

By: Dutton, Schaefer, Riddle,
King of Hemphill, Huberty, et al.

H.B. No. 1536

Substitute the following for H.B. No. 1536:

By: Aycock

C.S.H.B. No. 1536

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 Opportunity School District.

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 OPPORTUNITY SCHOOL DISTRICT

Sec. 11.401. TEXAS OPPORTUNITY SCHOOL DISTRICT

ESTABLISHED. (a) The Texas Opportunity 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 placed in the
jurisdiction of the opportunity school district under Chapter 39.

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

(b-1) Notwithstanding any other provision of law, only a
campus of an independent school district with 24 or more elementary
campuses may be transferred to the jurisdiction of the opportunity
school district.

(c) The commissioner shall select the superintendent of the
opportunity school district. The superintendent shall report to
the commissioner under a written contract for services.

1 (d) The opportunity school district does not have authority
2 to impose taxes but has authority to seek and expend federal funding
3 and grant funding and to otherwise seek, obtain, and expend funding
4 with the same authority as an independent school district.

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

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

17 (g) The opportunity school district may employ such staff as
18 the superintendent deems necessary.

19 Sec. 11.402. APPLICABILITY OF LAWS, RULES, AND ORDINANCES
20 TO OPPORTUNITY SCHOOL DISTRICT. (a) Except as expressly provided
21 by law, the opportunity school district is subject to federal and
22 state laws and rules and municipal zoning ordinances governing
23 school districts.

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

1 (c) The commissioner shall consider the performance of a
2 campus under the jurisdiction of the opportunity school district
3 for purposes of determining the prior system's performance rating
4 under Section 39.054.

5 (d) Any requirement of Chapter 551 or 552, Government Code,
6 or other law concerning open meetings requirements or public
7 information requirements applies to the opportunity school
8 district and the superintendent and students of the opportunity
9 school district to the same extent those requirements apply to any
10 other school district and the board of trustees and students of the
11 other school district.

12 (e) The opportunity school district is not a
13 special-purpose school district described by Subchapter H.

14 Sec. 11.403. IMMUNITY. The opportunity school district is
15 immune from liability to the same extent as any other school
16 district, and the opportunity school district's employees and
17 volunteers are immune from liability to the same extent as other
18 school district employees and volunteers.

19 Sec. 11.404. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
20 TEXAS BY OPPORTUNITY SCHOOL DISTRICT EMPLOYEES. (a) An employee of
21 the opportunity school district who qualifies for membership in the
22 Teacher Retirement System of Texas is covered under the system to
23 the same extent a qualified employee of any other school district is
24 covered.

25 (b) For each employee of the opportunity school district
26 covered under the system, the opportunity school district is
27 responsible for making any contribution that otherwise would be

1 the legal responsibility of the prior system, and the state is
2 responsible for making contributions to the same extent it would be
3 legally responsible if the employee were that of another school
4 district.

5 Sec. 11.405. FUNDING OF STUDENTS ENROLLED IN OPPORTUNITY
6 SCHOOL DISTRICT. (a) Each school year the opportunity school
7 district is entitled to receive for the education of each student
8 transferred to the opportunity school district funding under
9 Chapter 42 in an amount equal to the amount of state and local
10 funding per student in weighted average daily attendance, including
11 enrichment funding under Section 42.302, to which the prior system
12 would be entitled under Chapter 42 for that school year.

13 (b) The opportunity school district is entitled to funds
14 that are available to other school districts from the agency or the
15 commissioner in the form of grants or other discretionary funding.
16 The opportunity school district is entitled to a pro rata share of
17 all revenue provided to the prior system from the agency or the
18 commissioner in the form of grants or other discretionary funding.

19 (c) The opportunity school district is entitled to share in
20 the available school fund apportionment and other privileges in the
21 same manner as the prior system. The opportunity school district
22 shall report its student attendance and receive funding in the same
23 manner as any other district.

24 (d) For purposes of calculating for the prior system
25 obligations under Chapter 41 and entitlements under Chapter 42,
26 students transferred to the opportunity school district who would
27 otherwise have attended the prior system are not included in

1 calculating the average daily attendance of the prior system.

2 (e) For purposes of calculating for the prior system
3 allotments under Chapter 46, students transferred to the
4 opportunity school district who would otherwise have attended the
5 prior system are included in calculating the average daily
6 attendance of the prior system.

