

By: Patrick

S.B. No. 443

A BILL TO BE ENTITLED

AN ACT

relating to measures intended to provide flexibility and cost savings to school districts.

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

SECTION 1. Section 21.058, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1) and (e) to read as follows:

(a) The procedures described by Subsection (b) apply [~~This section applies~~] only:

(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) if the victim of the offense is under 18 years of age.

(c) A school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter or otherwise becomes aware that a person employed by the district or school who holds a certificate under this subchapter has been convicted of a felony not described by Subsection (a) shall:

(1) immediately remove the person [~~whose certificate has been revoked~~] from campus or from an administrative office, as applicable, to prevent the person from having any contact with a

1 student, if the person's certificate was revoked under Subsection  
2 (b); [and]

3 (2) if the person is employed under a probationary,  
4 continuing, or term contract under this chapter and was convicted  
5 of a felony:

6 (A) suspend the person without pay;

7 (B) provide the person with written notice that  
8 the person's contract is void in accordance with Subsection (c-1);  
9 and

10 (C) as soon as practicable, terminate the  
11 person's employment; and

12 (3) if the person is not subject to action under  
13 Subdivision (2) [as soon as practicable], terminate the employment  
14 of the person as soon as practicable in accordance with the person's  
15 contract and with this subchapter.

16 (c-1) A person's probationary, continuing, or term contract  
17 under this chapter is void if the employee is convicted of a felony.

18 (e) Action taken by a school district under Subsection  
19 (c)(2) is not subject to appeal under this chapter, and the notice  
20 and hearing requirements of this chapter do not apply to the action.

21 SECTION 2. Section 25.112(a), Education Code, is amended to  
22 read as follows:

23 (a) Except as otherwise authorized by this section, a school  
24 district may not enroll more than a district-wide average of 21  
25 [22] students in [a] kindergarten, first, second, third, and [or]  
26 fourth grade classes [class]. That limitation does not apply  
27 during:

1           (1) any 12-week period of the school year selected by  
2 the district, in the case of a district whose average daily  
3 attendance is adjusted under Section 42.005(c); or

4           (2) the last 12 weeks of any school year in the case of  
5 any other district.

6           SECTION 3. Section 28.0211, Education Code, is amended by  
7 amending Subsections (a), (a-2), (d), (e), and (f) and adding  
8 Subsections (a-4) and (c-1) to read as follows:

9           (a) Except as provided by Subsection (a-4), (b), or (e), a  
10 student may not be promoted to:

11           (1) the sixth grade program to which the student would  
12 otherwise be assigned if the student does not perform  
13 satisfactorily on the fifth grade mathematics and reading  
14 assessment instruments under Section 39.023; or

15           (2) the ninth grade program to which the student would  
16 otherwise be assigned if the student does not perform  
17 satisfactorily on the eighth grade mathematics and reading  
18 assessment instruments under Section 39.023.

19           (a-2) A student who fails to perform satisfactorily on an  
20 assessment instrument specified under Subsection (a) and who is  
21 promoted to the next grade level must complete accelerated  
22 instruction required under Subsection (a-1) before placement in the  
23 next grade level. A student who fails to complete required  
24 accelerated instruction, other than a student described by  
25 Subsection (a-4), may not be promoted.

26           (a-4) Subsection (a)(2) does not apply to an eighth grade  
27 student who has completed and received a passing final grade for

1 mathematics or English language arts course work:

2 (1) that the student has taken for credit toward high  
3 school graduation; and

4 (2) that is relevant to the eighth grade mathematics  
5 or reading assessment instrument, as applicable, under Section  
6 39.023, on which the student has failed to perform satisfactorily.

7 (c-1) Accelerated instruction required under Subsection (c)  
8 after a student fails to perform satisfactorily on an assessment  
9 instrument a third time is not required to commence until the  
10 beginning of the next school year.

