

By: Huffines

S.B. No. 1682

A BILL TO BE ENTITLED

AN ACT

relating to the contract required to be used by school districts in employing teachers and other professional employees.

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

ARTICLE 1. AT-WILL EMPLOYMENT

SECTION 1.01. Sections 21.002(a) and (b), Education Code, are amended to read as follows:

(a) A school district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under a contract that establishes an at-will employment relationship between the district and the employee [+

~~[(1) a probationary contract, as provided by Subchapter C,~~

~~[(2) a continuing contract, as provided by Subchapter D, or~~

~~[(3) a term contract, as provided by Subchapter E].~~

(b) A district is not required to employ a person other than an employee listed in Subsection (a) under a [~~probationary, continuing, or term~~] contract described by that subsection.

SECTION 1.02. Sections 21.0031(a) and (b), Education Code, are amended to read as follows:

(a) An employee's [~~probationary, continuing, or term~~] contract under this chapter is void if the employee:

(1) does not hold a valid certificate or permit issued

1 by the State Board for Educator Certification;

2 (2) fails to fulfill the requirements necessary to
3 renew or extend the employee's temporary, probationary, or
4 emergency certificate or any other certificate or permit issued
5 under Subchapter B; or

6 (3) fails to comply with any requirement under
7 Subchapter C, Chapter 22, if the failure results in suspension or
8 revocation of the employee's certificate under Section
9 [22.0831\(f\)\(2\)](#).

10 (b) If a school district has knowledge that an employee's
11 contract is void under Subsection (a):

12 (1) the district may~~[, except as provided by~~
13 ~~Subsection (b-1)]~~:

14 (A) terminate the employee;

15 (B) suspend the employee with or without pay; or

16 (C) retain the employee for the remainder of the
17 school year ~~[on an at-will employment basis]~~ in a position other
18 than a position required to be held by an employee under a contract
19 under Section [21.002](#) at the employee's existing rate of pay or at a
20 reduced rate; and

21 (2) the employee is not entitled to the minimum salary
22 prescribed by Section [21.402](#).

23 SECTION 1.03. Subchapter A, Chapter 21, Education Code, is
24 amended by adding Section 21.011 to read as follows:

25 Sec. 21.011. APPLICATION OF FORMER LAW. A person employed
26 under a continuing contract under former Subchapter D, as that
27 subchapter existed on January 1, 2015, continues to be subject to

1 the rights and duties provided by that subchapter and former
2 Subchapters F and G, as those subchapters existed on January 1,
3 2015, as long as the person is employed by the same school district.

4 SECTION 1.04. Sections 21.058(c), (c-1), and (c-2),
5 Education Code, are amended to read as follows:

6 (c) A school district or open-enrollment charter school
7 that receives notice under Subsection (b) of the revocation of a
8 certificate issued under this subchapter shall:

9 (1) immediately remove the person whose certificate
10 has been revoked from campus or from an administrative office, as
11 applicable, to prevent the person from having any contact with a
12 student; and

13 (2) if the person is employed under a [~~probationary,~~
14 ~~continuing, or term~~] contract under this chapter:

15 (A) suspend the person without pay;

16 (B) provide the person with written notice that
17 the person's contract is void as provided by Subsection (c-2); and

18 (C) terminate the employment of the person as
19 soon as practicable.

20 (c-1) If a school district or open-enrollment charter
21 school becomes aware that a person employed by the district or
22 school under a [~~probationary, continuing, or term~~] contract under
23 this chapter has been convicted of or received deferred
24 adjudication for a felony offense, and the person is not subject to
25 Subsection (c), the district or school may:

26 (1) suspend the person without pay;

27 (2) provide the person with written notice that the

1 person's contract is void as provided by Subsection (c-2); and

2 (3) terminate the employment of the person as soon as
3 practicable.

