

House Bill 4102
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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No equivalent provision.

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

Sec. 42.0051.AVERAGE DAILY ATTENDANCE FOR DISTRICTS IN DISASTER AREA.(a)The

commissioner shall 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 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)The adjustment must 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)The commissioner shall 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)Section 42.005(b)(2) does not apply to a district that receives an adjustment under this section.

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

(f)For purposes of this title, a district's adjusted average daily attendance under this section is considered to be the

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district's average daily attendance as determined under Section 42.005.

No equivalent provision.

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

Sec. 42.2523. ADJUSTMENT FOR PROPERTY VALUE AFFECTED BY STATE OF DISASTER.

(a) For purposes of Chapters 41 and 46 and this chapter, the commissioner shall 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) 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).

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

Sec. 42.2524. REIMBURSEMENT FOR DISASTER REMEDIATION COSTS.

(a) 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) During the two-year period following the date of the

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governor's initial proclamation or executive order declaring a state of disaster, a district may 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) A district may seek reimbursement of disaster remediation costs paid by the district on or after September 1, 2008. This subsection expires September 1, 2011.

(c)The commissioner may provide reimbursement under this section only if:

(1)funds are specifically appropriated for purposes of this section; or

(2)Foundation School Program funds are available for purposes of this section, based on a determination by the commissioner that the amount appropriated for the Foundation School Program, including the facilities component as provided by Chapter 46, exceeds the amount to which districts are entitled under this chapter and Chapter 46.

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

(e)If the amount of money available for purposes of this section is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce

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the amount of assistance provided under this section to each district proportionately.

(f)Notwithstanding any other provision of law, a district that is required to purchase attendance credits under Chapter 41 is eligible to receive assistance under this section in the same manner as any other district.A district may, at its discretion, receive assistance either as a payment of state aid under this chapter or as a reduction in the total amount required to be paid by the district for attendance credits under Section 41.093.

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

(h)The commissioner shall 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)Notwithstanding any other provision of this section, the commissioner may 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. The commissioner shall ensure that a district that elects to replace a facility does not receive an amount under this section that exceeds the lesser of:

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

(2)the amount necessary to replace the facility.

(j)This section does not require the commissioner to

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provide any requested reimbursement. A decision of the commissioner regarding reimbursement is final and may not be appealed.

No equivalent provision.

SECTION __.Section 44.0312, Education Code, is amended by adding Subsection (c) to read as follows:
(c)Notwithstanding any other provision of this code, in the event of a catastrophe, emergency, or natural disaster affecting a school district, the board of trustees of the district may 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.

No equivalent provision.

SECTION __.This Act does not make an appropriation. Sections 42.0051, 42.2523, and 42.2524 of the Education Code take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 81st Legislature.

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:

Same as House version.

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

~~[(1) extraordinary]~~ costs incurred in recovering from ~~[implementing preventive measures taken before or during an emergency; and~~

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

(1) [(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

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

(f) A state or local government entity or other eligible entity that receives funding from the disaster contingency fund to pay for costs associated with disaster recovery and that subsequently receives reimbursement from the federal government, an insurer, or another source for those same costs shall reimburse the disaster contingency fund for the reimbursed amounts. In developing rules and procedures under Subsection (d) the governor's division of emergency management shall prescribe accounting

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SECTION 2. Section 418.073, Government Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) A state or local government entity or other eligible entity that receives funding from the disaster contingency fund to pay for costs associated with disaster recovery and that subsequently receives reimbursement from the federal government, an insurer, or another source for those same costs shall reimburse the disaster contingency fund for the reimbursed amounts. In developing rules and procedures under Subsection (d) the governor's division of emergency management shall prescribe accounting

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and other procedures necessary to efficiently and effectively implement this subsection.

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

(h) Money in the disaster contingency fund may be used to provide to a local government entity that is suffering financial hardship as a result of a disaster declared under this chapter funds for the purpose of:

- (1) providing local matching funds for Federal Emergency Management Agency qualifying projects; or
- (2) preventing default on outstanding bonds or meeting other financial requirements.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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and other procedures necessary to efficiently and effectively implement this subsection.

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

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

Same as House version.

CONFERENCE