7 (f) The commissioner shall adopt rules necessary to
8 implement this section.

9 Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN
10 OPPORTUNITY SCHOOL DISTRICT. (a) The opportunity school district
11 is entitled to use any school building and any other facility or
12 property otherwise part of a campus placed in the opportunity
13 school district that was recognized as part of the facilities or
14 property of the campus before the campus was placed in the
15 opportunity school district. The opportunity school district is
16 also entitled to access to any additional facilities that are
17 typically available to the campus, its students, and faculty and
18 staff before the campus was placed in the opportunity school
19 district. The opportunity school district's use of a school
20 building, facility, or property may not be restricted, except that
21 the opportunity school district is responsible for and obligated to
22 provide for routine maintenance and repair necessary to ensure that
23 the school building, facility, or property is maintained in as good
24 an order as when the right of use was acquired by the opportunity
25 school district.

26 (b) If a dispute arises between the opportunity school
27 district and the prior system regarding the maintenance and repair

1 required under this section, the commissioner or the commissioner's
2 designee shall determine each entity's responsibilities concerning
3 the maintenance and repair.

4 Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN
5 OPPORTUNITY SCHOOL DISTRICT. (a) The opportunity school district
6 may require the prior system to provide school support or student
7 support services for a campus transferred from the prior system's
8 jurisdiction, including:

9 (1) school food service;

10 (2) transportation of:

11 (A) students who attend the campus placed in the
12 opportunity school district; and

13 (B) students who reside in the assigned
14 attendance zone of the campus placed in the opportunity school
15 district but who attend a different campus in the prior system; and

16 (3) student assessment services to determine special
17 education eligibility that are compliant with all applicable laws
18 and regulations.

19 (b) The opportunity school district shall reimburse the
20 prior system in an amount equal to the actual cost of the services
21 described in Subsection (a) to the prior system. If a dispute
22 arises between the opportunity school district and the prior system
23 regarding the actual cost of services, the commissioner or the
24 commissioner's designee shall determine the cost to be reimbursed.

25 Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED
26 IN OPPORTUNITY SCHOOL DISTRICT. Funds received by the opportunity
27 school district under Section 11.405 must be used for the operation

1 and administration of campuses placed in the opportunity school
2 district.

3 Sec. 11.409. OPPORTUNITY DISTRICT CHARTER. (a) The
4 opportunity school district may grant a district charter under
5 Section 12.0522 to a campus that has been placed in the opportunity
6 school district.

7 (b) The grant of a district charter by the opportunity
8 school district is not subject to the limitation imposed by Section
9 12.0522(b).

10 (c) A campus granted a district charter under this section
11 is eligible for funding under Section 11.405. Any administrative
12 costs related to authorizing a district charter under this section
13 may be paid from funds appropriated to the opportunity school
14 district, as approved by the superintendent of the opportunity
15 school district.

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

18 (f) Notwithstanding any other provision of this subchapter,
19 if the commissioner determines that a campus for which an
20 intervention is ordered under Subsection (a) is not fully
21 implementing the campus intervention team's recommendations or
22 targeted improvement plan or updated plan, the commissioner may
23 order the reconstitution of the campus as provided by Section
24 39.107 or, subject to Section 11.401(b-1), the placement of the
25 campus in the opportunity school district established by Subchapter
26 I, Chapter 11.

27 SECTION 3. The heading to Section 39.107, Education Code,

1 is amended to read as follows:

2 Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE
3 MANAGEMENT, PLACEMENT IN OPPORTUNITY SCHOOL DISTRICT, AND CLOSURE.

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

7 (a) After a campus has been identified as unacceptable for
8 two consecutive school years, the commissioner shall determine
9 whether the district or campus has instituted meaningful change for
10 the campus, including reconstituting the staff or leadership at the
11 campus. If the commissioner determines that the district or campus
12 has instituted meaningful change for the campus, the commissioner
13 may reevaluate the campus under this subsection following the
14 conclusion of the subsequent school year. If the commissioner
15 determines the district or campus has not instituted meaningful
16 change for the campus, the superintendent of the district may
17 operate the campus with the same powers and authority granted to the
18 superintendent of the opportunity school district established
19 under Subchapter I, Chapter 11, to operate a campus placed in the
20 jurisdiction of the opportunity school district unless the
21 commissioner orders one or more of the following:

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

24 (2) repurposing of the campus under this section;

25 (3) alternative management of the campus under this
26 section; or

27 (4) placement of the campus in the opportunity school

1 district, as provided by Section 39.1071.

