

By: West
(Dutton, Thompson of Harris, Toth)

S.B. No. 1718

Substitute the following for S.B. No. 1718:

By: Dutton

C.S.S.B. No. 1718

A BILL TO BE ENTITLED

AN ACT

relating to state interventions and sanctions against public school campuses with unacceptable performance and the establishment of the Texas Achievement School District for educating students at certain low-performing campuses.

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

SECTION 1. Chapter 11, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TEXAS ACHIEVEMENT SCHOOL DISTRICT

Sec. 11.401. TEXAS ACHIEVEMENT SCHOOL DISTRICT ESTABLISHED. (a) The Texas Achievement School District is established as a school district under this code and an intermediate educational unit under 34 C.F.R. Section 222.50 for the purpose of educating students attending a campus removed from the jurisdiction of a school district under Section 39.1071.

(b) In this subchapter, "prior system" means the school district from which a campus that is transferred to the jurisdiction of the achievement school district was removed.

(c) The commissioner shall select the superintendent of the achievement school district and employ central administrative staff, who may be employees of the agency. The superintendent shall report to the commissioner under a written contract for services.

(d) The achievement school district does not have authority to impose taxes but has authority to seek and expend federal funding

1 and grant funding and to otherwise seek, obtain, and expend funding
2 with the same authority as an independent school district.

3 (e) The achievement school district may provide for the
4 supervision, management, and operation of each campus placed under
5 the district's jurisdiction and receive, control, and expend the
6 local, state, and federal funding attributable to that campus, with
7 all the same power and authority as the prior system, subject to the
8 requirements of this subchapter and Section 39.1071, and with any
9 other power or authority otherwise granted by law.

10 (f) The achievement school district is entitled to the same
11 level of services provided to other school districts by regional
12 education service centers, and to participate in any state program
13 available to school districts, including a purchasing program.

14 (g) The achievement school district may not contract with a
15 private entity for providing educational services to the students
16 attending a campus transferred to the district, other than an
17 eligible entity, as defined by Section 12.101, that holds a charter
18 granted under Chapter 12 and has:

19 (1) operated one or more open-enrollment charter
20 schools in this state for three or more consecutive years;

21 (2) achieved a district rating of exemplary or
22 recognized under Subchapter G, Chapter 39, or the equivalent under
23 subsequent laws or rules regarding accountability ratings for three
24 of the preceding five years;

25 (3) documented success in whole school interventions
26 that increased the educational and performance levels of students
27 in campuses that received unacceptable performance ratings under

1 Section 39.054; and

2 (4) demonstrated success in educating populations of
3 students similar to the populations of students enrolled at the
4 campus transferred to the district.

5 (h) The achievement school district may employ such staff as
6 the superintendent deems necessary.

7 Sec. 11.402. CAMPUSES ELIGIBLE FOR TRANSFER. A campus is
8 eligible for transfer to the jurisdiction of the achievement school
9 district only if the school district from which the campus is to be
10 transferred has at least 20,000 students enrolled in the district
11 at the time the campus is to be transferred.

12 Sec. 11.403. APPLICABILITY OF LAWS, RULES, AND ORDINANCES
13 TO ACHIEVEMENT SCHOOL DISTRICT. (a) Except as expressly provided
14 by law, the achievement school district is subject to federal and
15 state laws and rules and municipal zoning ordinances governing
16 school districts.

17 (b) Except as provided by Subsection (c) and as expressly
18 provided by other law, the achievement school district is subject
19 to a provision of this title to the extent and in the manner that the
20 provision applies to an open-enrollment charter school under
21 Subchapter D, Chapter 12.

22 (c) A teacher employed by the achievement school district
23 must be certified under Subchapter B, Chapter 21, and may only teach
24 a subject in which the teacher is certified.

25 (d) The performance of a campus under the jurisdiction of
26 the achievement school district may not be used for purposes of
27 determining the prior system's performance rating under Section

1 39.054.

2 (e) With respect to the operation of the achievement school
3 district, any requirement in Chapter 551 or 552, Government Code,
4 or another law that concerns open meetings or the availability of
5 information that applies to a school district, the board of
6 trustees of a school district, or public school students applies to
7 the achievement school district, the superintendent of the
8 district, or students attending the district.

9 Sec. 11.404. IMMUNITY. The achievement school district is
10 immune from liability to the same extent as any other school
11 district, and the district's employees and volunteers are immune
12 from liability to the same extent as other school district
13 employees and volunteers.

14 Sec. 11.405. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
15 TEXAS BY ACHIEVEMENT SCHOOL DISTRICT EMPLOYEES. (a) An employee
16 of the achievement school district who qualifies for membership in
17 the Teacher Retirement System of Texas shall be covered under the
18 system to the same extent a qualified employee of any other school
19 district is covered.

20 (b) For each employee of the achievement school district
21 covered under the system, the district is responsible for making
22 any contribution that otherwise would be the legal responsibility
23 of the district, and the state is responsible for making
24 contributions to the same extent it would be legally responsible if
25 the employee were that of another school district.

26 Sec. 11.406. FUNDING OF STUDENTS ENROLLED IN ACHIEVEMENT
27 SCHOOL DISTRICT. (a) The achievement school district is entitled

1 to receive for the education of students transferred to the
2 district funding under Chapter 42 equal to the amount of funding per
3 student in weighted average daily attendance to which the prior
4 system would be entitled under Chapter 42 if the prior system were a
5 school district without a tier one local share for purposes of
6 Section 42.253.

7 (b) In determining funding for the achievement school
8 district under Subsection (a), adjustments under Sections 42.102,
9 42.103, 42.104, and 42.105 are based on the actual adjustment for
10 the prior system. In addition to the funding provided by Subsection
11 (a), the achievement school district is entitled to receive
12 enrichment funding under Section 42.302 based on the actual amount
13 for the prior system.

14 (c) In determining funding for the achievement school
15 district under Subsection (a), the commissioner shall apply the
16 same adjustment factor provided under Section 42.101 to calculate
17 the regular program allotment as for the prior system. This
18 subsection expires September 1, 2015.

19 (d) The achievement school district is entitled to funds
20 that are available to other school districts from the agency or the
21 commissioner in the form of grants or other discretionary funding.
22 The district is entitled to a pro rata share of all revenue to the
23 prior system from the agency or the commissioner in the form of
24 grants or other discretionary funding.

25 (e) The achievement school district is entitled to share in
26 the available school fund apportionment and other privileges in the
27 same manner as the prior system. The district shall report its

1 student attendance and receive funding in the same manner as any
2 other district.

3 (f) For purposes of calculating the amount of the prior
4 system's obligations and entitlements under Chapters 41 and 42,
5 students transferred to the achievement school district who would
6 otherwise have attended the prior system are not counted in
7 calculating the average daily attendance of the prior system.

8 (f-1) For purposes of calculating the prior system's
9 allotments under Chapter 46, students transferred to the
10 achievement school district who would otherwise have attended the
11 prior system are counted in calculating the average daily
12 attendance of the prior system.

13 (g) The commissioner shall adopt rules necessary to
14 implement this section.

15 Sec. 11.407. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN
16 ACHIEVEMENT SCHOOL DISTRICT. (a) The achievement school district
17 is entitled to use any school building and all facilities and
18 property otherwise part of the campus and recognized as part of the
19 facilities or assets of the campus before the campus was placed in
20 the district. The district is entitled to access to such additional
21 facilities as were typically available to the campus, its students,
22 and faculty and staff before the campus was placed in the district.
23 Such use may not be restricted, except that the achievement school
24 district is responsible for and obligated to provide for routine
25 maintenance and repair such that the facilities and property are
26 maintained in as good an order as when the right of use was acquired
27 by the district.

1 (b) If a dispute arises between the achievement school
2 district and the prior system regarding the maintenance and repair
3 of facilities, the commissioner or the commissioner's designee
4 shall determine each entity's responsibilities concerning the
5 maintenance and repair. A determination under this subsection
6 regarding each entity's responsibilities is final and may not be
7 appealed.

8 Sec. 11.408. OTHER SUPPORT FOR STUDENTS ENROLLED IN
9 ACHIEVEMENT SCHOOL DISTRICT. The achievement school district may
10 require the prior system to provide school support or student
11 support services for a campus transferred from the prior system's
12 jurisdiction, including student transportation, school food
13 service, or student assessment for special education eligibility
14 that are compliant with all laws and rules governing such services.
15 The achievement school district shall reimburse the actual cost of
16 such services to the prior system. If a dispute arises between the
17 achievement school district and the prior system regarding the
18 actual cost of services to be reimbursed, the commissioner or the
19 commissioner's designee shall determine the cost to be reimbursed.
20 A determination under this subsection regarding the cost of
21 services to be reimbursed is final and may not be appealed.

22 Sec. 11.409. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED
23 IN ACHIEVEMENT SCHOOL DISTRICT. Funds received by the achievement
24 school district under Section 11.406 shall be used for the
25 operation and administration of campuses transferred from prior
26 systems to the district.

27 Sec. 11.410. LIMITATION ON NUMBER OF CAMPUSES. (a) The

1 commissioner may transfer to the jurisdiction of the achievement
2 school district not more than:

3 (1) five campuses during the state fiscal biennium
4 beginning September 1, 2013; and

5 (2) five campuses during the state fiscal biennium
6 beginning September 1, 2015.

7 (b) The achievement school district may not contain more
8 than 10 campuses at any time.

9 Sec. 11.411. APPLICATION OF SUNSET ACT; REPORT. (a) The
10 Texas Achievement School District is subject to Chapter 325,
11 Government Code (Texas Sunset Act). Unless continued in existence
12 as provided by that chapter, the achievement school district is
13 abolished and this subchapter expires September 1, 2025.

14 (b) Not later than December 1, 2024, the Sunset Advisory
15 Commission shall evaluate the achievement school district and
16 submit a report on that evaluation and the commission's
17 recommendations in relation to the achievement school district to
18 the governor, the lieutenant governor, the speaker of the house of
19 representatives, and the presiding officer of each legislative
20 standing committee with primary jurisdiction over primary and
21 secondary education.

22 SECTION 2. Subsection (f), Section 39.106, Education Code,
23 is amended to read as follows:

24 (f) Notwithstanding any other provision of this subchapter,
25 if the commissioner determines that a campus for which an
26 intervention is ordered under Subsection (a) is not fully
27 implementing the campus intervention team's recommendations or

1 targeted improvement plan or updated plan, the commissioner may
2 order the reconstitution of the campus as provided by Section
3 39.107 or the removal of the campus to the achievement school
4 district established by Subchapter I, Chapter 11.

5 SECTION 3. The heading to Section 39.107, Education Code,
6 is amended to read as follows:

7 Sec. 39.107. RECONSTITUTION, REMOVAL, REPURPOSING,
8 ALTERNATIVE MANAGEMENT, AND CLOSURE.

9 SECTION 4. Section 39.107, Education Code, is amended by
10 amending Subsections (a) and (a-1) and adding Subsections (a-2),
11 (a-3), (a-4), and (k-1) to read as follows:

12 (a) After a campus has been identified as unacceptable for
13 two consecutive school years, the commissioner shall determine
14 whether the district has instituted meaningful change, including
15 reconstituting the staff or leadership at the campus. If the
16 commissioner determines that the campus has instituted meaningful
17 change, the commissioner may reevaluate the campus under this
18 subsection following the conclusion of the subsequent school year.
19 If the commissioner determines that the campus has not instituted
20 meaningful change, the commissioner shall, based on the
21 commissioner's determination of the best remedy for the campus:

22 (1) order the reconstitution of the campus under this
23 section;

24 (2) subject to Sections 11.402 and 11.410, order the
25 removal of the campus to the achievement school district as
26 provided by Section 39.1071;

27 (3) approve a plan by the board of trustees for the

1 district to operate the campus in the manner provided for the
2 operation of an open-enrollment charter school under Subchapter D,
3 Chapter 12, with all applicable exemptions from application of laws
4 that apply to school districts but not to open-enrollment charter
5 schools, for a period not to exceed two school years, after the
6 expiration of which the commissioner shall remove the campus to the
7 achievement school district if the campus is identified as
8 unacceptable during the final year of its operation in accordance
9 with this subdivision; or

10 (4) require the district to contract for appropriate
11 technical assistance, if the commissioner determines the basis for
12 the campus being identified as unacceptable is limited to a
13 specific condition the campus may overcome with appropriate
14 technical assistance.

15 (a-1) In making a determination regarding action to be taken
16 under this section, the commissioner shall seek and give
17 considerable weight to recommendations from parents of students
18 enrolled at the campus and members of the community who reside in
19 the attendance zone of the campus.

20 (a-2) In reconstituting a campus, a campus intervention
21 team, with the involvement and advice of the school community
22 partnership team, if applicable, shall assist the campus in:

- 23 (1) developing an updated targeted improvement plan;
24 (2) submitting the updated targeted improvement plan
25 to the board of trustees of the school district for approval and
26 presenting the plan in a public hearing as provided by Section
27 39.106(e-1);

1 (3) obtaining approval of the updated plan from the
2 commissioner; and

3 (4) executing the plan on approval by the
4 commissioner.

5 (a-3) The campus intervention team or a school community
6 partnership team shall develop information regarding campus
7 performance and available options for improving campus performance
8 that may be provided to interested parties on request.

9 (a-4) Notwithstanding Subsection (a), the commissioner may
10 refrain from taking action otherwise required under that subsection
11 against a campus based on campus performance for the 2014-2015
12 school year and preceding school years. If the commissioner takes
13 action, the commissioner may not order the reconstitution of the
14 campus and may only take other actions authorized by law. This
15 subsection expires September 1, 2016.

16 (k-1) A managing entity may not assume management of a
17 campus under this section if a member of the entity's management and
18 leadership team provided any input to the commissioner regarding
19 the commissioner's determination under Subsection (a).

20 SECTION 5. Subchapter E, Chapter 39, Education Code, is
21 amended by adding Section 39.1071 to read as follows:

22 Sec. 39.1071. REMOVAL OF CAMPUS TO ACHIEVEMENT SCHOOL
23 DISTRICT. (a) In this section, "prior system" has the meaning
24 assigned by Section 11.401(b).

25 (b) As provided by Section 39.107, the commissioner may
26 order the removal of a campus to the achievement school district
27 established by Subchapter I, Chapter 11.

1 (c) The students assigned to attend the campus or the
2 students who would have been eligible to attend the campus if the
3 campus had remained in the prior system may choose to attend the
4 campus under the jurisdiction of the achievement school district or
5 may exercise an option, made available by the prior system, to
6 attend another campus remaining under the jurisdiction of the prior
7 system.

8 (d) Students who were eligible to attend a campus under the
9 prior system or who would have been eligible to attend the campus if
10 the campus had remained in the prior system may attend that campus
11 at the achievement school district. Other students eligible to
12 attend a campus of the prior system other than the campus
13 transferred to the achievement school district may choose to attend
14 the campus transferred to the achievement school district if the
15 campus has the ability to enroll more students.

16 (e) Effective on a date determined by the commissioner after
17 consulting with the superintendent of the achievement school
18 district, a campus subject to this section shall be removed from the
19 jurisdiction of the school district and transferred to the
20 jurisdiction of the achievement school district. On that date, the
21 school district from which the campus was removed becomes the prior
22 system.

23 (f) The removed campus shall be reorganized and reformed, as
24 necessary, and operated by the achievement school district.

25 (g) The superintendent of the achievement school district
26 shall decide which educators may be retained at that campus in the
27 superintendent's sole discretion. If the achievement school

1 district does not retain an educator, that educator may be assigned
2 to another position by the prior system.

3 (h) A certified teacher with regular and direct
4 responsibility for providing classroom instruction to students who
5 is employed at the removed campus by the prior system shall be given
6 priority consideration for employment in a comparable position by
7 the achievement school district's superintendent. A person
8 employed by the prior system at a removed campus may choose to
9 remain in the employ of the prior system, and in that case, the
10 prior system shall retain and reassign the person consistent with
11 the prior system's contractual obligations or policies regarding
12 the retention and reassignment of employees.

13 (i) For the purposes of any benefit or right requiring
14 continuous service or based on years of service, the prior system
15 shall grant a leave of absence to a person employed by the
16 achievement school district who was employed at a campus when the
17 campus was removed under this section. The prior system shall
18 consider the period during which the achievement school district
19 operates the campus to be service time with the prior system if the
20 employee returns to the prior system's employment, but the prior
21 system is not required to provide benefits during such leave.

22 (j) The benefits and privileges of any person employed in a
23 campus by the achievement school district who was not employed by
24 the prior system at the time the campus was removed to the
25 achievement school district shall be those determined by the
26 achievement school district at the time of such employment in
27 compliance with applicable law.

1 (k) The achievement school district shall retain
2 jurisdiction over any campus removed to the district until the
3 commissioner, on the recommendation of the achievement school
4 district's superintendent, enters into an agreement with the prior
5 system for return of the campus to the prior system.

6 (1) When a campus in the achievement school district
7 achieves an acceptable level of performance under this chapter, the
8 commissioner shall direct the achievement school district to seek
9 agreement for the return of the campus to the prior system. An
10 agreement between the commissioner and the prior system for the
11 return of the campus shall include:

12 (1) details for the operation of the campus by the
13 prior system, including provisions for the continuation of the
14 programs that have provided the basis for the academic achievement
15 by the students;

16 (2) provisions for the employment status of all
17 persons employed by the achievement school district who were not
18 employed by the prior system at the time the campus was removed to
19 the achievement school district; and

20 (3) provisions for the means and timetable for the
21 campus's transition and return to the prior system.

22 (m) If a campus has been operating under arrangements
23 established by the achievement school district for three years, or
24 two years if the commissioner determines that the campus has not
25 made meaningful progress during those two years, and the campus has
26 failed during that period of three or two years, as applicable, to
27 achieve an acceptable level of performance under this chapter, the

1 commissioner shall return the campus to the prior system or, in
2 accordance with Subsection (n), close the campus.

3 (n) For purposes of this subsection, "parent" has the
4 meaning assigned by Section 12.051. If the commissioner is
5 presented, in the time and manner specified by commissioner rule, a
6 written petition signed by the parents of a majority of the students
7 enrolled at a campus to which Subsection (m) applies specifying
8 that the parents prefer the commissioner to close the campus, the
9 commissioner shall close the campus. For purposes of this
10 subsection, the signature of only one parent of a student is
11 required.

12 (o) On request, the commissioner and the superintendent of
13 the achievement school district shall provide information
14 concerning the new operations and performance of a campus to the
15 prior system.

16 (p) A campus operated by the achievement school district may
17 change its name only on agreement of the prior system and the
18 achievement school district. A diploma issued to a student who
19 graduates from high school at a campus operated by the achievement
20 school district must bear the name of the prior system.

21 (q) The commissioner may adopt rules necessary to implement
22 this section.

23 SECTION 6. Section 39.108, Education Code, is amended to
24 read as follows:

25 Sec. 39.108. ANNUAL REVIEW. (a) The commissioner shall
26 review annually the performance of a district or campus subject to
27 this subchapter to determine the appropriate actions to be

1 implemented under this subchapter. The commissioner must review at
2 least annually the performance of a district for which the
3 accreditation status or rating has been lowered due to insufficient
4 student performance and may not raise the accreditation status or
5 rating until the district has demonstrated improved student
6 performance. If the review reveals a lack of improvement, the
7 commissioner shall increase the level of state intervention and
8 sanction unless the commissioner finds good cause for maintaining
9 the current status.

10 (b) The review required by Subsection (a) shall form the
11 basis of the reporting required by Section 39.332(b)(24).

12 SECTION 7. Subsection (b), Section 39.332, Education Code,
13 is amended by adding Subdivision (24) to read as follows:

14 (24) The report must contain a listing and description
15 of the status of each campus under the jurisdiction of the
16 achievement school district and a summary of the reforms
17 implemented and progress of the campus.

18 SECTION 8. This Act applies beginning with the 2014-2015
19 school year.

20 SECTION 9. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2013.