

BILL ANALYSIS

Senate Research Center
85R9054 MEW-D

S.B. 1886
By: Bettencourt
Education
4/18/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the commissioner of education (commissioner) lacks explicit statutory authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority. When entities subject to the commissioner's authority commit fraud, waste, or abuse, the commissioner must rely on implicit authority to investigate such misconduct and act on it, which subjects the commissioner's investigations and actions regarding fraud, waste, and abuse to legal challenges in administrative and court proceedings. In addition, the commissioner does not currently have a formally designated Office of the Inspector General to investigate on the commissioner's behalf instances of fraud, waste, and abuse by entities subject to the commissioner's regulatory authority.

This bill modifies statute to make explicit the commissioner's authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority. In addition, the bill would establish an Office of the Inspector General to carry out investigations of fraud, waste, and abuse on behalf of the commissioner.

As proposed, S.B. 1886 amends current law relating to the creation of the office of inspector general at the Texas Education Agency to investigate the administration of public education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 7, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

Sec. 7.151. DEFINITIONS. Defines "fraud" and "office."

Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) Provides that the office of inspector general is established as a division within the Texas Education Agency (OIG-TEA).

(b) Requires the commissioner of education (commissioner) to appoint an inspector general to serve as director of OIG-TEA. Provides that the inspector serves until removed by the commissioner.

Sec. 7.153. GENERAL RESPONSIBILITIES. (a) Provides that OIG-TEA is responsible for the investigation, prevention, and detection of criminal misconduct and wrongdoing and of fraud, waste, and abuse in the administration of public education by school districts, open-enrollment charter schools, regional education service centers, and other local education agencies in this state.

(b) Requires OIG-TEA to investigate allegations of fraud, waste, and abuse and violations of this code or other law.

(c) Authorizes OIG-TEA to conduct certain investigations, reviews, and complaints.

(d) Requires OIG-TEA to perform all other duties and exercise all other powers granted to OIG-TEA by this subchapter or other law.

Sec. 7.154. GENERAL POWERS. Provides that OIG-TEA has all the powers necessary or appropriate to carry out its responsibilities and functions under this subchapter and other law.

Sec. 7.155. SUBPOENAS. (a) Authorizes OIG-TEA to issue a subpoena to compel the attendance of a relevant witness at a hearing or deposition under this subchapter or to compel the production for inspection or copying, of books, papers, records, documents, or other relevant materials, including electronic data, in connection with an investigation, review, hearing, or deposition conducted under this subchapter.

(b) Authorizes a subpoena to be served personally or by certified mail. Authorizes the OIG-TEA, if a person fails to comply with a subpoena, acting through the Texas attorney general (attorney general), to file suit to enforce the subpoena in a district court in this state.

(c) Requires the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena. Authorizes the court to hold in contempt a person who fails to obey the court order.

Sec. 7.156. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) Authorizes OIG-TEA to provide information and evidence relating to criminal acts to the State Auditor's Office and appropriate law enforcement officials.

(b) Authorizes OIG-TEA to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

SECTION 2. Amends Section 39.057(a), Education Code, as follows:

(a) Authorizes the commissioner to authorize special accreditation investigations to be conducted:

(1) through (13) makes no changes to these subdivisions;

(14) makes a nonsubstantive change;

(15) by OIG-TEA for the purpose of investigating allegations of fraud, waste, and abuse in the administration of public education; or

(16) creates this subdivision from existing text and makes no further changes to this subdivision.

SECTION 3. Effective date: September 1, 2017.