

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1886  
By: Bettencourt  
Education  
4/25/2017  
Committee Report (Substituted)

### **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. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1886 amends current law relating to the oversight of public education, including the creation of the office of inspector general at the Texas Education Agency.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 11.305, Education Code) of this bill.

### **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, including school districts described by Section 11.301(a) (relating to authorizing a certain school district or county system to continue to operate under certain conditions),

open-enrollment charter schools, regional education service centers, county systems described by Section 11.301(a), 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 and reviews.

(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 Subchapter G, Chapter 11, Education Code, by adding Section 11.305, as follows:

Sec. 11.305. OVERSIGHT OF CERTAIN ENTITIES. (a) Requires that each school district or county system described by Section 11.301(a) provide a report to TEA not later than February 27 of each year. Requires that the annual report include, at a minimum, a summary of the district's or system's operations for the preceding fiscal year and the district's or system's financial statements, audited by a certified public accountant, for the preceding fiscal year.

(b) Authorizes the commissioner to direct TEA to investigate a school district or county system described by Section 11.301(a) for potential fraud, waste, or abuse.

(c) Authorizes the commissioner, if after an investigation described by Subsection (b) the commissioner determines that a school district or county system has engaged in fraud, waste, or abuse and the school district or county system does not timely correct the fraud, waste, or abuse to the satisfaction of the commissioner, to replace the governing board of the school district or county system with a board of managers in accordance with Chapter 39 (Public School System Accountability) and rules adopted under that chapter.

(d) Requires the school district or county system, if a school district or county system described by Section 11.301(a) discovers an instance of fraud, waste, or abuse, to report the fraud, waste, or abuse to TEA not later than a certain date.

(e) Authorizes the commissioner, if a school district or county system described by Section 11.301(a) fails to make a certain report or fails to report fraud, waste, or abuse under Subsection (d), to replace the governing board of the school district or county system with a board of managers in accordance with Chapter 39 and rules adopted under that chapter.

(f) Authorizes the commissioner to adopt rules as necessary to implement this section.

SECTION 3. 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 4. Effective date: September 1, 2017.