

1-1 By: West S.B. No. 1718
1-2 (In the Senate - Filed March 8, 2013; March 25, 2013, read
1-3 first time and referred to Committee on Education; April 22, 2013,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 8, Nays 0; April 22, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Patrick	X			
1-8 Lucio	X			
1-9 Campbell	X			
1-10 Duncan	X			
1-11 Paxton	X			
1-12 Seliger			X	
1-13 Taylor	X			
1-14 Van de Putte	X			
1-15 West	X			

1-17 COMMITTEE SUBSTITUTE FOR S.B. No. 1718 By: West

1-18 A BILL TO BE ENTITLED
1-19 AN ACT

1-20 relating to state interventions and sanctions against public school
1-21 campuses with unacceptable performance and the establishment of the
1-22 Texas Achievement School District for educating students at certain
1-23 low-performing campuses.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 11, Education Code, is amended by adding
1-26 Subchapter I to read as follows:

1-27 SUBCHAPTER I. TEXAS ACHIEVEMENT SCHOOL DISTRICT

1-28 Sec. 11.401. TEXAS ACHIEVEMENT SCHOOL DISTRICT
1-29 ESTABLISHED. (a) The Texas Achievement School District is hereby
1-30 established as a school district under this code and an
1-31 intermediate educational unit under 34 C.F.R. Section 222.50 for
1-32 the purpose of educating students attending a campus removed from
1-33 the jurisdiction of a school district under Section 39.1071.

1-34 (b) In this subchapter, "prior system" means the school
1-35 district from which a campus that is transferred to the
1-36 jurisdiction of the achievement school district was removed.

1-37 (c) The commissioner shall select the superintendent of the
1-38 achievement school district. The superintendent shall report to
1-39 the commissioner under a written contract for services.

1-40 (d) The achievement school district does not have authority
1-41 to impose taxes but has authority to seek and expend federal funding
1-42 and grant funding and to otherwise seek, obtain, and expend funding
1-43 with the same authority as an independent school district.

1-44 (e) The achievement school district may provide for the
1-45 supervision, management, and operation of each campus placed under
1-46 the district's jurisdiction and receive, control, and expend the
1-47 local, state, and federal funding attributable to that campus, with
1-48 all the same power and authority as the prior system, subject to the
1-49 requirements of this subchapter and Section 39.1071, and with any
1-50 other power or authority otherwise granted by law.

1-51 (f) The achievement school district is entitled to the same
1-52 level of services provided to other school districts by regional
1-53 education service centers, and to participate in any state program
1-54 available to school districts, including a purchasing program. In
1-55 addition, using funds appropriated for the regional education
1-56 service centers, the commissioner shall direct that appropriate
1-57 administrative facilities and support be made available to serve as
1-58 the central administrative offices of the district.

1-59 (g) The achievement school district may not contract with a
1-60 private entity for providing educational services to the students

attending a campus transferred to the district, other than an eligible entity, as defined by Section 12.101, that holds a charter granted under Chapter 12 and has:

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

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

(3) documented success in whole school interventions that increased the educational and performance levels of students in campuses that received unacceptable performance ratings under Section 39.054; and

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

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

Sec. 11.402. APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO ACHIEVEMENT SCHOOL DISTRICT. (a) Except as expressly provided by law, the achievement school district is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

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

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

(d) The performance of a campus under the jurisdiction of the achievement school district may not be used for purposes of determining the prior system's performance rating under Section 39.054.

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

Sec. 11.403. IMMUNITY. The achievement school district is immune from liability to the same extent as any other school district, and the district's employees and volunteers are immune from liability to the same extent as other school district employees and volunteers.

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

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

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

(b) In determining funding for the achievement school district under Subsection (a), adjustments under Sections 42.102,

42.103, 42.104, and 42.105 are based on the actual adjustment for the prior system. In addition to the funding provided by Subsection (a), the achievement school district is entitled to receive enrichment funding under Section 42.302 based on the actual amount for the prior system.

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

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

(e) The achievement school district is entitled to share in the available school fund apportionment and other privileges in the same manner as the prior system. The district shall report its student attendance and receive funding in the same manner as any other district.

(f) The amount the prior system is entitled to receive under Chapter 42 shall be reduced by the amount received by the achievement school district under this section, including the tier one local share.

(g) The commissioner shall adopt rules under this section.

Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN ACHIEVEMENT SCHOOL DISTRICT. The achievement school district is entitled to use any school building and all facilities and property otherwise part of the campus and recognized as part of the facilities or assets of the campus before the campus was placed in the district. The district is entitled to access to such additional facilities as were typically available to the campus, its students, and faculty and staff before the campus was placed in the district. Such use may not be restricted, except that the achievement school district is 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 the prior system's jurisdiction, including 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 achievement school district and the prior system regarding the actual cost of services to be reimbursed, the commissioner or the commissioner's 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.

Sec. 11.409. ACHIEVEMENT CHARTER SCHOOLS. (a) The achievement school district may design and grant campus charters under Section 12.0521(a)(1) to new campuses created by the district for the purpose of applying the district's experience and expertise in turning around persistently low-performing campuses. The district shall develop a statewide plan under this section to be submitted in the manner provided by Section 39.332.

(b) New charters under this section are eligible for funding under Section 11.405. Any administrative cost of charter-authorizing activities under this section may be paid from funds appropriated to the agency.

(c) An entity granted a charter under this section is not

eligible for an additional charter under this section or an expansion amendment if it fails to achieve and maintain an acceptable rating in its third year of operation at a campus.

SECTION 2. Subchapter C, Chapter 12, Education Code, is amended by adding Section 12.0523 to read as follows:

Sec. 12.0523. AUTHORIZATION FOR FAILING CAMPUS. (a) The commissioner may grant a charter to an eligible entity as defined by Section 12.101(a) in consultation with parents of students enrolled in the district and assigned to the attendance zone of the feeder pattern for the campus for the operation of a school campus with unacceptable performance under Chapter 39 for three consecutive school years if the commissioner determines that the campus has not instituted meaningful change as provided by Section 39.107(a).

(b) The name of the campus may be changed only on agreement by the holder of the charter under this section and the affected school district.

(c) The commissioner shall adopt rules necessary to implement this section.

SECTION 3. Subsection (f), Section 39.106, Education Code, is amended to read as follows:

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Subsection (a) is not fully implementing the campus intervention team's recommendations or targeted improvement plan or updated plan, the commissioner may order the reconstitution of the campus as provided by Section 39.107 or the removal of the campus to the achievement school district established by Subchapter I, Chapter 11.

SECTION 4. The heading to Section 39.107, Education Code, is amended to read as follows:

Sec. 39.107. RECONSTITUTION, REMOVAL, OR GRANT OF CHARTER; REPURPOSING, ALTERNATIVE MANAGEMENT, AND CLOSURE.

SECTION 5. Section 39.107, Education Code, is amended by amending Subsections (a) and (a-1) and adding Subsections (a-2), (a-3), (a-4), (a-5), (a-6), and (k-1) to read as follows:

(a) After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall determine whether the district has instituted meaningful change, including reconstituting the staff or leadership at the campus. If the commissioner determines that the campus has instituted meaningful change, the commissioner may take action under Subsection (a-1) and reevaluate the campus under this subsection following the conclusion of the subsequent school year. If the commissioner determines that the campus has not instituted meaningful change, the commissioner shall, based on the commissioner's determination of the best remedy for the campus:

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

(2) order the removal of the campus to the achievement school district as provided by Section 39.1071; or

(3) grant a charter to an eligible entity in the manner provided by Section 12.0523.

(a-1) At the request of the board of trustees of the district, the commissioner may annually for two consecutive years grant the district extraordinary powers to address performance deficiencies in accordance with the following limitations:

(1) the commissioner may only grant powers specifically requested by the board;

(2) the board must provide evidence that the power or powers requested will enable the district to overcome identified barriers to performance growth;

(3) the commissioner may not grant a district powers or related waivers or exemptions not available to the achievement school district; and

(4) when the grant of an extraordinary power expires at the end of the first or second year in which it is operative, as determined by the commissioner, the campus will be removed to the achievement school district if the commissioner determines that the campus has not achieved a performance growth level that enables the

campus to achieve acceptable performance within four years.

(a-2) In making a determination regarding action to be taken under this section, the commissioner shall seek and give considerable weight to recommendations from parents of students enrolled at the campus and members of the community who reside in the attendance zone of the campus.

(a-3) In reconstituting a campus, a campus intervention team, with the involvement and advice of the school community partnership team, if applicable, shall assist the campus in:

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

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

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

(a-4) The campus intervention team or a school community partnership team shall develop information regarding campus performance and available options for improving campus performance that may be provided to interested parties on request.

