

By: Rodríguez, et al.

S.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to the public school finance system.

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

SECTION 1. Section 29.918(a), Education Code, is amended to read as follows:

(a) Notwithstanding Section [~~39.234~~ or] 42.152, a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, must submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 [~~and the high school allotment under Section 42.160~~] for developing and implementing research-based strategies for dropout prevention. The district or charter school shall submit the plan not later than December 1 of each school year preceding the school year in which the district or charter school will receive the compensatory education allotment [~~or high school allotment~~] to which the plan applies.

SECTION 2. Section 39.0233(a), Education Code, is amended to read as follows:

(a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Subchapter F-1, Chapter 51. The questions adopted under this subsection must be

1 developed in a manner consistent with any college readiness
2 standards adopted under [~~Section 39.233 and~~] Subchapter F-1,
3 Chapter 51.

4 SECTION 3. Section 41.002(a), Education Code, is amended to
5 read as follows:

6 (a) A school district may not have a wealth per student that
7 exceeds:

8 (1) the wealth per student that generates the amount
9 of maintenance and operations tax revenue per weighted student
10 available to a district with maintenance and operations tax revenue
11 per cent of tax effort equal to the maximum amount provided per cent
12 under Section 42.101(a) or (b), for the district's maintenance and
13 operations tax effort equal to or less than the rate equal to the
14 sum of the product of the state compression percentage, as
15 determined under Section 42.2516, multiplied by the maintenance and
16 operations tax rate adopted by the district for the 2005 tax year
17 and any additional tax effort included in calculating the
18 district's compressed tax rate under Section 42.101(a-1);

19 (2) the greater of the wealth per student that
20 generates the amount of maintenance and operations tax revenue per
21 weighted student available to the Austin Independent School
22 District or a district at the 95th percentile in wealth per student,
23 as determined by the commissioner in cooperation with the
24 Legislative Budget Board, for the first six cents by which the
25 district's maintenance and operations tax rate exceeds the rate
26 equal to the sum of the product of the state compression percentage,
27 as determined under Section 42.2516, multiplied by the maintenance

1 and operations tax rate adopted by the district for the 2005 tax
2 year and any additional tax effort included in calculating the
3 district's compressed tax rate under Section 42.101(a-1), subject
4 to Section 41.093(b-1); or

5 (3) the wealth per student specified under Subdivision
6 (1) [\$319,500], for the district's maintenance and operations tax
7 effort that exceeds the amount of tax effort described by
8 Subdivision (2).

9 SECTION 4. Effective September 1, 2018, Section 41.002(a),
10 Education Code, is amended to read as follows:

11 (a) A school district may not have a wealth per student that
12 exceeds:

13 (1) the wealth per student that generates the amount
14 of maintenance and operations tax revenue per weighted student
15 available to a district with maintenance and operations tax revenue
16 per cent of tax effort equal to the maximum amount provided per cent
17 under Section 42.101(a), (a-3), or (b), for the district's
18 maintenance and operations tax effort equal to or less than the rate
19 equal to the sum of the product of the state compression percentage,
20 as determined under Section 42.2516, multiplied by the maintenance
21 and operations tax rate adopted by the district for the 2005 tax
22 year and any additional tax effort included in calculating the
23 district's compressed tax rate under Section 42.101(a-1);

24 (2) the greater of the wealth per student that
25 generates the amount of maintenance and operations tax revenue per
26 weighted student available to the Austin Independent School
27 District or a district at the 95th percentile in wealth per student,

1 as determined by the commissioner in cooperation with the
2 Legislative Budget Board, for the first six cents by which the
3 district's maintenance and operations tax rate exceeds the rate
4 equal to the sum of the product of the state compression percentage,
5 as determined under Section 42.2516, multiplied by the maintenance
6 and operations tax rate adopted by the district for the 2005 tax
7 year and any additional tax effort included in calculating the
8 district's compressed tax rate under Section 42.101(a-1), subject
9 to Section 41.093(b-1); or

10 (3) the wealth per student specified under Subdivision
11 (1) [\$319,500], for the district's maintenance and operations tax
12 effort that exceeds the amount of tax effort described by
13 Subdivision (2).