11 (d) In addition to providing accelerated instruction to a  
12 student under Subsection (c), the district shall notify the  
13 student's parent or guardian of:

14 (1) the student's failure to perform satisfactorily on  
15 the assessment instrument;

16 (2) the accelerated instruction program to which the  
17 student is assigned; and

18 (3) except in the case of a student described by  
19 Subsection (a-4), the possibility that the student might be  
20 retained at the same grade level for the next school year.

21 (e) A student, other than a student described by Subsection  
22 (a-4), who, after at least three attempts, fails to perform  
23 satisfactorily on an assessment instrument specified under  
24 Subsection (a) shall be retained at the same grade level for the  
25 next school year in accordance with Subsection (a). The student's  
26 parent or guardian may appeal the student's retention by submitting  
27 a request to the grade placement committee established under

1 Subsection (c). The school district shall give the parent or  
2 guardian written notice of the opportunity to appeal. The grade  
3 placement committee may decide in favor of a student's promotion  
4 only if the committee concludes, using standards adopted by the  
5 board of trustees, that if promoted and given accelerated  
6 instruction, the student is likely to perform at grade level. A  
7 student may not be promoted on the basis of the grade placement  
8 committee's decision unless that decision is unanimous. The  
9 commissioner by rule shall establish a time line for making the  
10 placement determination. This subsection does not create a  
11 property interest in promotion. The decision of the grade  
12 placement committee is final and may not be appealed.

13 (f) A school district shall provide to a student who, after  
14 three attempts, has failed to perform satisfactorily on an  
15 assessment instrument specified under Subsection (a) accelerated  
16 instruction commencing at the beginning of [~~during~~] the next school  
17 year as prescribed by an educational plan developed for the student  
18 by the student's grade placement committee established under  
19 Subsection (c). The district shall provide that accelerated  
20 instruction regardless of whether the student has been promoted or  
21 retained. The educational plan must be designed to enable the  
22 student to perform at the appropriate grade level by the conclusion  
23 of the school year. During the school year, the student shall be  
24 monitored to ensure that the student is progressing in accordance  
25 with the plan. The district shall administer to the student the  
26 assessment instrument for the grade level in which the student is  
27 placed at the time the district regularly administers the

1 assessment instruments for that school year.

2 SECTION 4. Sections 29.060(a) and (e), Education Code, are  
3 amended to read as follows:

4 (a) A [~~Each~~] school district may [~~that is required to offer~~  
5 ~~a bilingual education or special language program shall~~] offer a  
6 voluntary program for children of limited English proficiency who  
7 will be eligible for admission to kindergarten or the first grade at  
8 the beginning of the next school year. A school that operates on a  
9 system permitted by this code other than a semester system shall, if  
10 the district elects to offer a voluntary program under this  
11 section, offer 120 hours of instruction on a schedule the board of  
12 trustees of the district establishes. A school that operates on a  
13 semester system shall, if the district elects to offer a voluntary  
14 program under this section, offer the program:

15 (1) during the period school is recessed for the  
16 summer; and

17 (2) for one-half day for eight weeks or on a similar  
18 schedule approved by the board of trustees.

19 (e) The programs [~~required or~~] authorized by this section  
20 may not be a substitute for programs required to be provided during  
21 the regular school year.

22 SECTION 5. Sections 39.232(a) and (d), Education Code, are  
23 amended to read as follows:

24 (a) Except as provided by Subsection (b), a school campus or  
25 district that is rated as recognized or exemplary under Subchapter  
26 G is exempt from requirements and prohibitions imposed under this  
27 code including rules adopted under this code.

1           (d) The commissioner may exempt a [~~an exemplary~~] school  
2 campus that is rated as recognized or exemplary under Subchapter G  
3 from elementary class size limits under this section if the school  
4 campus submits to the commissioner a written plan showing steps  
5 that will be taken to ensure that the exemption from the class size  
6 limits will not be harmful to the academic achievement of the  
7 students on the school campus. The commissioner shall review  
8 achievement levels annually. The exemption remains in effect until  
9 the commissioner determines that achievement levels of the campus  
10 have declined.

11           SECTION 6. This Act applies beginning with the 2011-2012  
12 school year.

13           SECTION 7. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2011.