

By: Shapiro, et al.

S.B. No. 12

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the flexibility of the board of trustees of a school
3 district in the management and operation of public schools in the
4 district.

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

6 SECTION 1. Section 21.0031, Education Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (b-1) to
8 read as follows:

9 (a) An employee's probationary, continuing, or term
10 contract under this chapter is void if the employee:

11 (1) does not hold a valid certificate or permit issued
12 by the State Board for Educator Certification; ~~[or]~~

13 (2) fails to fulfill the requirements necessary to
14 renew or extend the employee's temporary, probationary, or
15 emergency certificate or any other certificate or permit issued
16 under Subchapter B; or

17 (3) fails to comply with any requirement under
18 Subchapter C, Chapter 22, if the failure results in suspension or
19 revocation of the employee's certificate under Section
20 22.0831(f)(2).

21 (b) If a school district has knowledge that an ~~[After an~~
22 ~~employee receives notice that the]~~ employee's contract is void
23 under Subsection (a):

24 (1) the ~~[a school]~~ district may, except as provided by

1 Subsection (b-1):

2 (A) terminate the employee;

3 (B) suspend the employee with or without pay; or

4 (C) retain the employee for the remainder of the
5 school year on an at-will employment basis in a position other than
6 a position required to be held by an employee under a contract under
7 Section 21.002 [~~classroom teacher~~] at the employee's existing rate
8 of pay or at a reduced rate; and

9 (2) the employee is not entitled to the minimum salary
10 prescribed by Section 21.402.

11 (b-1) A school district may not terminate or suspend under
12 Subsection (b) an employee whose contract is void under Subsection
13 (a)(1) or (2) because the employee failed to renew or extend the
14 employee's certificate or permit if the employee:

15 (1) requests an extension from the State Board for
16 Educator Certification to renew, extend, or otherwise validate the
17 employee's certificate or permit; and

18 (2) not later than the 10th day after the date the
19 contract is void, takes necessary measures to renew, extend, or
20 otherwise validate the employee's certificate or permit, as
21 determined by the State Board for Educator Certification.

22 SECTION 2. Section 21.103(a), Education Code, is amended to
23 read as follows:

24 (a) The board of trustees of a school district may terminate
25 the employment of a teacher employed under a probationary contract
26 at the end of the contract period if in the board's judgment the
27 best interests of the district will be served by terminating the

1 employment. The board of trustees must give notice of its decision
2 to terminate the employment to the teacher not later than the 10th
3 ~~[45th]~~ day before the last day of instruction required under the
4 contract. The board's decision is final and may not be appealed.

5 SECTION 3. Section 21.105(a), Education Code, is amended to
6 read as follows:

7 (a) A teacher employed under a probationary contract for the
8 following school year may relinquish the position and leave the
9 employment of the district at the end of a school year without
10 penalty by filing with the board of trustees or its designee a
11 written resignation not later than the 30th ~~[45th]~~ day before the
12 first day of instruction of the following school year. A written
13 resignation mailed by prepaid certified or registered mail to the
14 president of the board of trustees or the board's designee at the
15 post office address of the district is considered filed at the time
16 of mailing.

17 SECTION 4. Section 21.157, Education Code, is amended to
18 read as follows:

19 Sec. 21.157. NECESSARY REDUCTION OF PERSONNEL. (a) A
20 teacher employed under a continuing contract may be released at the
21 end of a school year and the teacher's employment with the school
22 district terminated at that time because of:

23 (1) a necessary reduction of personnel by the school
24 district; or

25 (2) a program change that requires a reduction in
26 personnel ~~[, with those reductions made in the reverse order of~~
27 ~~seniority in the specific teaching fields]~~.

1 (b) Notwithstanding Subsection (a)(1), a teacher employed
2 under a continuing contract may not be released as described by that
3 subdivision for a school year in which the district is authorized to
4 implement a furlough program under Section 21.4021 or reduce
5 salaries under Section 21.4022 unless the district has taken action
6 under either or both of those sections to achieve the greatest
7 savings in salary costs permitted by Section 21.4022.

