

By: West

S.B. No. 669

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 Chapter 39.

(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. The superintendent shall report to the commissioner under a written contract for services.

(d) The opportunity school district does not have authority

1 to impose taxes but has authority to seek and expend federal funding
2 and grant funding and to otherwise seek, obtain, and expend funding
3 with the same authority as an independent school district.

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

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

15 (g) The opportunity school district may not contract with a
16 private entity for providing educational services to the students
17 attending a campus transferred to the district, other than an
18 eligible entity, as defined by Section 12.101, that has
19 demonstrated success in educating populations of students similar
20 to the populations of students enrolled at the campus transferred
21 to the district.

22 (g-1) The opportunity school district may contract with a
23 school district to provide educational services to students
24 attending a campus transferred to the district.

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

27 Sec. 11.402. APPLICABILITY OF LAWS, RULES, AND ORDINANCES

1 TO OPPORTUNITY SCHOOL DISTRICT. (a) Except as expressly provided
2 by law, the opportunity school district is subject to federal and
3 state laws and rules governing public schools and to municipal
4 zoning ordinances governing public schools.

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

10 (c) A teacher employed by the opportunity school district
11 must be highly qualified, as determined by the commissioner in a
12 manner consistent with the No Child Left Behind Act of 2001 (20
13 U.S.C. Section 6301 et seq.).

14 (d) The performance of a campus under the jurisdiction of
15 the opportunity school district may not be used for purposes of
16 determining the prior system's performance rating under Section
17 [39.054](#).

18 (e) With respect to the operation of the opportunity school
19 district, any requirement in Chapter 551 or 552, Government Code,
20 or another law that concerns open meetings or the availability of
21 information that applies to a school district, the board of
22 trustees of a school district, or public school students applies to
23 the opportunity school district, the superintendent of the
24 district, any managing entity, and students attending the district.

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

1 from liability to the same extent as other school district
2 employees and volunteers.

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

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

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

23 (b) In determining funding for the opportunity school
24 district under Subsection (a), adjustments under Sections [42.102](#),
25 [42.103](#), [42.104](#), and [42.105](#) are based on the actual adjustment for
26 the prior system. In addition to the funding provided by Subsection
27 (a), the opportunity school district is entitled to receive

1 enrichment funding under Section 42.302 based on the actual amount
2 for the prior system.

3 (c) In determining funding for the opportunity school
4 district under Subsection (a), the commissioner shall apply the
5 same adjustment factor provided under Section 42.101 to calculate
6 the regular program allotment as for the prior system. This
7 subsection expires September 1, 2017.

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

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

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

24 (f-1) For purposes of calculating the prior system's
25 allotments under Chapter 46, students transferred to the
26 opportunity school district who would otherwise have attended the
27 prior system are counted in calculating the average daily

1 attendance of the prior system.

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

3 Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN
4 OPPORTUNITY SCHOOL DISTRICT. The opportunity school district is
5 entitled to use any school building and all facilities and property
6 otherwise part of the campus and recognized as part of the
7 facilities or assets of the campus before the campus was placed in
8 the district. The district is entitled to access to such additional
9 facilities as were typically available to the campus, its students,
10 and faculty and staff before the campus was placed in the district.
11 Such use may not be restricted, except that the opportunity school
12 district is responsible for and obligated to provide for routine
13 maintenance and repair such that the facilities and property are
14 maintained in as good an order as when the right of use was acquired
15 by the district.

16 Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN
17 OPPORTUNITY SCHOOL DISTRICT. The opportunity school district may
18 require the prior system to provide school support or student
19 support services for a campus transferred from the prior system's
20 jurisdiction, including student transportation, school food
21 service, or student assessment for special education eligibility
22 that are compliant with all laws and regulations governing such
23 services. The opportunity school district shall reimburse the
24 actual cost of such services to the prior system. If a dispute
25 arises between the opportunity school district and the prior system
26 regarding the actual cost of services to be reimbursed, the
27 commissioner or the commissioner's designee shall determine the

1 cost to be reimbursed.

2 Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED
3 IN OPPORTUNITY SCHOOL DISTRICT. Funds received by the opportunity
4 school district under Section 11.405 shall be used for the
5 operation and administration of campuses transferred from prior
6 systems to the district.

7 Sec. 11.409. OPPORTUNITY SCHOOL DISTRICT CHARTER. (a) The
8 opportunity school district may grant a district charter under
9 Section 12.0522 to a campus that has been placed in the opportunity
10 school district.

11 (b) The grant of a district charter by the opportunity
12 school district is not subject to the limitation imposed by Section
13 12.0522(b).

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

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

22 (f) Notwithstanding any other provision of this subchapter,
23 if the commissioner determines that a campus for which an
24 intervention is ordered under Subsection (a) is not fully
25 implementing the campus intervention team's recommendations or
26 targeted improvement plan or updated plan, the commissioner may
27 order the reconstitution of the campus as provided by Section

1 39.107 or the removal of the campus to the opportunity school
2 district established by Subchapter I, Chapter 11.