(a-5) Notwithstanding Subsection (a), the commissioner may refrain from taking action otherwise required under that subsection against a campus based on campus performance for the 2014-2015 school year and preceding school years. If the commissioner takes action, the commissioner may not order the reconstitution of the campus and may only take other actions authorized by law. This subsection expires September 1, 2016.

(a-6) In ordering the reconstitution of a campus or as an alternative to reconstitution, the commissioner may order, if a school district requests the order, that:

(1) except as expressly provided by other law, the reconstituted campus and its employees and students are subject to a provision of this title to the extent and in the same manner that such provision applies to an open-enrollment charter school and its employees and students under Subchapter D, Chapter 12; or

(2) the reconstituted campus, by agreement between the school district and the achievement school district, be transferred to or operated by the achievement school district.

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

SECTION 6. Subchapter E, Chapter 39, Education Code, is amended by adding Section 39.1071 to read as follows:

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

(b) As provided by Section 39.107, the commissioner may order the removal of the campus to the achievement school district established by Subchapter I, Chapter 11, if action by the commissioner is required under Section 39.107.

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

(d) Only students who were eligible to attend a campus under the prior system or who would have been eligible to attend the campus if the campus had remained in the prior system may attend that campus at the achievement school district. All such students are eligible to attend the campus notwithstanding any contrary provision of law.

(e) Effective on a date determined by the commissioner after consulting with the superintendent of the achievement school district, a campus subject to this section shall be removed from the

jurisdiction of the school district and transferred to the jurisdiction of the achievement school district. On that date, the school district or charter holder from which the campus was removed becomes the prior system.

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

(g) The superintendent of the achievement school district shall decide which educators may be retained at that campus in the superintendent's sole discretion. If the achievement school district does not retain an educator, that educator may be assigned to another position by the prior system.

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

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

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

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

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

(1) details for the operation of the campus by the prior system, including provisions for the continuation of the programs that have provided the basis for the academic achievement by the students and any charter granted under Section 11.409;

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

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

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

(1) take the following action:

(A) direct the superintendent of the achievement school district to organize a new campus of the achievement school district for the purpose of educating the students attending the campus initially removed from the prior system under this section

in the manner determined by the superintendent as most likely to bring the campus to an acceptable level of performance, which may be done by designing and granting a campus charter under Section 12.0521(a)(1), as provided by Section 11.409; or

(B) in accordance with a proposal for improving campus performance submitted by the prior system, return the campus to the prior system;

(2) if the campus remains in the jurisdiction of the achievement school district, address the achievement school district's failure to turn around the campus within three years in the next statewide plan under Section 11.409; and

(3) record these steps for annual reporting as required by Section 39.332.

(n) For purposes of this subsection, "parent" has the meaning assigned by Section 12.051. If the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents of a majority of the students enrolled at a campus to which Subsection (m) applies specifying an action described by Section 39.107(e)(1), (2), or (3) that the parents request the commissioner to order, the commissioner shall, except as otherwise authorized by this section, order the specific action requested. For purposes of this subsection, the signature of only one parent of a student is required.

(o) If a campus governing body established by the achievement school district presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific action described by Section 39.107(e)(1) or (2) other than the specific action requested in the parents' petition and a written explanation of the basis for the governing body's request, the commissioner may order the action requested by the governing body.

(p) If the commissioner determines that the basis for the unsatisfactory performance of a campus for two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance instead of removal under this section.

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

(r) Notwithstanding any other provision of this code, the funding for a campus operated by the achievement school district must be not less than the funding of the other campuses in the prior system on a per student basis so that the achievement school district receives at least the same funding the campus would otherwise have received, provided that the prior system receives the same amount per student in a given year.

(s) A campus operated by the achievement school district may change its name only on agreement of the prior system and the achievement school district.

(t) The commissioner may adopt rules necessary to implement this section.

SECTION 7. Section 39.108, Education Code, is amended to read as follows:

Sec. 39.108. ANNUAL REVIEW. (a) The commissioner shall review annually the performance of a district or campus subject to this subchapter to determine the appropriate actions to be implemented under this subchapter. The commissioner must review at least annually the performance of a district for which the accreditation status or rating has been lowered due to insufficient student performance and may not raise the accreditation status or rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

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

SECTION 8. Subsection (b), Section 39.332, Education Code, is amended by adding Subdivision (24) to read as follows:

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

SECTION 9. This Act applies beginning with the 2014-2015 school year.

SECTION 10. 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, 2013.

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