4 (c-2) A person's [~~probationary, continuing, or term~~]
5 contract is void if the school district or open-enrollment charter
6 school takes action under Subsection (c)(2)(B) or (c-1)(2).

7 SECTION 1.05. Section 21.4022(c), Education Code, is
8 amended to read as follows:

9 (c) The board of trustees must hold a public meeting at
10 which the board and school district administration present:

11 (1) information regarding the options considered for
12 managing the district's available resources, including
13 consideration of a tax rate increase and use of the district's
14 available fund balance;

15 (2) an explanation of how the district intends,
16 through implementation of a furlough program under Section 21.4021
17 or through other salary reductions, as applicable, to limit the
18 number of district employees who will be discharged [~~or whose~~
19 ~~contracts will not be renewed~~]; and

20 (3) information regarding the local option residence
21 homestead exemption.

22 SECTION 1.06. Section 30.022(g), Education Code, is amended
23 to read as follows:

24 (g) Except as otherwise provided by this subsection, an
25 action of the board may be appealed to a district court in Travis
26 County. An action of the board related to a [~~dismissal during the~~
27 ~~term of a~~] teacher's contract [~~or to a nonrenewal of a teacher's~~

1 ~~contract~~] may be appealed to the commissioner in the manner
2 prescribed by Section 7.057(a)(2)(B) [~~Subchapter C, Chapter 21~~].
3 For the purposes of this subsection, the term "teacher" has the
4 meaning assigned by Section 30.024(a).

5 SECTION 1.07. Section 30.024(b), Education Code, is amended
6 to read as follows:

7 (b) The governing board of the school may enter into an
8 employment contract with any employee who provides, or supervises
9 any employee who provides, direct and regular educational services
10 to students or who provides other professional educational
11 services. An employee employed under this subsection is not
12 subject to Section 2252.901, Government Code. Each teacher shall
13 be employed under a [~~term~~] contract that establishes an at-will
14 employment relationship as provided by Subchapter A [~~E~~], Chapter
15 ~~21~~[~~, or under a probationary contract as provided by Subchapter C,~~
16 ~~Chapter 21~~]. An employee employed under a contract under this
17 subsection:

18 (1) shall be paid in accordance with a salary
19 structure adopted by the superintendent with the concurrence of the
20 board that provides salaries, including assignment stipends,
21 equal, on a daily-rate basis, to salaries, including assignment
22 stipends, paid to employees employed in comparable positions by the
23 Austin Independent School District;

24 (2) is not eligible for longevity pay under Subchapter
25 D, Chapter 659, Government Code, and is not entitled to a paid day
26 off from work on any national or state holiday;

27 (3) is eligible for sick leave accrual under the

1 General Appropriations Act in each month in which at least one day
2 of the month is included in the school year [~~term of the employment~~
3 ~~contract~~] and in any other month in which work is performed or paid
4 leave is taken;

5 (4) may be permitted by the board to take paid time off
6 from work [~~during the term of the employment contract~~] for personal
7 reasons as designated by the board, but the paid time off may not
8 exceed three days per school year [~~contract term~~] and may not be
9 carried forward from one school year [~~contract term~~] to a
10 subsequent school year [~~contract term~~];

11 (5) may be permitted by the board to be paid the salary
12 designated in the employment contract in 12 monthly installments;
13 and

14 (6) shall work the hours established by the
15 superintendent.

16 SECTION 1.08. Section 30.052(g), Education Code, is amended
17 to read as follows:

18 (g) Except as otherwise provided by this subsection, an
19 action of the board may be appealed to a district court in Travis
20 County. An action of the board related to a [~~dismissal during the~~
21 ~~term of a~~] teacher's contract [~~or to a nonrenewal of a teacher's~~
22 ~~contract~~] may be appealed to the commissioner in the manner
23 prescribed by Section 7.057(a)(2)(B) [~~Subchapter C, Chapter 21~~].
24 For the purposes of this subsection, the term "teacher" has the
25 meaning assigned by Section 30.055(a).

