbursement for a school district required to
4 take action under Chapter 41 may be provided from funds described by
5 Subdivision (1)(B) if funds remain available after fully
6 reimbursing each school district described by Subdivision (1) for
7 its disaster remediation costs.

8 (d) If the amount of money available for purposes of
9 reimbursing school districts not required to take action under
10 Chapter 41 is not sufficient to fully reimburse each district's
11 disaster remediation costs, the commissioner shall reduce the
12 amount of assistance provided to each of those districts
13 proportionately. If the amount of money available for purposes of
14 reimbursing school districts required to take action under Chapter
15 41 is not sufficient to fully reimburse each district's disaster
16 remediation costs, the commissioner shall reduce the amount of
17 assistance provided to each of those districts proportionately.

18 (e) A district seeking reimbursement under this section
19 must provide the commissioner with adequate documentation of the
20 costs for which the district seeks reimbursement.

21 (f) A district required to take action under Chapter 41:

22 (1) may, at its discretion, receive assistance
23 provided under this section either as a payment of state aid under
24 this chapter or as a reduction in the total amount required to be
25 paid by the district for attendance credits under Section 41.093;
26 and

27 (2) may not obtain reimbursement under this section

1 for the payment of any disaster remediation costs that resulted in a
2 reduction under Section 41.0931 of the district's cost of
3 attendance credits.

4 (g) Amounts provided to a district under this section are in
5 addition to the amount to which the district is entitled under
6 Section 42.2516.

7 (h) The commissioner shall adopt rules necessary to
8 implement this section, including rules defining "disaster
9 remediation costs" for purposes of this section and specifying the
10 type of documentation required under Subsection (e).

11 (i) Notwithstanding any other provision of this section,
12 the commissioner may permit a district to use amounts provided to a
13 district under this section to pay the costs of replacing a facility
14 instead of repairing the facility. The commissioner shall ensure
15 that a district that elects to replace a facility does not receive
16 an amount under this section that exceeds the lesser of:

17 (1) the amount that would be provided to the district
18 if the facility were repaired; or

19 (2) the amount necessary to replace the facility.

20 (j) This section does not require the commissioner to
21 provide any requested reimbursement. A decision of the
22 commissioner regarding reimbursement is final and may not be
23 appealed.

24 SECTION 6. Section 44.0312, Education Code, is amended by
25 adding Subsection (c) to read as follows:

26 (c) Notwithstanding any other provision of this code, in the
27 event of a catastrophe, emergency, or natural disaster affecting a

1 school district, the board of trustees of the district may delegate
2 to the superintendent or designated person the authority to
3 contract for the replacement, construction, or repair of school
4 equipment or facilities under this subchapter if emergency
5 replacement, construction, or repair is necessary for the health
6 and safety of district students and staff.

7 SECTION 7. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 4102 was passed by the House on April 30, 2009, by the following vote: Yeas 132, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 4102 on May 23, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 4102 on May 31, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 4102

I certify that H.B. No. 4102 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 4102 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor