

By: West

S.B. No. 1718

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Achievement School District for educating students attending campuses removed from the jurisdiction of a school district or charter school.

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 hereby established as a school district under this Chapter and an intermediate educational unit under Title 34, Code of Federal Regulations, Section 222.50, for the purpose of educating students attending any campus removed from the jurisdiction of a school district or open-enrollment charter school under Section 39.107. The school district or charter school from which the campus was removed is the "prior system" under this Section.

(b) The superintendent of the Achievement School District shall report to the commissioner under a written contract for services.

(c) The Achievement School District does not have authority to impose taxes, but has authority to seek and expend federal funding and grant funding and to otherwise seek, obtain, and expend funding with the same authority as an independent school district.

1 (d) The Achievement School District may provide for the
2 supervision, management, and operation of each campus placed under
3 its jurisdiction and receive, control, and expend the local, state,
4 and federal funding attributable to that campus, with all the same
5 power and authority as the prior system subject to the requirements
6 of this Subchapter and Section 39.107, and with any other power or
7 authority otherwise granted by law.

8 (e) The Achievement School District is entitled to the same
9 level of services provided to other school districts by regional
10 education service centers, and to participate in any state program
11 available to school districts, including a purchasing program. In
12 addition, using funds appropriated for the regional education
13 service centers, the commissioner shall direct that appropriate
14 administrative facilities and support be made available to serve as
15 the central administrative offices of the District.

16 (f) The Achievement School District may employ such staff as
17 the superintendent deems necessary.

18 Sec. 11.402. APPLICABILITY OF LAWS, RULES, AND ORDINANCES
19 TO ACHIEVEMENT SCHOOL DISTRICT. (a) Except as expressly provided
20 by law, the Achievement School District is subject to federal and
21 state laws and rules governing public schools and to municipal
22 zoning ordinances governing public schools.

23 (b) Except as expressly provided by law, the Achievement
24 School District is subject to a provision of this title to the
25 extent and in the manner that such provision applies to an
26 open-enrollment charter school under Chapter 12, Subchapter D.

27 Sec. 11.403. IMMUNITY. The Achievement School District is

1 immune from liability to the same extent as any other school
2 district, and its employees and volunteers are immune from
3 liability to the same extent as other school district employees and
4 volunteers.

5 Sec. 11.404. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
6 TEXAS BY ACHIEVEMENT SCHOOL DISTRICT EMPLOYEES. (a) An employee of
7 the Achievement School District who qualifies for membership in the
8 Teacher Retirement System of Texas shall be covered under the
9 system to the same extent a qualified employee of any other school
10 district is covered.

11 (b) For each employee of the Achievement School District
12 covered under the system, the District is responsible for making
13 any contribution that otherwise would be the legal responsibility
14 of the District, and the state is responsible for making
15 contributions to the same extent it would be legally responsible if
16 the employee were that of another school district.

17 Sec. 11.405. FUNDING OF STUDENTS ENROLLED IN ACHIEVEMENT
18 SCHOOL DISTRICT. (a) The Achievement School District is entitled
19 to receive for the education of students transferred to it funding
20 under Chapter 42 equal to the amount of funding per student in
21 weighted average daily attendance to which the prior system would
22 be entitled under Chapter 42 if it were a school district without a
23 tier one local share for purposes of Section 42.253.

24 (b) In determining funding for the District under
25 Subsection (a), adjustments under Sections 42.102, 42.103, 42.104,
26 and 42.105 are based on the actual adjustment for the prior system.
27 In addition to the funding provided by Subsection (a), the

1 Achievement School District is entitled to receive enrichment
2 funding under Section 42.302 based on the actual amount for the
3 prior system.

4 (c) In determining funding for the Achievement School
5 District under Subsection (a), the commissioner shall apply the
6 same adjustment factor provided under Section 42.101 to calculate
7 the regular program allotment as for the prior system.

8 (d) The Achievement School District is entitled to funds
9 that are available to other school districts from the agency or the
10 commissioner in the form of grants or other discretionary funding.
11 The District is entitled to a pro-rata share of all revenue to the
12 prior system from the agency or the commissioner in the form of
13 grants or other discretionary funding.

14 (e) The Achievement School District is entitled to share in
15 the available school fund apportionment and other privileges the
16 same as the prior system. The District shall report its student
17 attendance and receive funding as any other district.

18 (f) The amount the prior system is entitled to receive under
19 Chapter 42 shall be reduced by the amount received by the
20 Achievement School District under this Section, including the tier
21 one local share.

22 (g) The commissioner shall adopt rules under this Section.

23 Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN
24 ACHIEVEMENT SCHOOL DISTRICT. The Achievement School District shall
25 have the right to use any school building and all facilities and
26 property otherwise part of the campus and recognized as part of the
27 facilities or assets of the campus prior to its placement in the

District, and shall have access to such additional facilities as are typically available to the campus, its students, and faculty and staff prior to its placement in the District. Such use shall be unrestricted, except that the District shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property are maintained in as good an order as when the right of use was acquired by the District.

Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. The Achievement School District may require the prior system to provide school support or student support services for a campus transferred from its jurisdiction including but not limited to student transportation, school food service, or student assessment for special education eligibility that are compliant with all laws and regulations governing such services. The Achievement School District shall reimburse the actual cost of such services to the prior system. If a dispute arises between the District and the prior system regarding the actual cost of services to be reimbursed, the commissioner or his designee shall determine the cost to be reimbursed.

Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. Funds received by the Achievement School District under Section 11.405 shall be used for the operation and administration of campuses transferred from prior systems to the District.

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

(f) Notwithstanding any other provision of this subchapter,

1 if the commissioner determines that a campus for which an
2 intervention is ordered under Subsection (a) is not fully
3 implementing the campus intervention team's recommendations or
4 targeted improvement plan or updated plan, the commissioner may
5 order the reconstruction or removal of the campus as provided by
6 Section 39.107.

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

9 Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE
10 MANAGEMENT, CLOSURE OR REMOVAL OF CAMPUS TO ACHIEVEMENT SCHOOL
11 DISTRICT. ~~RECONSTITUTION, REPURPOSING, ALTERNATIVE MANAGEMENT, AND~~
12 ~~CLOSURE.~~

13 SECTION 4. Section 39.107, Education Code, is amended to
14 read as follows:

15 (a)(1) After a campus has been identified as unacceptable
16 for three consecutive school years, the commissioner may order the
17 reconstruction or removal [~~reconstitution~~] of the campus to the
18 Achievement School District established by Section 11.401.

19 (2) The students assigned to attend the campus may
20 choose to attend the campus under the jurisdiction of the
21 Achievement School District or may exercise an option, made
22 available by the prior system, to attend another campus remaining
23 under the jurisdiction of the prior system.

24 (3) Only students who were eligible to attend a campus
25 under the prior system may attend that campus at the District.

26 (a-1) In reconstituting a campus, a campus intervention
27 team shall assist the campus in:

- 1 (1) developing an updated targeted improvement plan;
- 2 (2) submitting the updated targeted improvement plan
- 3 to the board of trustees of the school district for approval and
- 4 presenting the plan in a public hearing as provided by Section
- 5 39.106(e-1);
- 6 (3) obtaining approval of the updated plan from the
- 7 commissioner; and
- 8 (4) executing the plan on approval by the
- 9 commissioner.]

10 (b) Effective on a date determined by the commissioner after

11 consulting with the superintendent of the Achievement School

12 District, a campus subject to this Section may be removed from the

13 jurisdiction of the school district or open-enrollment charter

14 school and transferred to the jurisdiction of the District. On such

15 date, the district or charter holder from which the campus was

16 transferred becomes the "prior system" under this Section.

17 (c)(1) The removed campus shall be reorganized and

18 reformed, as necessary, and operated by the Achievement School

19 District.

20 (2) The Achievement School District [campus

21 intervention team] shall decide which educators may be retained at

22 that campus in the superintendent's sole discretion. If the

23 District does not retain an educator, that educator may be assigned

24 to another position by the prior system.

25 (3) A certified teacher with regular and direct

26 responsibility for providing classroom instruction to students who

27 is employed at the transferred campus by the prior system shall be

1 given priority consideration for employment in a comparable
2 position by the District's superintendent. A person employed by
3 the prior system at a transferred campus may choose to remain in the
4 employ of the prior system and, in that case, the prior system shall
5 retain and reassign such person consistent with its contractual
6 obligations or policies regarding the retention and reassignment of
7 employees.

8 (4) For the purposes of any benefit or right requiring
9 continuous service or based on years of service, the prior system
10 shall grant leave of absence to a person employed by the Achievement
11 School District who was employed at a campus when it was transferred
12 under this Section. The prior system shall consider the period
13 while the District operated the campus to be service time if the
14 employee returns to the prior system's employment, but the prior
15 system need not provide benefits during such leave.

16 (5) The benefits and privileges of any person employed
17 in a campus by the District or employed by any operator of a
18 District campus pursuant to any contract with the District who was
19 not employed by the prior system at the time the campus was
20 transferred to the District shall be those determined by the
21 District or the operator at the time of such employment in
22 compliance with applicable law.

23 A principal who has been employed by the campus in that
24 capacity during the full period described by Subsection (a) may not
25 be retained at that campus unless the campus intervention team
26 determines that retention of the principal would be more beneficial
27 to the student achievement and campus stability than removal.

1 (b-1) A teacher of a subject assessed by an assessment
2 instrument under Section 39.023 may be retained only if the campus
3 intervention team determines that a pattern exists of significant
4 academic improvement by students taught by the teacher. If an
5 educator is not retained, the educator may be assigned to another
6 position in the district.

7 (b-2) For each year that a campus is considered to have an
8 unacceptable performance rating, a campus intervention team shall:

9 (1) assist in updating the targeted improvement plan
10 to identify and analyze areas of growth and areas that require
11 improvement;

12 (2) submit the updated plan to:

13 (A) the board of trustees of the school district;
14 and

15 (B) the parents of campus students; and

16 (3) assist in submitting the updated plan to the
17 commissioner for approval.

18 (d) The Achievement School District shall retain
19 jurisdiction over any campus transferred to it until the
20 commissioner, in consultation with the District's superintendent,
21 enters into an agreement with the prior system for return of the
22 campus to the prior system.

23 (e) When a campus in the Achievement School District
24 achieves an acceptable level of performance under this Chapter, the
25 commissioner shall direct the Achievement School District to seek
26 agreement for the return of the campus to the prior system. An
27 agreement between the commissioner and the prior system for the

1 return of the campus shall include all of the following:

2 (1) Details for the operation of the campus by the
3 prior system, including provisions for the continuation of the
4 programs that have provided the basis for the academic achievement
5 by the students and any charter granted under this Section.

6 (2) Provisions providing for the employment status of
7 all persons employed by the Achievement School District or by the
8 operator of the campus who were not employed by the prior system at
9 the time the campus was transferred to the Achievement School
10 District.

11 (3) Provisions for the means and timetable for the
12 campus' transition and return to the prior system.

13 (f) When a campus has been operating pursuant to
14 arrangements established by the Achievement School District for
15 three years, yet has failed to achieve and maintain an acceptable
16 level of performance under this Chapter, the Commissioner shall:

17 (1) address the failure to turn around the campus
18 within three years in the next statewide plan under Section 11.409,

19 (2) record these steps for annual reporting as
20 required by Section 39.332.

21 A campus subject to Subsection (a) shall implement the
22 updated targeted improvement plan as approved by the commissioner.
23 The commissioner may appoint a monitor, conservator, management
24 team, or board of managers to the district to ensure and oversee
25 district-level support to low-performing campuses and the
26 implementation of the updated targeted improvement plan. In making
27 appointments under this subsection, the commissioner shall

1 consider individuals who have demonstrated success in managing
2 campuses with student populations similar to the campus at which
3 the individual appointed will serve.

4 [(d) If the commissioner determines that the campus is not
5 fully implementing the updated targeted improvement plan or if the
6 students enrolled at the campus fail to demonstrate substantial
7 improvement in the areas targeted by the updated plan, the
8 commissioner may order:

- 9 (1) repurposing of the campus under this section;
10 (2) alternative management of the campus under this
11 section; or
12 (3) closure of the campus.

13 [(e) If a campus is considered to have an unacceptable
14 performance rating for three consecutive school years after the
15 campus is reconstituted under Subsection (a), the commissioner,
16 subject to Subsection (e-1) or (e-2), shall order:

- 17 (1) repurposing of the campus under this section;
18 (2) alternative management of the campus under this
19 section; or
20 (3) closure of the campus.

21 (e-1) The commissioner may waive the requirement to enter an
22 order under Subsection (e) for not more than one school year if the
23 commissioner determines that, on the basis of significant
24 improvement in student performance over the preceding two school
25 years, the campus is likely to be assigned an acceptable
26 performance rating for the following school year.

27 (g)(1) [~~(e-2)~~] For purposes of this subsection, "parent"

1 has the meaning assigned by Section 12.051.

2 (2) If the commissioner is presented, in the time and
3 manner specified by commissioner rule, a written petition signed by
4 the parents of a majority of the students enrolled at a campus to
5 which Subsection (f) ~~[(e)]~~ applies, specifying an ~~[the]~~ action
6 described by Subsection (e)(1), (2),(3)or(g)(4). that the parents
7 request the commissioner to order, the commissioner shall, except
8 as otherwise authorized by this subsection, order the specific
9 action requested.

10 (3) If a campus governing body established by the
11 Achievement School District under this Section ~~[the board of~~
12 ~~trustees of the school district in which the campus is located]~~
13 presents to the commissioner, in the time and manner specified by
14 commissioner rule, a written request that the commissioner order
15 specific action authorized under Subsection (g)(4) ~~[(e)]~~ other than
16 the specific action requested in the parents' petition and a
17 written explanation of the basis for the governing body's ~~[board's]~~
18 request, the commissioner may order the action requested by the
19 governing body ~~[board of trustees]~~.

20 (5) ~~[(e-3)]~~ For purposes of Subsection (g)(2)
21 ~~[(e-2)]~~, the signature of only one parent of a student is required.

22 [(e-3) For purposes of Subsection (e-2), the signature of
23 only one parent of a student is required.

24 [(f) If the commissioner orders repurposing of a campus, the
25 school district shall develop a comprehensive plan for repurposing
26 the campus and submit the plan to the board of trustees for
27 approval, using the procedures described by Section 39.106(e-1),

1 and to the commissioner for approval. The plan must include a
2 description of a rigorous and relevant academic program for the
3 campus. The plan may include various instructional models. The
4 commissioner may not approve the repurposing of a campus unless:

5 (1) all students in the assigned attendance zone of
6 the campus in the school year immediately preceding the repurposing
7 of the campus are provided with the opportunity to enroll in and are
8 provided transportation on request to another campus, unless the
9 commissioner grants an exception because there is no other campus
10 in the district in which the students may enroll;

11 (2) the principal is not retained at the campus,
12 unless the commissioner determines that students enrolled at the
13 campus have demonstrated significant academic improvement; and

14 (3) teachers employed at the campus in the school year
15 immediately preceding the repurposing of the campus are not
16 retained at the campus, unless the commissioner or the
17 commissioner's designee grants an exception, at the request of a
18 school district, for:

19 (A) a teacher who provides instruction in a
20 subject other than a subject for which an assessment instrument is
21 administered under Section 39.023(a) or (c) who demonstrates to the
22 commissioner satisfactory performance; or

23 (B) a teacher who provides instruction in a
24 subject for which an assessment instrument is administered under
25 Section 39.023(a) or (c) if the district demonstrates that the
26 students of the teacher demonstrated satisfactory performance or
27 improved academic growth on that assessment instrument.

1 [(g) If an educator is not retained under Subsection (f), the
2 educator may be assigned to another position in the district.