26 SECTION 1.09. Section 30.055(b), Education Code, is amended
27 to read as follows:

1 (b) The governing board of the school may enter into an
2 employment contract with any employee who provides, or supervises
3 any employee who provides, direct and regular educational services
4 to students or who provides other professional, educational
5 services. An employee employed under this subsection is not
6 subject to Section 2252.901, Government Code. Each teacher shall
7 be employed under a ~~[term]~~ contract that establishes an at-will
8 employment relationship as provided by Subchapter A ~~[E]~~, Chapter
9 21~~[, or under a probationary contract as provided by Subchapter C,~~
10 ~~Chapter 21]~~. An employee employed under a contract under this
11 subsection:

12 (1) shall be paid in accordance with a salary
13 structure adopted by the superintendent with the concurrence of the
14 board that provides salaries, including assignment stipends,
15 equal, on a daily-rate basis, to salaries, including assignment
16 stipends, paid to employees employed in comparable positions by the
17 Austin Independent School District;

18 (2) is not eligible for longevity pay under Subchapter
19 D, Chapter 659, Government Code, and is not entitled to a paid day
20 off from work on any national or state holiday;

21 (3) is eligible for sick leave accrual under the
22 General Appropriations Act in each month in which at least one day
23 of the month is included in the school year ~~[term of the employment~~
24 ~~contract]~~ and in any other month in which work is performed or paid
25 leave is taken;

26 (4) may be permitted by the board to use a maximum of
27 four days per school year ~~[contract term]~~ of accrued sick leave for

1 personal reasons as designated by the board but the number of sick
2 leave days not used for personal reasons during a school year
3 [~~contract term~~] may not be carried forward to a subsequent school
4 year [~~contract term~~] for use as personal leave;

5 (5) shall be paid the salary designated in the
6 employment contract in 12 monthly installments if the employee
7 chooses to be paid in that manner;

8 (6) shall work the hours established by the
9 superintendent; and

10 (7) in addition to the contract salary received during
11 the employee's first year of employment with the school and for the
12 purpose of reducing a vacancy in a position that is difficult to
13 fill because of the specialized nature and the limited number of
14 qualified applicants, may be paid a salary supplement, not to
15 exceed any salary supplement paid by the Austin Independent School
16 District to an employee employed in a comparable position.

17 SECTION 1.10. (a) On or after the effective date of this
18 Act, a school district, the Texas School for the Blind and Visually
19 Impaired, or the Texas School for the Deaf may not enter into a
20 probationary, continuing, or term contract under Chapter 21,
21 Education Code, as that chapter existed before amendment by this
22 Act.

23 (b) The amendment by this Act of Chapter 21, Education Code,
24 does not affect the rights of a person employed under a
25 probationary, continuing, or term contract entered into before the
26 effective date of this Act, and the provisions of Chapter 21,
27 Education Code, as they existed on January 1, 2015, are continued in

1 effect for that purpose.

2 ARTICLE 2. CONFORMING AMENDMENTS

3 SECTION 2.01. Sections 7.056(e) and (f), Education Code,
4 are amended to read as follows:

5 (e) Except as provided by Subsection (f), a school campus or
6 district may not receive an exemption or waiver under this section
7 from:

8 (1) a prohibition on conduct that constitutes a
9 criminal offense;

10 (2) a requirement imposed by federal law or rule,
11 including a requirement for special education or bilingual
12 education programs; or

13 (3) a requirement, restriction, or prohibition
14 relating to:

15 (A) essential knowledge or skills under Section
16 28.002 or high school graduation requirements under Section 28.025;

17 (B) public school accountability as provided by
18 Subchapters B, C, D, E, F, and J, Chapter 39;

19 (C) extracurricular activities under Section
20 33.081 or participation in a University Interscholastic League
21 area, regional, or state competition under Section 33.0812;

22 (D) health and safety under Chapter 38;