8 SECTION 5. Section 21.160(a), Education Code, is amended to
9 read as follows:

10 (a) A teacher employed under a continuing contract may
11 relinquish the position and leave the employment of the district at
12 the end of a school year without penalty by filing with the board of
13 trustees or its designee a written resignation not later than the
14 30th [~~45th~~] day before the first day of instruction of the following
15 school year. A written resignation mailed by prepaid certified or
16 registered mail to the president of the board of trustees or the
17 board's designee at the post office address of the district is
18 considered filed at time of mailing.

19 SECTION 6. Section 21.206(a), Education Code, is amended to
20 read as follows:

21 (a) Not later than the 10th [~~45th~~] day before the last day of
22 instruction in a school year, the board of trustees shall notify in
23 writing each teacher whose contract is about to expire whether the
24 board proposes to renew or not renew the contract.

25 SECTION 7. Section 21.210(a), Education Code, is amended to
26 read as follows:

27 (a) A teacher employed under a term contract with a school

1 district may relinquish the teaching position and leave the
2 employment of the district at the end of a school year without
3 penalty by filing a written resignation with the board of trustees
4 or the board's designee not later than the 30th [~~45th~~] day before
5 the first day of instruction of the following school year. A
6 written resignation mailed by prepaid certified or registered mail
7 to the president of the board of trustees or the board's designee at
8 the post office address of the district is considered filed at the
9 time of mailing.

10 SECTION 8. Section 21.211, Education Code, is amended by
11 amending Subsection (a) and adding Subsection (a-1) to read as
12 follows:

13 (a) The board of trustees may terminate a term contract and
14 discharge a teacher at any time for:

15 (1) good cause as determined by the board; [~~or~~]

16 (2) a financial exigency that requires a reduction in
17 personnel; or

18 (3) a program change that requires a reduction in
19 personnel.

20 (a-1) Notwithstanding Subsection (a)(2), the board of
21 trustees may not terminate a term contract as described by that
22 subdivision for a school year in which the district is authorized to
23 implement a furlough program under Section 21.4021 or reduce
24 salaries under Section 21.4022 unless the district has taken action
25 under either or both of those sections to achieve the greatest
26 savings in salary costs permitted by Section 21.4022.

27 SECTION 9. Subchapter I, Chapter 21, Education Code, is

1 amended by adding Sections 21.4021, 21.4022, and 21.4023 to read as
2 follows:

3 Sec. 21.4021. FURLOUGHS. (a) Notwithstanding Section
4 21.401 and subject to Sections 21.4022 and 21.4023, the board of
5 trustees of a school district may, in accordance with district
6 policy, implement a furlough program and reduce the number of days
7 of service otherwise required under Section 21.401 by not more than
8 six days of service during a school year if the commissioner
9 certifies in accordance with Section 42.009 that the district will
10 be provided with less state and local funding for that year than was
11 provided to the district for the 2010-2011 school year.

12 (b) Notwithstanding Section 21.402 but subject to Section
13 21.4022, the board of trustees may reduce the salary of an employee
14 who is furloughed in proportion to the number of days by which
15 service is reduced, provided that the furlough program is
16 implemented in compliance with this section.

17 (c) A furlough program must subject all contract personnel
18 to the same number of furlough days, except that, for purposes of
19 providing professional development, the board of trustees may
20 exempt from furloughs or subject to a lesser number of required
21 furlough days contract personnel assigned to a campus that:

22 (1) does not satisfy performance standards under
23 Section 39.054(e); or

24 (2) satisfies performance standards under Section
25 39.054(e) for the current school year but would not satisfy
26 performance standards under Section 39.054(e) if the standards to
27 be used for the following year were applied to the current year.

1 (d) An educator may not be furloughed on a day that is
2 included in the number of days of instruction required under
3 Section 25.081.

4 (e) An educator may not use personal, sick, or any other
5 paid leave while the educator is on a furlough.

6 (f) A furlough imposed under this section does not
7 constitute a break in service for purposes of the Teacher
8 Retirement System of Texas.

9 (g) Implementation of a furlough program may not result in
10 an increase in the number of required teacher workdays.

11 (h) If a board of trustees adopts a furlough program after
12 the date by which a teacher must give notice of resignation under
13 Section 21.105, 21.160, or 21.210, as applicable, a teacher who
14 subsequently resigns is not subject to sanctions imposed by the
15 State Board for Educator Certification as otherwise authorized by
16 those sections.