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

5 Sec. 39.107. RECONSTITUTION, REMOVAL, REPURPOSING,
6 ALTERNATIVE MANAGEMENT, AND CLOSURE.

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

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

25 (1) [order the] reconstitution of the campus under
26 this section;

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

1 (3) alternative management of the campus under this
2 section; or

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

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

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

13 (1) developing an updated targeted improvement plan;

14 (2) submitting the updated targeted improvement plan
15 to the board of trustees of the school district for approval and
16 presenting the plan in a public hearing as provided by Section
17 39.106(e-1);

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

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

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

26 (a-4) In ordering the reconstitution of a campus or as an
27 alternative to reconstitution, the commissioner may order at the

1 request of the school district that:

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

7 (2) the reconstituted campus, by agreement between the
8 school district and the opportunity school district, be transferred
9 to or operated by the opportunity school district.

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

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

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

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

23 (c) The students assigned to attend the campus or the
24 students who would have been eligible to attend the campus if the
25 campus had remained in the prior system may choose to attend the
26 campus under the jurisdiction of the opportunity school district or
27 may exercise an option, made available by the prior system, to

1 attend another campus remaining under the jurisdiction of the prior
2 system.

3 (d) Effective on a date determined by the commissioner after
4 consulting with the superintendent of the opportunity school
5 district, a campus subject to this section shall be removed from the
6 jurisdiction of the school district and transferred to the
7 jurisdiction of the opportunity school district. On that date, the
8 school district or charter holder from which the campus was removed
9 becomes the prior system.

10 (e) The removed campus shall be reorganized and reformed, as
11 necessary, and operated under the jurisdiction of the opportunity
12 school district.

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

18 (g) A certified teacher with regular and direct
19 responsibility for providing classroom instruction to students who
20 is employed at the removed campus by the prior system shall be given
21 priority consideration for employment in a comparable position by
22 the opportunity school district's superintendent. A person
23 employed by the prior system at a removed campus may choose to
24 remain in the employ of the prior system, and in that case, the
25 prior system shall retain and reassign the person consistent with
26 the prior system's contractual obligations or policies regarding
27 the retention and reassignment of employees. This subsection does

1 not create rights or entitlements in excess of contractual rights
2 and entitlements.

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

12 (i) The benefits and privileges of any person employed in a
13 campus by the opportunity school district who was not employed by
14 the prior system at the time the campus was removed to the
15 opportunity school district shall be those determined by the
16 opportunity school district at the time of such employment in
17 compliance with applicable law.

18 (j) The opportunity school district shall retain
19 jurisdiction over any campus removed to the district until the
20 commissioner, on the recommendation of the opportunity school
21 district's superintendent, enters into an agreement with the prior
22 system for return of the campus to the prior system.

23 (k) When a campus in the opportunity school district
24 achieves an acceptable level of performance under this chapter, the
25 commissioner shall direct the opportunity school district to seek
26 agreement for the return of the campus to the prior system. An
27 agreement between the commissioner and the prior system for the

1 return of the campus shall include:

2 (1) details for the operation of the campus by the
3 prior system, including provisions for the continuation of the
4 programs that have provided the basis for the academic achievement
5 by the students;

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

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

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

19 (1) take the following action:

20 (A) direct the superintendent of the opportunity
21 school district to organize a new campus of the opportunity school
22 district for the purpose of educating the students attending the
23 campus initially removed from the prior system under this section
24 in the manner determined by the superintendent as most likely to
25 bring the campus to an acceptable level of performance, which may be
26 done by designing and granting a campus charter under Section
27 [12.0521\(a\)\(1\)](#); or

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

4 (2) if the campus remains in the jurisdiction of the
5 opportunity school district, address the opportunity school
6 district's failure to turn around the campus within three years;
7 and

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

10 (m) For purposes of this subsection, "parent" has the
11 meaning assigned by Section 12.051. If the commissioner is
12 presented, in the time and manner specified by commissioner rule, a
13 written petition signed by the parents of a majority of the students
14 enrolled at a campus to which Subsection (l) applies requesting a
15 specific action described by Section 39.107(e)(1), (2), or (3), the
16 commissioner shall, except as otherwise authorized by this section,
17 order the specific action requested. For purposes of this
18 subsection, the signature of only one parent of a student is
19 required.

20 (n) If a campus governing body established by the
21 opportunity school district presents to the commissioner, in the
22 time and manner specified by commissioner rule, a written request
23 that the commissioner order specific action described by Section
24 39.107(e)(1) or (2) other than the specific action requested in the
25 parents' petition and a written explanation of the basis for the
26 governing body's request, the commissioner may order the action
27 requested by the governing body.

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

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

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

18 (r) 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.

21 (s) The commissioner may adopt rules necessary to implement
22 this section.

23 SECTION 7. 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 8. 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 9. This Act applies beginning with the 2016-2017
19 school year.

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