23 (E) purchasing under Subchapter B, Chapter 44;

24 (F) elementary school class size limits, except
25 as provided by Section 25.112;

26 (G) removal of a disruptive student from the
27 classroom under Subchapter A, Chapter 37;

1 (H) at-risk programs under Subchapter C, Chapter
2 29;

3 (I) prekindergarten programs under Subchapter E,
4 Chapter 29;

5 (J) educator rights and benefits under
6 Subchapters A[~~C, D, E, F, G~~] and I, Chapter 21, or under
7 Subchapter A, Chapter 22;

8 (K) special education programs under Subchapter
9 A, Chapter 29;

10 (L) bilingual education programs under
11 Subchapter B, Chapter 29; or

12 (M) the requirements for the first day of
13 instruction under Section 25.0811.

14 (f) A school district [~~or campus~~] that is required to
15 develop and implement a student achievement improvement plan under
16 Section 39.102 [~~or 39.103~~] may receive an exemption or waiver under
17 this section from any law or rule other than:

18 (1) a prohibition on conduct that constitutes a
19 criminal offense;

20 (2) a requirement imposed by federal law or rule;

21 (3) a requirement, restriction, or prohibition
22 imposed by state law or rule relating to:

23 (A) public school accountability as provided by
24 Subchapters B, C, D, E, F, and J, Chapter 39; or

25 (B) educator rights and benefits under
26 Subchapters A[~~C, D, E, F, G~~] and I, Chapter 21, or under
27 Subchapter A, Chapter 22; or

1 (4) selection of instructional materials under
2 Chapter 31.

3 SECTION 2.02. Sections 7.057(b) and (e), Education Code,
4 are amended to read as follows:

5 (b) Except as provided by Subsection (c), the commissioner
6 after due notice to the parties interested shall, not later than the
7 180th day after the date an appeal under Subsection (a) is filed,
8 hold a hearing and issue a decision without cost to the parties
9 involved. In conducting a hearing under this subsection, the
10 commissioner has the same authority relating to discovery and
11 conduct of a hearing as an administrative law judge employed by the
12 State Office of Administrative Hearings [~~a hearing examiner has~~
13 ~~under Subchapter F, Chapter 21~~]. This section does not deprive any
14 party of any legal remedy.

15 (e) This section does not apply to[+
16 [~~(1) a case to which Subchapter C, Chapter 21,~~
17 ~~applies, or~~
18 [~~(2)~~] a student disciplinary action under Chapter 37.

19 SECTION 2.03. Sections 11.1513(e) and (j), Education Code,
20 are amended to read as follows:

21 (e) If, during the school year, the district must fill a
22 vacant position held by a superintendent, principal, supervisor,
23 classroom teacher, school counselor, or other full-time
24 professional employee who is required to hold a certificate issued
25 under Subchapter B, Chapter 21, or a nurse [~~as defined by Section~~
26 ~~21.201,~~] in less than 10 school days, the district:

27 (1) must provide notice of the position in the manner

1 described by Subsection (d)(1) as soon as possible after the
2 vacancy occurs;

3 (2) is not required to provide the notice for 10 school
4 days before filling the position; and

5 (3) is not required to comply with Subsection (d)(2).

6 (j) The employment policy may not restrict the ability of a
7 school district employee to communicate directly with a member of
8 the board of trustees regarding a matter relating to the operation
9 of the district, except that the policy may prohibit ex parte
10 communication relating to an [÷

11 [~~(1) a hearing under Subchapter E or F, Chapter 21, and~~

12 [~~(2) another~~] appeal or hearing in which ex parte
13 communication would be inappropriate pending a final decision by a
14 school district board of trustees.

