

By: Dutton

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.

(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.

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

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

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

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

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

24 (c) The performance of a campus under the jurisdiction of
25 the opportunity school district may not be used for purposes of
26 determining the prior system's performance rating under Section
27 [39.054](#).

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

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

10 Sec. 11.403. IMMUNITY. The opportunity school district is
11 immune from liability to the same extent as any other school
12 district, and the opportunity school district's employees and
13 volunteers are immune from liability to the same extent as other
14 school district employees and volunteers.

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

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

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

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

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

20 (d) For purposes of calculating for the prior system
21 obligations under Chapter 41 and entitlements under Chapter 42,
22 students transferred to the opportunity school district who would
23 otherwise have attended the prior system are not included in
24 calculating the average daily attendance of the prior system.

25 (e) For purposes of calculating for the prior system
26 allotments under Chapter 46, students transferred to the
27 opportunity school district who would otherwise have attended the

1 prior system are included in calculating the average daily
2 attendance of the prior system.

3 (f) The commissioner shall adopt rules necessary to
4 implement this section.

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

22 (b) If a dispute arises between the opportunity school
23 district and the prior system regarding the maintenance and repair
24 required under this section, the commissioner or the commissioner's
25 designee shall determine each entity's responsibilities concerning
26 the maintenance and repair.

27 Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN

1 OPPORTUNITY SCHOOL DISTRICT. (a) The opportunity school district
2 may require the prior system to provide school support or student
3 support services for a campus transferred from the prior system's
4 jurisdiction, including:

5 (1) school food service;

6 (2) transportation of:

7 (A) students who attend the campus placed in the
8 opportunity school district; and

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

12 (3) student assessment services to determine special
13 education eligibility that are compliant with all applicable laws
14 and regulations.

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

21 Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED
22 IN OPPORTUNITY SCHOOL DISTRICT. Funds received by the opportunity
23 school district under Section 11.405 must be used for the operation
24 and administration of campuses placed in the opportunity school
25 district.

26 Sec. 11.409. OPPORTUNITY DISTRICT CHARTER. (a) The
27 opportunity school district may grant a district charter under

1 Section 12.0522 to a campus that has been placed in the opportunity
2 school district.

3 (b) The grant of a district charter by the opportunity
4 school district is not subject to the limitation imposed by Section
5 12.0522(b).

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

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

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

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

24 Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE
25 MANAGEMENT, PLACEMENT IN OPPORTUNITY SCHOOL DISTRICT, AND CLOSURE.

26 SECTION 4. Section 39.107, Education Code, is amended by
27 amending Subsections (a), (a-1), (c), and (e) and adding Subsection

1 (a-2) to read as follows:

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

17 (1) [~~order the~~ reconstitution of the campus under
18 this section;

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

20 (3) alternative management of the campus under this
21 section; or

22 (4) placement of the campus in the opportunity school
23 district, as provided by Section 39.1071.

24 (a-1) In making a determination regarding action to be taken
25 under Subsection (a), the commissioner shall consider
26 recommendations from parents of students enrolled at the campus and
27 members of the community who reside in the attendance zone of the

1 campus.

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

4 (1) developing an updated targeted improvement plan;

5 (2) submitting the updated targeted improvement plan
6 to the board of trustees of the school district for approval and
7 presenting the plan in a public hearing as provided by Section
8 39.106(e-1);

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

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

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

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

- 1 (1) repurposing of the campus under this section;
2 (2) alternative management of the campus under this
3 section; [~~or~~]
4 (3) closure of the campus; or
5 (4) placement of the campus in the opportunity school
6 district as provided by Section 39.1071.

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

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

12 (b) As provided by Section 39.107, the commissioner may
13 order the placement of a campus of an independent school district in
14 the opportunity school district established under Subchapter I,
15 Chapter 11, except that the commissioner may not place a campus in
16 the opportunity school district if:

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

19 (2) the superintendent of the opportunity school
20 district advises the commissioner that placing the campus in the
21 opportunity school district is not the best action to be taken at
22 the campus.

23 (c) If the commissioner orders placement of a campus in the
24 opportunity school district, the students assigned to attend the
25 campus or the students who would have been eligible to attend the
26 campus if the campus had remained in the prior system may choose to
27 attend the campus under the jurisdiction of the opportunity school

1 district or may exercise an option, made available by the prior
2 system, to attend another campus remaining under the jurisdiction
3 of the prior system.

4 (d) Only students who were eligible for enrollment at a
5 campus under the prior system or who would have been eligible to
6 enroll at the campus if the campus had remained in the prior system
7 may attend that campus after the campus is placed in the opportunity
8 school district.

9 (e) A campus placed in the opportunity school district is
10 not required to accept enrollment of a student if enrolling the
11 student would result in exceeding the capacity of campus
12 facilities. The opportunity school district shall enroll students
13 in the following order of priority:

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

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

20 (3) if openings for enrollment remain after satisfying
21 Subdivisions (1) and (2), those students who would be eligible to
22 attend any other campus or school district by lottery.