2 (a-1) In making a determination regarding action to be taken
3 under Subsection (a), the commissioner shall consider
4 recommendations from parents of students enrolled at the campus and
5 members of the community who reside in the attendance zone of the
6 campus.

7 (a-2) In reconstituting a campus, a campus intervention
8 team shall assist the campus in:

9 (1) developing an updated targeted improvement plan;

10 (2) submitting the updated targeted improvement plan
11 to the board of trustees of the school district for approval and
12 presenting the plan in a public hearing as provided by Section
13 39.106(e-1);

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

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

18 (c) A campus reconstituted under ~~[subject to]~~ Subsection
19 (a) shall implement the updated targeted improvement plan as
20 approved by the commissioner. The commissioner may appoint a
21 monitor, conservator, management team, or board of managers to the
22 district to ensure and oversee district-level support to
23 low-performing campuses and the implementation of the updated
24 targeted improvement plan. In making appointments under this
25 subsection, the commissioner shall consider individuals who have
26 demonstrated success in managing campuses with student populations
27 similar to the campus at which the individual appointed will serve.

1 (e) If a campus is considered to have an unacceptable
2 performance rating for three consecutive school years after an
3 action is taken to reform the campus [~~is reconstituted~~] under
4 Subsection (a), the commissioner, subject to Subsection [~~(e-1) or~~]
5 (e-2), may only [~~shall~~] order:

6 (1) repurposing of the campus under this section;

7 (2) alternative management of the campus under this
8 section; [~~or~~]

9 (3) closure of the campus; or

10 (4) placement of the campus in the opportunity school
11 district as provided by Section 39.1071.

12 SECTION 5. Subchapter E, Chapter 39, Education Code, is
13 amended by adding Sections 39.1071 and 39.1072 to read as follows:

14 Sec. 39.1071. PLACEMENT OF CAMPUS IN OPPORTUNITY SCHOOL
15 DISTRICT. (a) In this section, "prior system" has the meaning
16 assigned by Section 11.401(b).

17 (b) As provided by Section 39.107, the commissioner,
18 subject to Section 11.401(b-1), may order the placement of a campus
19 of an independent school district in the opportunity school
20 district established under Subchapter I, Chapter 11, except that
21 the commissioner may not place a campus in the opportunity school
22 district if:

23 (1) the commissioner is presented with a valid
24 petition for alternative action under Section 39.107(e-2); or

25 (2) the superintendent of the opportunity school
26 district advises the commissioner that placing the campus in the
27 opportunity school district is not the best action to be taken at

1 the campus.

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

10 (d) Only students who were eligible for enrollment at a
11 campus under the prior system or who would have been eligible to
12 enroll at the campus if the campus had remained in the prior system
13 may attend that campus after the campus is placed in the opportunity
14 school district.

15 (e) A campus placed in the opportunity school district is
16 not required to accept enrollment of a student if enrolling the
17 student would result in exceeding the capacity of campus
18 facilities. The opportunity school district shall enroll students
19 in the following order of priority:

20 (1) those students who would be eligible to attend the
21 campus if the campus had remained in the prior system;

22 (2) if openings for enrollment remain after satisfying
23 Subdivision (1), those students who would be eligible to attend a
24 different campus in the prior system from which the campus was
25 transferred; and

26 (3) if openings for enrollment remain after satisfying
27 Subdivisions (1) and (2), those students who would be eligible to

1 attend any other campus or school district by lottery.

2 (f) A campus placed in the opportunity school district may
3 adopt a policy that provides for the exclusion or removal of a
4 student enrolled at the campus:

5 (1) who does not reside in the assigned attendance
6 zone of the campus; and

7 (2) who engages in or has been subjected to
8 disciplinary action for conduct described by Section [37.006](#) or
9 [37.007](#).

10 (g) Effective on a date determined by the commissioner after
11 consulting with the superintendent of the opportunity school
12 district, a campus that the commissioner has decided to place in the
13 opportunity school district shall be transferred from the
14 jurisdiction of the school district to the jurisdiction of the
15 opportunity school district. On that date, the school district from
16 which the campus was transferred becomes the prior system.

