86R11941 SRS-F

By:  Rosenthal H.B. No. 3545

A BILL TO BE ENTITLED

AN ACT

relating to appointment by the commissioner of education of a community management board to assume governance of a low-performing school district or campus.

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

SECTION 1.  (a) Section 39A.002, Education Code, is amended to conform to Section 1, Chapter 823 (H.B. 1553), Acts of the 85th Legislature, Regular Session, 2017, and further amended to read as follows:

Sec. 39A.002.  AUTHORIZED COMMISSIONER ACTIONS. If a school district is subject to commissioner action under Section 39A.001, the commissioner may:

(1)  issue public notice of the deficiency to the board of trustees of the district;

(2)  order a hearing to be conducted by the board of trustees of the district to notify the public of:

(A)  the insufficient performance;

(B)  the improvements in performance expected by the agency; and

(C)  the interventions and sanctions that may be imposed under this subchapter if the performance does not improve;

(3)  order the preparation of a student achievement improvement plan that addresses each academic achievement indicator under Section 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and the implementation of the plan;

(4)  order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the district's superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5)  arrange a monitoring review of the district;

(6)  appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees of the district or superintendent;

(7)  appoint a community management board [~~conservator~~] to oversee the operations of the district; or

(8)  authorize the district to enter into a memorandum of understanding with an institution of higher education that provides for the assistance of the institution of higher education in improving the district's performance [~~appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person~~].

(b)  Chapter 823 (H.B. 1553), Acts of the 85th Legislature, Regular Session, 2017, which amended Sections 39.102(a) and 39.111(c), Education Code, is repealed.

SECTION 2.  Section 39A.004, Education Code, is amended to read as follows:

Sec. 39A.004.  APPOINTMENT OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]. The commissioner may appoint a community management board [~~of managers~~] to exercise the powers and duties of a school district's board of trustees if the district is subject to commissioner action under Section 39A.001 and:

(1)  has a current accreditation status of accredited-warned or accredited-probation;

(2)  fails to satisfy any standard under Section 39.054(e); or

(3)  fails to satisfy financial accountability standards as determined by commissioner rule.

SECTION 3.  Section 39A.102(b), Education Code, is amended to read as follows:

(b)  The commissioner may appoint a monitor[~~, conservator, management team,~~] or community management board [~~of managers~~] to the school district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan.

SECTION 4.  Section 39A.107(c), Education Code, is amended to read as follows:

(c)  If the commissioner does not approve a campus turnaround plan, the commissioner shall order:

(1)  appointment of a community management board [~~of managers~~] to govern the school district as provided by Section 39A.202;

(2)  alternative management of the campus; or

(3)  closure of the campus.

SECTION 5.  Section 39A.111, Education Code, is amended to read as follows:

Sec. 39A.111.  CONTINUED UNACCEPTABLE PERFORMANCE RATING. If a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan under Section 39A.101, the commissioner, subject to Section 39A.112, shall order:

(1)  appointment of a community management board [~~of managers~~] to govern the school district as provided by Section 39A.202; or

(2)  closure of the campus.

SECTION 6.  The heading to Subchapter E, Chapter 39A, Education Code, is amended to read as follows:

SUBCHAPTER E. COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]

SECTION 7.  Section 39A.201, Education Code, is amended to read as follows:

Sec. 39A.201.  GENERAL POWERS AND DUTIES OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]. (a) A community management board [~~of managers~~] may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation.

(b)  A community management board [~~of managers~~] appointed by the commissioner under Subchapter C is required to take appropriate actions to resolve the conditions that caused a campus to be subject to an order under Section 39A.101, including amending the school district's budget, reassigning staff, or relocating academic programs. The commissioner may adopt rules necessary to implement this subsection.

SECTION 8.  Section 39A.202, Education Code, is amended to read as follows:

Sec. 39A.202.  COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~] OF SCHOOL DISTRICT. (a) If the commissioner appoints a community management board [~~of managers~~] to govern a school district:

(1)  the powers of the board of trustees of the district are suspended for the period of the appointment; and

(2)  the commissioner shall appoint a district superintendent.

(b)  Notwithstanding any other provision of this code, a community management board [~~of managers~~] appointed to govern a school district may amend the budget of the district.

(c)  This chapter applies to a school district governed by a community management board [~~of managers~~] in the same manner that this chapter applies to any other district.

SECTION 9.  Section 39A.203, Education Code, is amended to read as follows:

Sec. 39A.203.  COMMUNITY MANAGEMENT BOARD OF [~~MANAGERS OF~~] CAMPUS. (a) If the commissioner appoints a community management board [~~of managers~~] to govern a campus:

(1)  the powers of the board of trustees of the school district in relation to the campus are suspended for the period of the appointment; and

(2)  the commissioner shall appoint a campus principal.

