

By: West

S.B. No. 520

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 for educating students at certain low-performing campuses.

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

SECTION 1. SHORT TITLE. This Act may be cited as the Low Performing Campus Intervention Act.

SECTION 2. 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 removed from the jurisdiction of a school district under Section 39.1071.

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

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

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

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

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

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

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

27 (3) documented success in whole school interventions

1 that increased the educational and performance levels of students
2 in campuses that received unacceptable performance ratings under
3 Section 39.054; and

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

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

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

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

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

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

27 (d) The performance of a campus under the jurisdiction of

1 the opportunity school district may not be used for purposes of
2 determining the prior system's performance rating under Section
3 39.054.

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

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

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

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

1 Sec. 11.406. FUNDING OF STUDENTS ENROLLED IN OPPORTUNITY
2 SCHOOL DISTRICT. (a) The opportunity school district is entitled
3 to receive for the education of students transferred to the
4 district funding under Chapter 42 equal to the amount of funding per
5 student in weighted average daily attendance to which the prior
6 system would be entitled under Chapter 42 if the prior system were a
7 school district without a tier one local share for purposes of
8 Section 42.253.

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

16 (c) In determining funding for the opportunity school
17 district under Subsection (a), the commissioner shall apply the
18 same adjustment factor provided under Section 42.101 to calculate
19 the regular program allotment as for the prior system. This
20 subsection expires September 1, 2017.

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

27 (e) The opportunity school district is entitled to share in

1 the available school fund apportionment and other privileges in the
2 same manner as the prior system. The district shall report its
3 student attendance and receive funding in the same manner as any
4 other district.

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

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

15 (g) The commissioner shall adopt rules necessary to
16 implement this section.

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

1 maintained in as good an order as when the right of use was acquired
2 by the district.

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

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

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

1 systems to the district.

2 Sec. 11.410. LIMITATION ON NUMBER OF CAMPUSES. (a) The
3 commissioner may transfer to the jurisdiction of the opportunity
4 school district not more than:

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

7 (2) five campuses during the state fiscal biennium
8 beginning September 1, 2017.

9 (b) The opportunity school district may not contain more
10 than 10 campuses at any time.

11 Sec. 11.411. APPLICATION OF SUNSET ACT; REPORT. (a) The
12 Texas Opportunity School District is subject to Chapter 325,
13 Government Code (Texas Sunset Act). Unless continued in existence
14 as provided by that chapter, the opportunity school district is
15 abolished and this subchapter expires September 1, 2027.

16 (b) Not later than December 1, 2026, the Sunset Advisory
17 Commission shall evaluate the opportunity school district and
18 submit a report on that evaluation and the commission's
19 recommendations in relation to the opportunity school district to
20 the governor, the lieutenant governor, the speaker of the house of
21 representatives, and the presiding officer of each legislative
22 standing committee with primary jurisdiction over primary and
23 secondary education.

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

26 (f) Notwithstanding any other provision of this subchapter,
27 if the commissioner determines that a campus for which an

1 intervention is ordered under Subsection (a) is not fully
2 implementing the campus intervention team's recommendations or
3 targeted improvement plan or updated plan, the commissioner may
4 order the reconstitution of the campus as provided by Section
5 39.107 or the removal of the campus to the opportunity school
6 district established by Subchapter I, Chapter 11.

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

9 Sec. 39.107. RECONSTITUTION, REMOVAL, REPURPOSING,
10 ALTERNATIVE MANAGEMENT, AND CLOSURE.

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

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

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

26 (2) subject to Sections 11.402 and 11.410, order the
27 removal of the campus to the opportunity school district as

1 provided by Section 39.1071;

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

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

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

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

- 25 (1) developing an updated targeted improvement plan;
- 26 (2) submitting the updated targeted improvement plan
- 27 to the board of trustees of the school district for approval and

1 presenting the plan in a public hearing as provided by Section
2 39.106(e-1);

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

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

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

11 (a-4) Notwithstanding Subsection (a), the commissioner may
12 refrain from taking action otherwise required under that subsection
13 against a campus based on campus performance for the 2014-2015
14 school year and preceding school years. If the commissioner takes
15 action, the commissioner may not order the reconstitution of the
16 campus and may only take other actions authorized by law. This
17 subsection expires September 1, 2018.

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

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

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

27 (b) As provided by Section 39.107, the commissioner may

1 order the removal of a campus to the opportunity school district
2 established by Subchapter I, Chapter 11.

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

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

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

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

27 (g) The superintendent of the opportunity school district

1 shall decide which educators may be retained at that campus in the
2 superintendent's sole discretion. If the opportunity school
3 district does not retain an educator, that educator may be assigned
4 to another position by the prior system.

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

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

24 (j) The benefits and privileges of any person employed in a
25 campus by the opportunity school district who was not employed by
26 the prior system at the time the campus was removed to the
27 opportunity school district shall be those determined by the

1 opportunity school district at the time of such employment in
2 compliance with applicable law.

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

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

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

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

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

24 (m) If a campus has been operating under arrangements
25 established by the opportunity school district for three years, or
26 two years if the commissioner determines that the campus has not
27 made meaningful progress during those two years, and the campus has

1 failed during that period of three or two years, as applicable, to
2 achieve an acceptable level of performance under this chapter, the
3 commissioner shall return the campus to the prior system or, in
4 accordance with Subsection (n), close the campus.

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

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

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

23 (q) The commissioner may adopt rules necessary to implement
24 this section.

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

27 Sec. 39.108. ANNUAL REVIEW. (a) The commissioner shall

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

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

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

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

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.