3 [(h) If the commissioner orders alternative management under
4 this section, the commissioner shall solicit proposals from
5 qualified nonprofit entities to assume management of a campus
6 subject to this section or may appoint to assume management of a
7 campus subject to this section a school district other than the
8 district in which the campus is located that is located in the
9 boundaries of the same regional education service center as the
10 campus is located. The commissioner may solicit proposals from
11 qualified for-profit entities to assume management of a campus
12 subject to this section if a nonprofit entity has not responded to
13 the commissioner's request for proposals. A district appointed
14 under this section shall assume management of a campus subject to
15 this section in the same manner provided by this section for a
16 qualified entity or in accordance with commissioner rule.

17 (g) [~~(i)~~] If the commissioner determines that the basis for
18 the unsatisfactory performance of a campus for more than three
19 consecutive school years is limited to a specific condition that
20 may be remedied with targeted technical assistance, the
21 commissioner may require the district to contract for the
22 appropriate technical assistance.

23 [(j) The commissioner may annually solicit proposals under
24 this section for the management of a campus subject to this section.
25 The commissioner shall notify a qualified entity that has been
26 approved as a provider under this section. The district must
27 execute a contract with an approved provider and relinquish control

of the campus before January 1 of the school year.

[(k) To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in campuses considered to have an unacceptable performance rating;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

[(1) In selecting a managing entity under this section, the commissioner shall give preference to a qualified entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

[(m) The school district may negotiate the term of a management contract for not more than five years with an option to

1 renew the contract. The management contract must include a
2 provision describing the district's responsibilities in supporting
3 the operation of the campus. The commissioner shall approve the
4 contract before the contract is executed and, as appropriate, may
5 require the district, as a term of the contract, to support the
6 campus in the same manner as the district was required to support
7 the campus before the execution of the management contract.

8 [(n) A management contract under this section shall include
9 provisions approved by the commissioner that require the managing
10 entity to demonstrate improvement in campus performance, including
11 negotiated performance measures. The performance measures must be
12 consistent with the priorities of this chapter. The commissioner
13 shall evaluate a managing entity's performance on the first and
14 second anniversaries of the date of the management contract. If the
15 evaluation fails to demonstrate improvement as negotiated under the
16 contract by the first anniversary of the date of the management
17 contract, the district may terminate the management contract, with
18 the commissioner's consent, for nonperformance or breach of
19 contract and select another provider from an approved list provided
20 by the commissioner. If the evaluation fails to demonstrate
21 significant improvement, as determined by the commissioner, by the
22 second anniversary of the date of the management contract, the
23 district shall terminate the management contract and select another
24 provider from an approved list provided by the commissioner or
25 resume operation of the campus if approved by the commissioner. If
26 the commissioner approves the district's operation of the campus,
27 the commissioner shall assign a technical assistance team to assist

1 the campus.

2 (h) [~~(e)~~] Notwithstanding any other provision of this code,
3 the funding for a campus operated by the Achievement School
4 District or a managing entity must be not less than the funding of
5 the other campuses in the prior system [~~district~~] on a per student
6 basis so that the Achievement School District or a managing entity
7 receives at least the same funding the campus would otherwise have
8 received.

9 (p) Each campus operated by a managing entity under this
10 section is subject to this chapter in the same manner as any other
11 campus in the district.

12 (i) [~~(g)~~] The commissioner may adopt rules necessary to
13 implement this section.

14 [(r) With respect to the management of a campus under this
15 section:

16 (1) a managing entity is considered to be a
17 governmental body for purposes of Chapters 551 and 552, Government
18 Code; and

19 (2) any requirement in Chapter 551 or 552, Government
20 Code, that applies to a school district or the board of trustees of
21 a school district applies to a managing entity.]

22 SECTION 5. Section 39.108, Education Code, is amended to
23 read as follows:

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

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

9 (b) The reviews required by subsection (a) shall form the
10 basis of the reporting required by Section 39.332, Subsection
11 (b)(23).

12 SECTION 6. Subsection (b), Section 39.332, Education Code,
13 is amended by adding Subdivision (23) to read as follows:

14 (23) 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 7. This Act applies beginning with the 2013-2014
19 school year.

20 SECTION 8. 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; and if
23 this Act does not receive the vote necessary for immediate effect,
24 this Act takes effect September 1, 2013.