(b)  Notwithstanding any other provision of this code, a community management board [~~of managers~~] appointed to govern a campus may submit to the commissioner for approval amendments to the budget of the school district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

SECTION 10.  Section 39A.204, Education Code, is amended to read as follows:

Sec. 39A.204.  COMPOSITION OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]. (a) A community management board [~~of managers~~] appointed by the commissioner must[~~, if possible,~~] include seven members as follows:

(1)  a classroom teacher from the school district or campus;

(2)  a school administrator, if possible with previous experience of an intervention or sanction and familiarity with the local community;

(3)  a community representative from the local community council, campus advisory team, or partner organization;

(4)  a parent representative who has a student enrolled in the school district or campus;

(5)  an elected official who is not part of the school district, including a member of the city council or county commissioners court;

(6)  a business community representative who has invested in the local community and has experience with public schools; and

(7)  a community nonprofit representative with experience in public schools and the local community [~~community leaders, business representatives who have expertise in leadership, and individuals who have knowledge or expertise in the field of education~~].

(b)  A student member shall be appointed to the community management board as an advisory member. The student must:

(1)  be in the student's junior or senior year of high school in good academic standing; and

(2)  have two faculty recommendations from the student's campus.

SECTION 11.  Section 39A.205, Education Code, is amended to read as follows:

Sec. 39A.205.  TRAINING OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]. The commissioner must provide each individual appointed to a community management board [~~of managers~~] with training in effective leadership strategies.

SECTION 12.  Section 39A.206(a), Education Code, is amended to read as follows:

(a)  The commissioner may authorize payment of a community management board [~~of managers~~] appointed under Subchapter C from agency funds. The commissioner may adopt rules necessary to implement this subsection.

SECTION 13.  Section 39A.207, Education Code, is amended to read as follows:

Sec. 39A.207.  REPLACEMENT OF MEMBER OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~]. The commissioner may at any time replace a member of a community management board [~~of managers~~] appointed under Subchapter C. The commissioner may adopt rules necessary to implement this section.

SECTION 14.  Section 39A.208, Education Code, is amended to read as follows:

Sec. 39A.208.  EXPIRATION OF APPOINTMENT. (a) A community management board [~~of managers~~] shall, during the period of the appointment, order the election of members of the board of trustees of the school district in accordance with applicable provisions of law. Except as provided by Subsection (b), the members of the board of trustees do not assume any powers or duties after the election until the appointment of the community management board [~~of managers~~] expires.

(b)  Except as otherwise provided by Subsection (c), not later than the second anniversary of the date the community management board [~~of managers~~] of a school district was appointed, the commissioner shall notify the community management board [~~of managers~~] and the board of trustees of the date on which the appointment of the community management board [~~of managers~~] will expire. Following each of the last three years of the period of the appointment, one-third of the members of the community management board [~~of managers~~] shall be replaced by the number of members of the board of trustees of the district who were elected at an election ordered under Subsection (a) that constitutes, as closely as possible, one-third of the membership of the board of trustees.

(c)  If, before the second anniversary of the date the community management board [~~of managers~~] of a school district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the community management board [~~of managers~~] for a period of up to two additional years.

(d)  On the expiration of the appointment of the community management board [~~of managers~~], the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

(e)  Following the expiration of the period of appointment of a community management board [~~of managers~~] for a school district, the commissioner shall provide training in effective leadership strategies to the board of trustees of the district.

SECTION 15.  The heading to Section 39A.209, Education Code, is amended to read as follows:

Sec. 39A.209.  REMOVAL OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~].

SECTION 16.  Sections 39A.209(a), (b), and (c), Education Code, are amended to read as follows:

(a)  Notwithstanding Section 39A.208, the commissioner may remove a community management board [~~of managers~~] appointed to govern a school district under Subchapter C only if the campus that was the basis for the appointment of the community management board [~~of managers~~] receives an acceptable performance rating for two consecutive school years.

(b)  If a campus that was the basis for the appointment of a community management board [~~of managers~~] receives an unacceptable performance rating for two additional consecutive years following the appointment of the community management board [~~of managers~~], the commissioner may remove the community management board [~~of managers~~] and, in consultation with the local community, may appoint a new community management board [~~of managers~~] to govern the school district.

(c)  Following the removal of a community management board [~~of managers~~] under Subsection (a) or (b), or at the request of a managing entity appointed under Section 39A.107 to oversee the implementation of alternative management, the commissioner may appoint a [~~conservator or~~] monitor for the school district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan.

SECTION 17.  Section 39A.256, Education Code, is amended to read as follows:

Sec. 39A.256.  APPOINTMENT OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~] FOR OPEN-ENROLLMENT CHARTER SCHOOL. (a) A community management board [~~of managers~~] appointed for an open-enrollment charter school or a campus of an open-enrollment charter school under this chapter or Chapter 12 has the powers and duties prescribed by Section 39A.201(b), if applicable, and Sections 39A.201(a), 39A.202, and 39A.203[~~, and 39A.206(b)~~].

(b)  Except as otherwise provided by this subsection, the community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school may not serve for a period that exceeds the period authorized by law for a community management board [~~of managers~~] appointed for a school district. A community management board [~~of managers~~] appointed to wind up the affairs of a former open-enrollment charter school or campus serves until dissolved by the commissioner.

SECTION 18.  Section 39A.257, Education Code, is amended to read as follows:

Sec. 39A.257.  SUPERINTENDENT FOR OPEN-ENROLLMENT CHARTER SCHOOL. If the commissioner appoints a community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school, the commissioner may also appoint a superintendent.

SECTION 19.  Section 39A.258, Education Code, is amended to read as follows:

Sec. 39A.258.  REMOVAL BY COMMISSIONER. Any person appointed to serve on the community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school or as superintendent serves at the discretion of the commissioner and may be replaced by the commissioner at any time.

SECTION 20.  The heading to Section 39A.259, Education Code, is amended to read as follows:

Sec. 39A.259.  COMPENSATION OF COMMUNITY MANAGEMENT BOARD [~~OF MANAGERS~~] AND SUPERINTENDENT.

SECTION 21.  Sections 39A.259(a) and (c), Education Code, are amended to read as follows:

(a)  The commissioner may authorize compensation for a member of a community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school or a superintendent appointed by the commissioner.

(c)  The commissioner shall use funds received by or due to the former charter holder under Section 12.106 or funds returned to the state from liquidation of state property held by a former charter holder for compensation of a member of a community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school or a superintendent.

SECTION 22.  Section 39A.260, Education Code, is amended to read as follows:

Sec. 39A.260.  IMMUNITY; REPRESENTATION BY ATTORNEY GENERAL. Any person appointed by the commissioner to serve on the community management board [~~of managers~~] for an open-enrollment charter school or a campus of an open-enrollment charter school or as superintendent acts on behalf of the commissioner and is entitled to:

(1)  sovereign immunity; and

(2)  representation by the attorney general for any act or omission taken while acting in the person's official capacity.

SECTION 23.  Section 39A.903, Education Code, is amended to read as follows:

Sec. 39A.903.  COSTS PAID BY SCHOOL DISTRICT. The costs of providing a monitor, [~~conservator, management team,~~] campus intervention team, technical assistance team, managing entity, or service provider under this chapter shall be paid by the school district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

(1)  pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

(2)  recover the amount of the costs in the manner provided for recovery of an overallocation of state funds under Section 42.258.

SECTION 24.  Section 39A.904, Education Code, is amended to read as follows:

Sec. 39A.904.  IMMUNITY FROM CIVIL LIABILITY. An employee, volunteer, or contractor acting on behalf of the commissioner under this chapter, or a member of a community management board [~~of managers~~] appointed by the commissioner under this chapter, is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

SECTION 25.  Section 45.061(d), Education Code, is amended to read as follows:

(d)  If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Chapter 39A [~~Subchapter G, Chapter 39~~], including appointment of a community management board [~~of managers~~] or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

SECTION 26.  Section 45.261(d), Education Code, is amended to read as follows:

(d)  If a school district fails to comply with the commissioner's order under Subsection (c), the commissioner may impose any sanction on the district authorized to be imposed on a district under Chapter 39A, including appointment of a community management board [~~of managers~~] or annexation to another district, regardless of the district's accreditation status or the duration of a particular accreditation status.

SECTION 27.  The following provisions of the Education Code are repealed:

(1)  Sections 39A.003 and 39A.006; and

(2)  Section 39A.206(b).

SECTION 28.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 29.  (a) For the 2020-2021 school year, the commissioner of education shall adopt a transition plan to provide for the orderly transfer of the governance of a school district or campus by a conservator, board of managers, or management team under Chapter 39A, Education Code, as that chapter existed immediately before the effective date of this Act, to a community management board appointed by the commissioner of education.

(b)  On the date specified in the transition plan required under Subsection (a) of this section, each conservator, board of managers, or management team governing a school district or campus under Chapter 39A, Education Code, as that chapter existed immediately before the effective date of this Act, is abolished and the governance of the school district or campus is transferred to a community management board appointed by the commissioner of education.

(c)  A policy or procedure of a conservator, board of managers, or management team under Chapter 39A, Education Code, as that chapter existed immediately before the effective date of this Act, that is in effect on the effective date of this Act remains in effect until changed under procedures consistent with the governance procedures authorized under Chapter 39A, Education Code, as amended by this Act.

(d)  Not later than September 1, 2020, the commissioner shall provide a report of the transition plans to the presiding officers of the standing committees of the senate and of the house of representatives with primary jurisdiction over public education.

SECTION 30.  This Act takes effect September 1, 2019.