14 SECTION 5. Section 41.093(b-1), Education Code, is amended
15 to read as follows:

16 (b-1) If the guaranteed level of state and local funds per
17 weighted student per cent of tax effort under Section
18 42.302(a-1)(1) for which state funds are appropriated for a school
19 year is an amount at least equal to the greater of the amount of
20 revenue per weighted student per cent of tax effort available to the
21 Austin Independent School District or the amount available to a
22 district at the 95th percentile in wealth per student, as
23 determined by the commissioner in cooperation with the Legislative
24 Budget Board, the commissioner, in computing the amounts described
25 by Subsections (a)(1) and (2) and determining the cost of an
26 attendance credit, shall exclude maintenance and operations tax
27 revenue resulting from the tax rate described by Section

1 41.002(a)(2).

2 SECTION 6. Section 41.099(a), Education Code, is amended to
3 read as follows:

4 (a) Section [~~Sections 41.002(e),~~] 41.094 applies [~~, 41.097,~~
5 ~~and 41.098 apply~~] only to a district that:

6 (1) executes an agreement to purchase all attendance
7 credits necessary to reduce the district's wealth per student to
8 the equalized wealth level;

9 (2) executes an agreement to purchase attendance
10 credits and an agreement under Subchapter E to contract for the
11 education of nonresident students who transfer to and are educated
12 in the district but who are not charged tuition; or

13 (3) executes an agreement under Subchapter E to
14 contract for the education of nonresident students:

15 (A) to an extent that does not provide more than
16 10 percent of the reduction in wealth per student required for the
17 district to achieve a wealth per student that is equal to or less
18 than the equalized wealth level; and

19 (B) under which all revenue paid by the district
20 to other districts, in excess of the reduction in state aid that
21 results from counting the weighted average daily attendance of the
22 students served in the contracting district, is required to be used
23 for funding a consortium of at least three districts in a county
24 with a population of less than 40,000 that is formed to support a
25 technology initiative.

26 SECTION 7. Subchapter A, Chapter 42, Education Code, is
27 amended by adding Sections 42.010 and 42.011 to read as follows:

1 Sec. 42.010. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL FINANCE
2 WEIGHTS, ALLOTMENTS, AND ADJUSTMENTS. (a) The agency shall
3 conduct a comprehensive review of weights, allotments, and
4 adjustments under the public school finance system, including all
5 current weights, allotments, and adjustments provided under this
6 chapter and any additional weights, allotments, and adjustments
7 that the agency determines may be appropriate. The review must
8 determine the effectiveness of existing weights, allotments, and
9 adjustments in fulfilling the mission of the public education
10 system stated in Section 4.001(a) and furthering the state policy
11 stated in Section 42.001. At a minimum, the review must determine
12 how closely and appropriately each of the following elements
13 reflects and provides financing for costs beyond the control of
14 school districts:

15 (1) adjustments for costs related to the geographic
16 variation in known resource costs and costs of education,
17 controlling for the impact of unequalized wealth and hold-harmless
18 provisions, and properly reflecting the impact of high
19 concentrations of poverty on the compensation that school districts
20 must pay to attract and retain teachers of comparable or
21 appropriate quality;

22 (2) adjustments for costs related to the size and
23 diseconomies of scale of school districts;

24 (3) adjustments for costs related to the varying
25 instructional needs and characteristics of students and the extent
26 to which the adjustments provide each student with access to
27 programs and services that are appropriate to the student's

1 educational needs;

2 (4) other factors, in addition to economic status,
3 that correlate to student at-risk status and the need for
4 compensatory education, and the degree to which those factors
5 correspond to additional educational costs; and

6 (5) the manner in which the cost adjustments are
7 applied to and affect the overall school finance system.

8 (b) The review of the adjustments described in Subsection
9 (a)(1) must:

10 (1) address all uncontrollable costs that can
11 reasonably be quantified;

12 (2) consider the qualifications, experience, and
13 turnover rate of personnel and the impact of those factors on
14 student achievement in considering the adequacy and comparability
15 of salaries;

16 (3) properly address the impact of factors that have a
17 large impact on certain types of school districts, such as extreme
18 isolation, regardless of general state impact;

19 (4) include only factors for which a rational economic
20 argument can be made;

21 (5) be carefully constructed to make sure that a cost
22 factor does not significantly affect more than one variable; and

23 (6) not be artificially adjusted to meet predetermined
24 outcomes and must not use arbitrary limits.

25 (c) In determining whether any additional weights,
26 allotments, and adjustments are appropriate under the public school
27 finance system, as required by Subsection (a), the agency shall

1 include consideration of an additional weight for educational
2 services provided to students in prekindergarten on a half-day
3 basis and on a full-day basis.

4 (d) The agency may contract with one or more consultants if
5 necessary to enable the agency to perform its duties under this
6 section.

7 (e) The Legislative Budget Board, the comptroller, the
8 state auditor, and any other state agency, official, or personnel
9 shall cooperate with the agency in carrying out its duties under
10 this section.

11 (f) Not later than December 1, 2018, the agency shall
12 provide a report that:

13 (1) states the findings of the review conducted under
14 this section; and

15 (2) includes recommendations for updated weights,
16 allotments, and adjustments and any other statutory changes
17 considered appropriate by the agency.

18 (g) This section expires January 1, 2019.

19 Sec. 42.011. STUDY OF LEGISLATION ON SCHOOL FUNDING. (a)
20 After each legislative session, the commissioner shall conduct a
21 study assessing the manner in which any statute enacted or amended
22 during that legislative session affects the equalized wealth level
23 of a school district under Chapter 41 or the Foundation School
24 Program under this chapter and whether the standard of neutrality
25 described under Section 42.001(b) is maintained.

26 (b) The study under this section must:

27 (1) include an analysis of the effects of legislation

- 1 on each school district in the state; and
2 (2) indicate how a school district compares to other
3 districts with respect to:
4 (A) property wealth per weighted student;
5 (B) revenue per weighted student;
6 (C) tax effort; and
7 (D) revenue per cent of tax effort.

8 (c) The commissioner shall issue a report on the study's
9 findings to the governor, the lieutenant governor, the speaker of
10 the house of representatives, and the legislature. The
11 commissioner shall make the report available to the public on the
12 agency's Internet website.

13 SECTION 8. Section 42.101(a), Education Code, is amended to
14 read as follows:

15 (a) For each student in average daily attendance, not
16 including the time students spend each day in special education
17 programs in an instructional arrangement other than mainstream or
18 career and technology education programs, for which an additional
19 allotment is made under Subchapter C, a district is entitled to an
20 allotment equal to the lesser of \$5,440 [~~\$4,765~~] or the amount that
21 results from the following formula:

22
$$A = \underline{\$5,440} [\del{\$4,765}] \times (\text{DCR}/\text{MCR})$$

23 where:

- 24 "A" is the allotment to which a district is entitled;
25 "DCR" is the district's compressed tax rate, which is the
26 product of the state compression percentage, as determined under
27 Section 42.2516, multiplied by the maintenance and operations tax

1 rate adopted by the district for the 2005 tax year; and

2 "MCR" is the state maximum compressed tax rate, which is the
3 product of the state compression percentage, as determined under
4 Section 42.2516, multiplied by \$1.50.

5 SECTION 9. Effective September 1, 2018, Section 42.101,
6 Education Code, is amended by amending Subsection (a) and adding
7 Subsection (a-3) to read as follows:

8 (a) Subject to adjustment under Subsection (a-3), for ~~For~~
9 each student in average daily attendance, not including the time
10 students spend each day in special education programs in an
11 instructional arrangement other than mainstream or career and
12 technology education programs, for which an additional allotment is
13 made under Subchapter C, a district is entitled to an allotment
14 equal to the lesser of \$5,840 ~~[\$4,765]~~ or the amount that results
15 from the following formula:

16
$$A = \underline{\$5,840} \text{ } \underline{[\$4,765]} \times (\text{DCR}/\text{MCR})$$

17 where:

18 "A" is the allotment to which a district is entitled;

19 "DCR" is the district's compressed tax rate, which is the
20 product of the state compression percentage, as determined under
21 Section 42.2516, multiplied by the maintenance and operations tax
22 rate adopted by the district for the 2005 tax year; and

23 "MCR" is the state maximum compressed tax rate, which is the
24 product of the state compression percentage, as determined under
25 Section 42.2516, multiplied by \$1.50.

26 (a-3) Beginning with the 2019-2020 school year, the basic
27 allotment provided to a district under Subsection (a) or (b) is

1 adjusted annually to increase the allotment by the greater of:

2 (1) one percent of the amount of the allotment for the
3 preceding school year; or

4 (2) the amount that results from applying the
5 inflation rate, as determined by the comptroller on the basis of
6 changes in the United States Bureau of Labor Statistics Consumer
7 Price Index for All Urban Consumers, to the allotment for the
8 preceding school year.

9 SECTION 10. Sections 42.152(a) and (c), Education Code, are
10 amended to read as follows:

11 (a) For each student who is educationally disadvantaged or
12 who is a student who does not have a disability and resides in a
13 residential placement facility in a district in which the student's
14 parent or legal guardian does not reside, a district is entitled to
15 an annual allotment equal to the adjusted basic allotment
16 multiplied by 0.25 [~~0.2~~], and by 2.41 for each full-time equivalent
17 student who is in a compensatory, intensive, or accelerated
18 [~~remedial and support~~] program under Section 29.081 because the
19 student is pregnant.

20 (c) Funds allocated under this section shall be used to fund
21 supplemental programs and services designed to eliminate any
22 disparity in performance on assessment instruments administered
23 under Subchapter B, Chapter 39, or disparity in the rates of high
24 school completion between students at risk of dropping out of
25 school, as defined by Section 29.081, and all other students.
26 Specifically, the funds, other than an indirect cost allotment
27 established under State Board of Education rule, which may not

1 exceed 25 [~~45~~] percent, may be used to meet the costs of providing a
2 compensatory, intensive, or accelerated instruction program under
3 Section 29.081 or a disciplinary alternative education program
4 established under Section 37.008, to pay the costs associated with
5 placing students in a juvenile justice alternative education
6 program established under Section 37.011, or to support a program
7 eligible under Title I of the Elementary and Secondary Education
8 Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent
9 amendments, and by federal regulations implementing that Act, at a
10 campus at which at least 40 percent of the students are
11 educationally disadvantaged. In meeting the costs of providing a
12 compensatory, intensive, or accelerated instruction program under
13 Section 29.081, a district's compensatory education allotment
14 shall be used for costs supplementary to the regular education
15 program, such as costs for program and student evaluation,
16 instructional materials and equipment and other supplies required
17 for quality instruction, supplemental staff expenses, salary for
18 teachers of at-risk students, smaller class size, and
19 individualized instruction. A home-rule school district or an
20 open-enrollment charter school must use funds allocated under
21 Subsection (a) for a purpose authorized in this subsection but is
22 not otherwise subject to Subchapter C, Chapter 29. For purposes of
23 this subsection, a program specifically designed to serve students
24 at risk of dropping out of school, as defined by Section 29.081, is
25 considered to be a program supplemental to the regular education
26 program, and a district may use its compensatory education
27 allotment for such a program.

1 SECTION 11. Sections 42.153(a) and (b), Education Code, are
2 amended to read as follows:

3 (a) For each student in average daily attendance in a
4 bilingual education or special language program under Subchapter B,
5 Chapter 29, a district is entitled to an annual allotment equal to
6 the adjusted basic allotment multiplied by 0.25 [~~0.1~~].

7 (b) Funds allocated under this section, other than an
8 indirect cost allotment established under State Board of Education
9 rule, which may not exceed 25 percent, must be used in providing
10 bilingual education or special language programs under Subchapter
11 B, Chapter 29, and must be accounted for under existing agency
12 reporting and auditing procedures.

13 SECTION 12. Section 42.251(b), Education Code, is amended
14 to read as follows:

15 (b) The program shall be financed by:

16 (1) ad valorem tax revenue generated by an equalized
17 uniform school district effort;

18 (2) ad valorem tax revenue generated by local school
19 district effort in excess of the equalized uniform school district
20 effort; and

21 (3) [~~state available school funds distributed in~~
22 ~~accordance with law, and~~

23 [~~4~~] state funds appropriated for the purposes of
24 public school education and allocated to each district in an amount
25 sufficient to finance the cost of each district's Foundation School
26 Program not covered by other funds specified in this subsection.

27 SECTION 13. Sections 42.253(a) and (c), Education Code, are

1 amended to read as follows:

2 (a) For each school year the commissioner shall determine:

3 (1) the amount of money to which a school district is
4 entitled under Subchapters B and C;

5 (2) the amount of money to which a school district is
6 entitled under Subchapter F;

7 (3) ~~[the amount of money allocated to the district
8 from the available school fund];~~

9 ~~[(4)]~~ the amount of each district's tier one local
10 share under Section 42.252; and

11 (4) ~~[(5)]~~ the amount of each district's tier two local
12 share under Section 42.302.

13 (c) Each school district is entitled to an amount equal to
14 the difference for that district between the sum of Subsections
15 (a)(1) and (a)(2) and the sum of Subsections (a)(3) and ~~[(4)]~~ (a)(4) ~~[(5)]~~
16 ~~and (a)(5)]~~.

17 SECTION 14. Sections 42.302(a) and (a-1), Education Code,
18 are amended to read as follows:

19 (a) Each school district is guaranteed a specified amount
20 per weighted student in state and local funds for each cent of tax
21 effort over that required for the district's local fund assignment
22 up to the maximum level specified in this subchapter. The amount
23 of state support, subject only to the maximum amount under Section
24 42.303, is determined by the formula:

25
$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

26 where:

27 "GYA" is the guaranteed yield amount of state funds to be

1 allocated to the district;

2 "GL" is the dollar amount guaranteed level of state and local
3 funds per weighted student per cent of tax effort, which is an
4 amount described by Subsection (a-1) or a greater amount for any
5 year provided by appropriation;

6 "WADA" is the number of students in weighted average daily
7 attendance, which is calculated by dividing the sum of the school
8 district's allotments under Subchapters B and C, less any allotment
9 to the district for transportation, any allotment under Section
10 42.158 [~~or 42.160~~], and 50 percent of the adjustment under Section
11 42.102, by the basic allotment for the applicable year;

12 "DTR" is the district enrichment tax rate of the school
13 district, which is determined by subtracting the amounts specified
14 by Subsection (b) from the total amount of maintenance and
15 operations taxes collected by the school district for the
16 applicable school year and dividing the difference by the quotient
17 of the district's taxable value of property as determined under
18 Subchapter M, Chapter 403, Government Code, or, if applicable,
19 under Section 42.2521, divided by 100; and

20 "LR" is the local revenue, which is determined by multiplying
21 "DTR" by the quotient of the district's taxable value of property as
22 determined under Subchapter M, Chapter 403, Government Code, or, if
23 applicable, under Section 42.2521, divided by 100.

24 (a-1) For purposes of Subsection (a), the dollar amount
25 guaranteed level of state and local funds per weighted student per
26 cent of tax effort ("GL") for a school district is:

27 (1) the greater of the amount of district tax revenue

1 per weighted student per cent of tax effort that would be available
2 to the Austin Independent School District or the amount that would
3 be available to a district at the 95th percentile in wealth per
4 student, as determined by the commissioner in cooperation with the
5 Legislative Budget Board, if the reduction of the limitation on tax
6 increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax
7 Code, did not apply, [~~or the amount of district tax revenue per~~
8 ~~weighted student per cent of tax effort used for purposes of this~~
9 ~~subdivision in the preceding school year,~~] for the first six cents
10 by which the district's maintenance and operations tax rate exceeds
11 the rate equal to the sum of the product of the state compression
12 percentage, as determined under Section 42.2516, multiplied by the
13 maintenance and operations tax rate adopted by the district for the
14 2005 tax year and any additional tax effort included in calculating
15 the district's compressed tax rate under Section 42.101(a-1); and
16 (2) the amount of district tax revenue per weighted
17 student per cent of tax effort available to a district with
18 maintenance and operations tax revenue per cent of tax effort equal
19 to the maximum amount provided per cent under Section 42.101(a) or
20 (b) [\$31.95], for the district's maintenance and operations tax
21 effort that exceeds the amount of tax effort described by
22 Subdivision (1).

