

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 11, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB7 by Bettencourt (Relating to improper relationships between educators and students and reporting of educator misconduct; creating a criminal offense and expanding the applicability of an existing offense; authorizing an administrative penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to expand the prohibition on improper employee and student relationships for any school employee serving in a capacity that requires a license, regardless of whether the employee holds that license. The bill would expand the offense to include any employee engaging in an improper relationship with a student who the employee knows is enrolled in any public or private primary or secondary school, or with any student participant in an educational activity sponsored by a school district or public or private primary school or secondary school. The bill would create an offense for certain persons with the intent to conceal certain information which would be punishable as a state jail felony.

The bill would amend the Education Code to expand the requirements to report certain information regarding misconduct for principals, superintendents, and district directors of school districts, charter school, districts of innovation, service centers, and shared service arrangements. The bill would require an applicant for a position that requires certification to submit a pre-employment affidavit disclosing certain information regarding inappropriate relationships with a minor. The bill would permit the State Board for Educator Certification (SBEC) to impose an administrative penalty for certain persons who fail to report according to the provisions of the bill; establish thresholds for the amount of the penalty; specify that an educator's certificate may not be renewed unless he or she has paid the penalty; and revoke the certificate of an administrator if the board believes the administrator employed a person despite being aware that person had been adjudicated or convicted of having an inappropriate relationship with a minor.

The bill would amend the Education Code to require instruction to prevent and recognize improper educator-student relationships as an additional element of educator preparation programs and continuing education for educators and principals.

The bill would amend the Education Code to authorize the Commissioner of Education to conduct special accreditation investigations when a school district fails to produce, upon request, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification.

The bill would amend the Government Code to create and expand offenses relating to improper

relationships between public education personnel and students, and expand and clarify reporting requirements. The bill would revoke eligibility for full pension annuity payments from the Teacher Retirement System (TRS) if a person who is a member is convicted of sexual misconduct or an improper relationship with a minor student, if the offense rises from the person's employment as described in the bill, or if the offense is punishable as a felony. The retirement system would resume making full annuity payments if the person made ineligible for a full annuity is subsequently found not guilty of the offense, or if the person meets other requirements for innocence under the provisions of the Civil Practice and Remedies Code. A person not eligible to receive a full annuity would be entitled to request and receive a refund of the member's retirement contributions, including interest earned on those contributions. A person who accepts a refund would terminate membership in the retirement system. Benefits payable to an alternate recipient, including a spouse or dependent child, as recognized by a domestic relations order established before September 1, 2017, would not be affected by the ineligibility of a convicted member. On conviction of a person for a qualifying offense, a court may award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse. Ineligibility for a retirement annuity under this bill would not impair a person's right to any other retirement benefit for which the person is eligible.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies. The Office of Court Administration, Office of the Attorney General, and Teacher Retirement System estimates there would be minimal cost associated with implementing the provisions of the bill. The Texas Education Agency does not anticipate significant revenue resulting from the collection of the administrative penalty imposed by SBEC to certain persons failing to report in accordance with the provisions of the bill.

Local Government Impact

The bill would require school districts to adopt policies concerning electronic communications between school employees and students, including policies designed to prevent improper electronic communications between school employees and students. The bill would expand the reporting requirements related to educator misconduct and provide timelines in which reporting is required. The bill would require school districts to conduct certain actions once notified of misconduct for certified persons employed within the district.

The bill would require the board of trustees or governing board of a school district, district of innovation, open-enrollment charter schools, education service center, or shared service arrangement to adopt a policy to provide notice to the parent or guardian of a student with whom an educator is alleged to have engaged in misconduct.

School districts and charter schools may incur costs associated with modifying existing policies to comply with the provisions of the bill. School districts and charter schools may also incur some legal costs associated with interpreting and applying the reporting requirements associated with the bill. However, this analysis assumes these costs are not expected to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 323 Teacher Retirement System, 696 Department of Criminal Justice, 701 Texas Education Agency

LBB Staff: UP, AW, JPo, THo, AM, TSI, JGA, JSm