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

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

1 (2) who engages in or has been subjected to
2 disciplinary action for conduct described by Section 37.006 or
3 37.007.

4 (g) Effective on a date determined by the commissioner after
5 consulting with the superintendent of the opportunity school
6 district, a campus that the commissioner has decided to place in the
7 opportunity school district shall be transferred from the
8 jurisdiction of the school district to the jurisdiction of the
9 opportunity school district. On that date, the school district from
10 which the campus was transferred becomes the prior system.

11 (h) The campus shall be:

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

14 (2) operated by the opportunity school district.

15 (i) The superintendent of the opportunity school district
16 or the superintendent's designee has sole discretion to decide
17 which educators may be retained at a campus placed in the
18 opportunity school district. If the opportunity school district
19 does not retain an educator, that educator may be assigned to
20 another position by the prior system.

21 (j) For the purposes of any benefit or right requiring
22 continuous service or based on years of service, the prior system
23 shall consider the period during which an employee works at the
24 opportunity school district to be service time with the prior
25 system if the employee returns to the prior system's employment.

26 (k) The benefits and privileges of any person employed at a
27 campus by the opportunity school district who was not employed by

1 the prior system at the time the campus was placed in the
2 opportunity school district shall be determined in compliance with
3 applicable law by the opportunity school district at the time of the
4 employment.

5 (l) The opportunity school district shall retain
6 jurisdiction over any campus placed in the opportunity school
7 district until the commissioner returns the campus to the prior
8 system in accordance with Section 39.1072.

9 (m) On request, the commissioner and the superintendent of
10 the opportunity school district shall provide information
11 concerning the new operations and performance of a campus to the
12 prior system.

13 (n) A campus operated by the opportunity school district may
14 change its name only on agreement of the prior system and the
15 opportunity school district.

16 (o) The commissioner may adopt rules necessary to implement
17 this section.

18 Sec. 39.1072. RETURN OF CAMPUS TO PRIOR SYSTEM. (a) In
19 this section, "prior system" has the meaning assigned by Section
20 11.401(b).

21 (b) The superintendent of the opportunity school district
22 established under Subchapter I, Chapter 11, or the superintendent's
23 designee may develop a transition plan for returning a campus
24 placed in the opportunity school district to the prior system at any
25 time after the campus has achieved an acceptable or higher
26 performance rating. The superintendent or the superintendent's
27 designee shall develop a transition plan for returning a campus

1 placed in the opportunity school district to the prior system if:

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

4 (2) the commissioner orders the superintendent to
5 develop a transition plan.

6 (c) The superintendent or the superintendent's designee
7 shall develop a transition plan for returning a campus placed in the
8 opportunity school district to the prior system during the eighth
9 consecutive school year that the campus has operated under the
10 jurisdiction of the opportunity school district.

11 (d) The superintendent or the superintendent's designee
12 must consider the input of parents and other affected stakeholders
13 in developing a transition plan under Subsection (b) or (c). The
14 transition plan must include:

15 (1) details for the operation of the campus by the
16 prior system, including provisions for the continuation of the
17 programs that have provided the basis for improved academic
18 performance by the students, including any charter granted under
19 Section 11.409;

20 (2) provisions for the employment status of all
21 persons employed by the opportunity school district who were not
22 employed by the prior system at the time the campus was placed in
23 the opportunity school district; and

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

26 (e) The commissioner may order the return of a campus to the
27 prior system in accordance with the transition plan developed under

1 Subsection (b) on the recommendation of the opportunity school
2 district superintendent.

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

11 (g) On request, the commissioner and the superintendent of
12 the opportunity school district shall provide information
13 concerning the operations and performance of a campus to the prior
14 system.

15 (h) The commissioner may adopt rules necessary to implement
16 this section.

17 SECTION 6. Section 39.108, Education Code, is amended to
18 read as follows:

19 Sec. 39.108. ANNUAL REVIEW. (a) The commissioner shall
20 review annually the performance of a district or campus subject to
21 this subchapter to determine the appropriate actions to be
22 implemented under this subchapter. The commissioner must review at
23 least annually the performance of a district for which the
24 accreditation status or rating has been lowered due to insufficient
25 student performance and may not raise the accreditation status or
26 rating until the district has demonstrated improved student
27 performance. If the review reveals a lack of improvement, the

1 commissioner shall increase the level of state intervention and
2 sanction unless the commissioner finds good cause for maintaining
3 the current status.

4 (b) The review required by Subsection (a) shall form the
5 basis of the reporting required by Section 39.332(b)(25).

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

8 (25) The report must contain a listing and description
9 of the status of each campus under the jurisdiction of the
10 opportunity school district and a summary of the reforms
11 implemented and progress of the campus.

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

14 SECTION 9. This Act applies beginning with the 2015-2016
15 school year.

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