23 SECTION 15. Effective September 1, 2018, Section
24 42.302(a-1), Education Code, is amended to read as follows:

25 (a-1) For purposes of Subsection (a), the dollar amount
26 guaranteed level of state and local funds per weighted student per
27 cent of tax effort ("GL") for a school district is:

1 (1) the greater of the amount of district tax revenue
2 per weighted student per cent of tax effort that would be available
3 to the Austin Independent School District or the amount that would
4 be available to a district at the 95th percentile in wealth per
5 student, as determined by the commissioner in cooperation with the
6 Legislative Budget Board, if the reduction of the limitation on tax
7 increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax
8 Code, did not apply, [~~or the amount of district tax revenue per~~
9 ~~weighted student per cent of tax effort used for purposes of this~~
10 ~~subdivision in the preceding school year,~~] for the first six cents
11 by which the district's maintenance and operations tax rate exceeds
12 the rate equal to the sum of the product of the state compression
13 percentage, as determined under Section 42.2516, multiplied by the
14 maintenance and operations tax rate adopted by the district for the
15 2005 tax year and any additional tax effort included in calculating
16 the district's compressed tax rate under Section 42.101(a-1); and

17 (2) the amount of district tax revenue per weighted
18 student per cent of tax effort available to a district with
19 maintenance and operations tax revenue per cent of tax effort equal
20 to the maximum amount provided per cent under Section 42.101(a),
21 (a-3), or (b) [\$31.95], for the district's maintenance and
22 operations tax effort that exceeds the amount of tax effort
23 described by Subdivision (1).

24 SECTION 16. Section 43.001, Education Code, is amended by
25 amending Subsection (c) and adding Subsection (c-1) to read as
26 follows:

27 (c) The term "scholastic population" in Subsection (b) or

1 any other law governing the apportionment, distribution, and
2 transfer of the available school fund means all students of school
3 age enrolled in weighted average daily attendance the preceding
4 school year in the public elementary and high school grades of
5 school districts within or under the jurisdiction of a county of
6 this state.

7 (c-1) The amount provided to a school district as a result
8 of the annual apportionment of the available school fund in
9 accordance with Subsection (b) is in addition to amounts to which
10 the district is entitled under Chapter 42.

11 SECTION 17. Section 45.259(d), Education Code, is amended
12 to read as follows:

13 (d) If money appropriated for the Foundation School Program
14 is used for purposes of this subchapter and as a result there is
15 insufficient money to fully fund the Foundation School Program, the
16 commissioner shall, to the extent necessary, reduce each school
17 district's foundation school fund allocations[~~, other than any~~
18 ~~portion appropriated from the available school fund,~~] in the same
19 manner provided by Section 42.253(h) for a case in which school
20 district entitlements exceed the amount appropriated. The
21 following fiscal year, a district's entitlement under Section
22 42.253 is increased by an amount equal to the reduction under this
23 subsection.

24 SECTION 18. The following provisions of the Education Code
25 are repealed:

26 (1) Section 29.097(g);

27 (2) Section 29.098(e);

- 1 (3) Subchapter G, Chapter 29;
- 2 (4) Section 39.233;
- 3 (5) Section 39.234;
- 4 (6) Sections 41.002(e), (f), and (g);
- 5 (7) Section 41.097;
- 6 (8) Section 41.098;
- 7 (9) Section 42.157;
- 8 (10) Section 42.160; and
- 9 (11) Section 42.4101.

10 SECTION 19. Except as otherwise provided by this Act:

- 11 (1) this Act takes effect September 1, 2017, if this
- 12 Act receives a vote of two-thirds of all the members elected to each
- 13 house, as provided by Section 39, Article III, Texas Constitution;
- 14 and
- 15 (2) if this Act does not receive the vote necessary for
- 16 effect on that date, this Act takes effect on the 91st day after the
- 17 last day of the legislative session.