17 (i) A decision by the board of trustees to implement a
18 furlough program:

19 (1) is final and may not be appealed; and

20 (2) does not create a cause of action or require
21 collective bargaining.

22 Sec. 21.4022. SALARY REDUCTION. (a) Notwithstanding
23 Section 21.402 or any other law, but subject to Section 21.4023, a
24 school district may, if authorized by the board of trustees, reduce
25 for a school year the monthly salary of contract personnel employed
26 by the district during the 2010-2011 school year if the
27 commissioner certifies in accordance with Section 42.009 that the

1 district will be provided with less state and local funding for that
2 year than was provided to the district for the 2010-2011 school
3 year.

4 (b) A salary reduction may be achieved through a reduction
5 associated with a furlough as provided by Section 21.4021, through
6 a reduction not associated with a furlough, or through a
7 combination of those reductions.

8 (c) A school district may not, through the cumulative effect
9 of actions described by Subsection (b), reduce an employee's salary
10 received for the 2010-2011 school year by more than the percentage
11 by which the district's state and local funding is reduced for the
12 applicable school year, as certified by the commissioner under
13 Section 42.009.

14 (d) For purposes of this section, an employee's salary does
15 not include any stipends provided by the district to the employee.

16 (e) A decision by the board of trustees to authorize a
17 salary reduction:

18 (1) is final and may not be appealed; and

19 (2) does not create a cause of action or require
20 collective bargaining.

21 Sec. 21.4023. REQUIRED PROCESS FOR DEVELOPMENT OF FURLOUGH
22 PROGRAM OR OTHER SALARY REDUCTION PROPOSAL. (a) The board of
23 trustees of a school district may not implement a furlough program
24 under Section 21.4021 or reduce salaries in accordance with Section
25 21.4022 until the district has complied with this section.

26 (b) A school district must use a process to develop a
27 furlough program or other salary reduction proposal, as applicable,

1 that:

2 (1) includes the involvement of the district's
3 professional staff; and

4 (2) provides district employees with the opportunity
5 to express opinions regarding the furlough program or salary
6 reduction proposal, as applicable, at the public meeting required
7 by Subsection (c).

8 (c) The board of trustees must hold a public meeting at
9 which the board and school district administration present:

10 (1) information regarding the options considered for
11 managing the district's available resources, including
12 consideration of a tax rate increase and use of the district's
13 available fund balance; and

14 (2) an explanation of how the district intends,
15 through implementation of a furlough program under Section 21.4021
16 or through other salary reductions authorized under Section
17 21.4022, as applicable, to limit the number of district employees
18 who will be discharged or whose contracts will not be renewed.

19 (d) Any explanation of a furlough program under Subsection
20 (c)(2) must state the specific number of furlough days proposed to
21 be required.

22 (e) The public and school district employees must be
23 provided with an opportunity to comment at the public meeting
24 required under Subsection (c).

25 SECTION 10. Section 38.101(a), Education Code, is amended
26 to read as follows:

27 (a) Except as provided by Subsection (b), a school district

1 annually shall assess the physical fitness of students enrolled in
2 grade three or higher in a course that satisfies the curriculum
3 requirements for physical education under Section 28.002(a)(2)(C)
4 [~~grades 3 through 12~~].

5 SECTION 11. Section 39.082, Education Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) The commissioner may not use the system developed under
8 this section to evaluate:

9 (1) a district during a school year for which the
10 commissioner certifies in accordance with Section 42.009 that the
11 district will be provided with less state and local funding than was
12 provided to the district for the 2010-2011 school year; or

13 (2) an open-enrollment charter school during a school
14 year for which the commissioner determines in a manner comparable
15 to the process described in Section 42.009 that the school will be
16 provided with less state and local funding than was provided to the
17 school for the 2010-2011 school year.

18 SECTION 12. Section 39.0822, Education Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) The agency may not review a district using the process
21 developed under this section during a school year for which the
22 commissioner certifies in accordance with Section 42.009 that the
23 district will be provided with less state and local funding than was
24 provided to the district for the 2010-2011 school year.