17 (h) The campus shall be:

18 (1) reorganized and reformed, as determined necessary
19 by the superintendent of the opportunity school district; and

20 (2) operated by the opportunity school district.

21 (i) The superintendent of the opportunity school district
22 or the superintendent's designee has sole discretion to decide
23 which educators may be retained at a campus placed in the
24 opportunity school district. If the opportunity school district
25 does not retain an educator, that educator may be assigned to
26 another position by the prior system.

27 (j) For the purposes of any benefit or right requiring

1 continuous service or based on years of service, the prior system
2 shall consider the period during which an employee works at the
3 opportunity school district to be service time with the prior
4 system if the employee returns to the prior system's employment.

5 (k) The benefits and privileges of any person employed at a
6 campus by the opportunity school district who was not employed by
7 the prior system at the time the campus was placed in the
8 opportunity school district shall be determined in compliance with
9 applicable law by the opportunity school district at the time of the
10 employment.

11 (l) The opportunity school district shall retain
12 jurisdiction over any campus placed in the opportunity school
13 district until the commissioner returns the campus to the prior
14 system in accordance with Section 39.1072.

15 (m) On request, the commissioner and the superintendent of
16 the opportunity school district shall provide information
17 concerning the new operations and performance of a campus to the
18 prior system.

19 (n) A campus operated by the opportunity school district may
20 change its name only on agreement of the prior system and the
21 opportunity school district.

22 (o) The commissioner may adopt rules necessary to implement
23 this section.

24 Sec. 39.1072. RETURN OF CAMPUS TO PRIOR SYSTEM. (a) In
25 this section, "prior system" has the meaning assigned by Section
26 11.401(b).

27 (b) The superintendent of the opportunity school district

1 established under Subchapter I, Chapter 11, or the superintendent's
2 designee may develop a transition plan for returning a campus
3 placed in the opportunity school district to the prior system at any
4 time after the campus has achieved an acceptable or higher
5 performance rating. The superintendent or the superintendent's
6 designee shall develop a transition plan for returning a campus
7 placed in the opportunity school district to the prior system if:

8 (1) the campus has been identified as acceptable or
9 higher for three consecutive school years; or

10 (2) the commissioner orders the superintendent to
11 develop a transition plan.

12 (c) The superintendent or the superintendent's designee
13 shall develop a transition plan for returning a campus placed in the
14 opportunity school district to the prior system during the eighth
15 consecutive school year that the campus has operated under the
16 jurisdiction of the opportunity school district.

17 (d) The superintendent or the superintendent's designee
18 must consider the input of parents and other affected stakeholders
19 in developing a transition plan under Subsection (b) or (c). The
20 transition plan must include:

21 (1) details for the operation of the campus by the
22 prior system, including provisions for the continuation of the
23 programs that have provided the basis for improved academic
24 performance by the students, including any charter granted under
25 Section 11.409;

26 (2) provisions for the employment status of all
27 persons employed by the opportunity school district who were not

1 employed by the prior system at the time the campus was placed in
2 the opportunity school district; and

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

5 (e) The commissioner may order the return of a campus to the
6 prior system in accordance with the transition plan developed under
7 Subsection (b) on the recommendation of the opportunity school
8 district superintendent.

9 (f) The commissioner shall order the return of a campus to
10 the prior system not later than the campus's eighth consecutive
11 school year under the jurisdiction of the opportunity school
12 district. The commissioner may order the return of the campus to
13 the prior system under this subsection in accordance with the
14 transition plan developed under Subsection (c) or may order the
15 return of the campus in accordance with an improvement plan
16 submitted by the board of trustees of the prior system.

17 (g) On request, the commissioner and the superintendent of
18 the opportunity school district shall provide information
19 concerning the operations and performance of a campus to the prior
20 system.

21 (h) 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)(25).

12 SECTION 7. Section 39.332(b), Education Code, is amended by
13 adding Subdivision (25) to read as follows:

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

18 SECTION 8. Sections 39.107(d) and (e-1), Education Code,
19 are repealed.

20 SECTION 9. This Act applies beginning with the 2015-2016
21 school year.

22 SECTION 10. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2015.