

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 hereby 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. 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. In
15 addition, using funds appropriated for the regional education
16 service centers, the commissioner shall direct that appropriate
17 administrative facilities and support be made available to serve as
18 the central administrative offices of the district.

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

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

26 (2) achieved a district rating of exemplary or
27 recognized under Subchapter G, Chapter 39, or the equivalent under

1 subsequent laws or rules regarding accountability ratings for three
2 of the preceding five years;

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

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

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

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

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

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

25 (d) The performance of a campus under the jurisdiction of
26 the opportunity school district may not be used for purposes of
27 determining the prior system's performance rating under Section

1 39.054.

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

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

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

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

26 Sec. 11.405. FUNDING OF STUDENTS ENROLLED IN OPPORTUNITY
27 SCHOOL DISTRICT. (a) The opportunity school district is entitled

1 to receive for the education of students transferred to the
2 district funding under Chapter 42 equal to the amount of funding per
3 student in weighted average daily attendance to which the prior
4 system would be entitled under Chapter 42 if the prior system were a
5 school district without a tier one local share for purposes of
6 Section 42.253.

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

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

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

25 (e) The opportunity school district is entitled to share in
26 the available school fund apportionment and other privileges in the
27 same manner as the prior system. The district shall report its

1 student attendance and receive funding in the same manner as any
2 other district.

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

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

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

14 Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN
15 OPPORTUNITY SCHOOL DISTRICT. The opportunity school district is
16 entitled to use any school building and all facilities and property
17 otherwise part of the campus and recognized as part of the
18 facilities or assets of the campus before the campus was placed in
19 the district. The district is entitled to access to such additional
20 facilities as were typically available to the campus, its students,
21 and faculty and staff before the campus was placed in the district.
22 Such use may not be restricted, except that the opportunity school
23 district is responsible for and obligated to provide for routine
24 maintenance and repair such that the facilities and property are
25 maintained in as good an order as when the right of use was acquired
26 by the district.

27 Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN

1 OPPORTUNITY SCHOOL DISTRICT. The opportunity school district may
2 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 student transportation, school food
5 service, or student assessment for special education eligibility
6 that are compliant with all laws and regulations governing such
7 services. The opportunity school district shall reimburse the
8 actual cost of such services to the prior system. If a dispute
9 arises between the opportunity school district and the prior system
10 regarding the actual cost of services to be reimbursed, the
11 commissioner or the commissioner's designee shall determine the
12 cost to be reimbursed.

13 Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED
14 IN OPPORTUNITY SCHOOL DISTRICT. Funds received by the opportunity
15 school district under Section 11.405 shall be used for the
16 operation and administration of campuses transferred from prior
17 systems to the district.

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

25 (b) New charters under this section are eligible for funding
26 under Section 11.405. Any administrative cost of
27 charter-authorizing activities under this section may be paid from

1 funds appropriated to the agency.

2 (c) An entity granted a charter under this section is not
3 eligible for an additional charter under this section or an
4 expansion amendment if it fails to achieve and maintain an
5 acceptable rating in its third year of operation at a campus.

6 SECTION 3. Subchapter C, Chapter 12, Education Code, is
7 amended by adding Section 12.0523 to read as follows:

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

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

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

21 SECTION 4. Subsection (f), Section 39.106, Education Code,
22 is amended to read as follows:

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

1 order the reconstitution of the campus as provided by Section
2 39.107 or the removal of the campus to the opportunity school
3 district established by Subchapter I, Chapter 11.

4 SECTION 5. The heading to Section 39.107, Education Code,
5 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

13 (4) when the grant of an extraordinary power expires
14 at the end of the first or second year in which it is operative, as
15 determined by the commissioner, the campus will be removed to the
16 opportunity school district if the commissioner determines that the
17 campus has not achieved a performance growth level that enables the
18 campus to achieve acceptable performance within four years.

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

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

27 (1) developing an updated targeted improvement plan;

1 (2) submitting the updated targeted improvement plan
2 to the board of trustees of the school district for approval and
3 presenting the plan in a public hearing as provided by Section
4 [39.106\(e-1\)](#);

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

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

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

13 (a-5) Notwithstanding Subsection (a), the commissioner may
14 refrain from taking action otherwise required under that subsection
15 against a campus based on campus performance for the 2016-2017
16 school year and preceding school years. If the commissioner takes
17 action, the commissioner may not order the reconstitution of the
18 campus and may only take other actions authorized by law. This
19 subsection expires September 1, 2018.

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

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

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

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

8 SECTION 7. Subchapter E, Chapter 39, Education Code, is
9 amended by adding Section 39.1071 to read as follows:

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

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

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

24 (d) Only students who were eligible to attend a campus under
25 the prior system or who would have been eligible to attend the
26 campus if the campus had remained in the prior system may attend
27 that campus at the opportunity school district. All such students

1 are eligible to attend the campus notwithstanding any contrary
2 provision of law.

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

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

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

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

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

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

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

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

26 (1) details for the operation of the campus by the
27 prior system, including provisions for the continuation of the

1 programs that have provided the basis for the academic opportunity
2 by the students and any charter granted under Section 11.409;

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

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

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

16 (1) take the following action:

17 (A) direct the superintendent of the opportunity
18 school district to organize a new campus of the opportunity school
19 district for the purpose of educating the students attending the
20 campus initially removed from the prior system under this section
21 in the manner determined by the superintendent as most likely to
22 bring the campus to an acceptable level of performance, which may be
23 done by designing and granting a campus charter under Section
24 [12.0521\(a\)\(1\)](#), as provided by Section 11.409; or

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

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

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

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

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

25 (p) If the commissioner determines that the basis for the
26 unsatisfactory performance of a campus for two consecutive school
27 years is limited to a specific condition that may be remedied with

1 targeted technical assistance, the commissioner may require the
2 district to contract for the appropriate technical assistance
3 instead of removal under this section.

4 (g) On request, the commissioner and the superintendent of
5 the opportunity school district shall provide information
6 concerning the new operations and performance of a campus to the
7 prior system.

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

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

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

20 SECTION 8. Section 39.108, Education Code, is amended to
21 read as follows:

22 Sec. 39.108. ANNUAL REVIEW. (a) The commissioner shall
23 review annually the performance of a district or campus subject to
24 this subchapter to determine the appropriate actions to be
25 implemented under this subchapter. The commissioner must review at
26 least annually the performance of a district for which the
27 accreditation status or rating has been lowered due to insufficient

1 student performance and may not raise the accreditation status or
2 rating until the district has demonstrated improved student
3 performance. If the review reveals a lack of improvement, the
4 commissioner shall increase the level of state intervention and
5 sanction unless the commissioner finds good cause for maintaining
6 the current status.

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

9 SECTION 9. Subsection (b), Section 39.332, Education Code,
10 is amended by adding Subdivision (24) to read as follows:

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

15 SECTION 10. This Act applies beginning with the 2016-2017
16 school year.

17 SECTION 11. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2015.