15 SECTION 2.04. Section 11.201(d), Education Code, is amended
16 to read as follows:

17 (d) The duties of the superintendent include:

18 (1) assuming administrative responsibility and
19 leadership for the planning, organization, operation, supervision,
20 and evaluation of the education programs, services, and facilities
21 of the district and for the annual performance appraisal of the
22 district's staff;

23 (2) except as provided by Section 11.202, assuming
24 administrative authority and responsibility for the assignment,
25 supervision, and evaluation of all personnel of the district other
26 than the superintendent;

27 (3) overseeing compliance with the standards for

1 school facilities established by the commissioner under Section
2 46.008;

3 (4) initiating the termination or suspension of an
4 employee [~~or the nonrenewal of an employee's term contract~~];

5 (5) managing the day-to-day operations of the district
6 as its administrative manager, including implementing and
7 monitoring plans, procedures, programs, and systems to achieve
8 clearly defined and desired results in major areas of district
9 operations;

10 (6) preparing and submitting to the board of trustees
11 a proposed budget as provided by Section 44.002 and rules adopted
12 under that section, and administering the budget;

13 (7) preparing recommendations for policies to be
14 adopted by the board of trustees and overseeing the implementation
15 of adopted policies;

16 (8) developing or causing to be developed appropriate
17 administrative regulations to implement policies established by
18 the board of trustees;

19 (9) providing leadership for the attainment and, if
20 necessary, improvement of student performance in the district based
21 on the indicators adopted under Sections 39.053 and 39.301 and
22 other indicators adopted by the commissioner or the district's
23 board of trustees;

24 (10) organizing the district's central
25 administration;

26 (11) consulting with the district-level committee as
27 required under Section 11.252(f);

1 (12) ensuring:

2 (A) adoption of a student code of conduct as
3 required under Section 37.001 and enforcement of that code of
4 conduct; and

5 (B) adoption and enforcement of other student
6 disciplinary rules and procedures as necessary;

7 (13) submitting reports as required by state or
8 federal law, rule, or regulation;

9 (14) providing joint leadership with the board of
10 trustees to ensure that the responsibilities of the board and
11 superintendent team are carried out; and

12 (15) performing any other duties assigned by action of
13 the board of trustees.

14 SECTION 2.05. Section 11.202(b), Education Code, is amended
15 to read as follows:

16 (b) Each principal shall:

17 (1) except as provided by Subsection (d), approve all
18 teacher and staff appointments for that principal's campus from a
19 pool of applicants selected by the district or of applicants who
20 meet the hiring requirements established by the district, based on
21 criteria developed by the principal after informal consultation
22 with the faculty;

23 (2) set specific education objectives for the
24 principal's campus, through the planning process under Section
25 11.253;

26 (3) develop budgets for the principal's campus;

27 (4) assume the administrative responsibility and

1 instructional leadership, under the supervision of the
2 superintendent, for discipline at the campus;

3 (5) assign, evaluate, and promote personnel assigned
4 to the campus;

5 (6) recommend to the superintendent the termination or
6 suspension of an employee assigned to the campus [~~or the nonrenewal~~
7 ~~of the term contract of an employee assigned to the campus~~]; and

8 (7) perform other duties assigned by the
9 superintendent pursuant to the policy of the board of trustees.

10 SECTION 2.06. Section 26.008(b), Education Code, is amended
11 to read as follows:

12 (b) An attempt by any school district employee to encourage
13 or coerce a child to withhold information from the child's parent is
14 grounds for discipline of the employee [~~under Section 21.104,~~
15 ~~21.156, or 21.211, as applicable~~].

16 ARTICLE 3. REPEALER; EFFECTIVE DATE

17 SECTION 3.01. The following provisions of the Education
18 Code are repealed:

19 (1) Section 7.055(b)(20);

20 (2) Section 7.102(c)(10);

21 (3) Section 21.002(c);

22 (4) Sections 21.0031(b-1), (c), and (d);

23 (5) Section 21.058(e);

24 (6) Subchapters C, D, E, F, and G, Chapter 21; and

25 (7) Section 21.4021(g).

26 SECTION 3.02. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2015.