25 SECTION 13. Subchapter A, Chapter 42, Education Code, is
26 amended by adding Section 42.009 to read as follows:

27 Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Not

1 later than July 1 of each year, the commissioner shall determine for
2 each school district whether the estimated amount of state and
3 local funding per student in weighted average daily attendance to
4 be provided to the district under the Foundation School Program for
5 maintenance and operations for the following school year is less
6 than the amount provided to the district for the 2010-2011 school
7 year. If the amount estimated to be provided is less, the
8 commissioner shall certify the percentage decrease in funding to be
9 provided to the district.

10 (b) In making the determinations regarding funding levels
11 required by Subsection (a), the commissioner shall:

12 (1) make adjustments as necessary to reflect changes
13 in a school district's maintenance and operations tax rate;

14 (2) for a district required to take action under
15 Chapter 41 to reduce its wealth per student to the equalized wealth
16 level, base the determinations on the district's net funding levels
17 after deducting any amounts required to be expended by the district
18 to comply with Chapter 41; and

19 (3) determine a district's weighted average daily
20 attendance in accordance with this chapter as it existed on January
21 1, 2011.

22 SECTION 14. Section 44.004, Education Code, is amended by
23 adding Subsection (g-1) to read as follows:

24 (g-1) If the rate calculated under Section
25 44.004(c)(5)(A)(ii)(b) decreases after the publication of the
26 notice required by this section, the president is not required to
27 publish another notice or call another meeting to discuss and adopt

1 the budget and the proposed lower tax rate.

2 SECTION 15. Section 26.05(a), Tax Code, is amended to read
3 as follows:

4 (a) The governing body of each taxing unit, before the later
5 of September 30 or the 60th day after the date the certified
6 appraisal roll is received by the taxing unit, shall adopt a tax
7 rate for the current tax year and shall notify the assessor for the
8 unit of the rate adopted. The tax rate consists of two components,
9 each of which must be approved separately. The components are:

10 (1) for a taxing unit other than a school district, the
11 rate that, if applied to the total taxable value, will impose the
12 total amount published under Section 26.04(e)(3)(C), less any
13 amount of additional sales and use tax revenue that will be used to
14 pay debt service, or, for a school district, the rate calculated
15 [~~published~~] under Section 44.004(c)(5)(A)(ii)(b), Education Code;
16 and

17 (2) the rate that, if applied to the total taxable
18 value, will impose the amount of taxes needed to fund maintenance
19 and operation expenditures of the unit for the next year.

20 SECTION 16. Section 58.258(a), Utilities Code, is amended
21 to read as follows:

22 (a) Notwithstanding the pricing flexibility authorized by
23 this subtitle, an electing company's rates for private network
24 services may not be increased before January 1, 2014 [~~2012~~].
25 However, an electing company may increase a rate in accordance with
26 the provisions of a customer specific contract.

27 SECTION 17. Section 58.268, Utilities Code, is amended to

1 read as follows:

2 Sec. 58.268. CONTINUATION OF OBLIGATION. Notwithstanding
3 any other provision of this title, an electing company shall
4 continue to comply with this subchapter until January 1, 2014
5 [~~2012~~], regardless of:

6 (1) the date the company elected under this chapter;
7 or

8 (2) any action taken in relation to that company under
9 Chapter 65.

10 SECTION 18. Section 59.077(a), Utilities Code, is amended
11 to read as follows:

12 (a) Notwithstanding the pricing flexibility authorized by
13 this subtitle, an electing company's rates for private network
14 services may not be increased before January 1, 2014 [~~2012~~].

15 SECTION 19. Section 59.083, Utilities Code, is amended to
16 read as follows:

17 Sec. 59.083. CONTINUATION OF OBLIGATION. Notwithstanding
18 any other provision of this title, an electing company shall
19 continue to comply with this subchapter until January 1, 2014
20 [~~2012~~], regardless of:

21 (1) the date the company elected under this chapter;
22 or

23 (2) any action taken in relation to that company under
24 Chapter 65.

25 SECTION 20. The change in law made by Section 44.004(g-1),
26 Education Code, as added by this Act, applies beginning with
27 adoption of a tax rate for the 2011 tax year.

1 SECTION 21. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2011.