

By: Holland

H.B. No. 728

A BILL TO BE ENTITLED

AN ACT

1
2 relating to litigation involving certain defects in school district
3 instructional facilities and enforcement of certain duties
4 following that litigation; authorizing a civil penalty.

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

6 SECTION 1. Section 46.0111, Education Code, is amended by
7 amending Subsection (b) and adding Subsection (f) to read as
8 follows:

9 (b) A school district that brings an action for recovery of
10 damages for the defective design, construction, renovation, or
11 improvement of an instructional facility financed by bonds for
12 which the district receives state assistance under this subchapter
13 shall provide the commissioner with written notice of the action,
14 including a copy of the petition, by registered or certified mail,
15 return receipt requested, not later than the 10th day after the date
16 the action is filed. If the school district fails to comply with
17 this subsection, the court or an arbitrator or other adjudicating
18 authority shall dismiss the action.

19 (f) A school district shall provide to the commissioner an
20 itemized accounting of any repairs made under Subsection (d).

21 SECTION 2. Subchapter A, Chapter 46, Education Code, is
22 amended by adding Section 46.0112 to read as follows:

23 Sec. 46.0112. ATTORNEY GENERAL ENFORCEMENT OF SCHOOL
24 DISTRICT DUTIES FOLLOWING CERTAIN ACTIONS; REPORT. (a) If the

1 attorney general believes that a school district has violated or is
2 violating Section 46.0111(d) or (e), the attorney general may bring
3 an action on behalf of the state to enjoin the school district from
4 violating those sections.

5 (b) In an action brought under Subsection (a), the attorney
6 general may request and the court may order any other appropriate
7 relief that is in the public interest, including payment of:

8 (1) a civil penalty in an amount not to exceed \$50,000
9 for each violation of Section 46.0111(d) or (e);

10 (2) the attorney general's reasonable costs for
11 investigating and prosecuting the violation; or

12 (3) the amount of the state's share under Section
13 46.0111(e).

14 (c) Not later than December 1 of each year, the attorney
15 general shall submit to the governor, the lieutenant governor, the
16 members of the legislature, and the commissioner a report on any
17 actions brought under this section during the preceding year. The
18 report must include the following information for each action:

19 (1) the filing date;

20 (2) the cause number;

21 (3) the school district that is the subject of the
22 action; and

23 (4) the court in which the action was brought.

24 SECTION 3. Section 46.0111(b), Education Code, as amended
25 by this Act, applies only to an action brought on or after the
26 effective date of this Act. An action brought before the effective
27 date of this Act is governed by the law applicable to the action

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1 immediately before the effective date of this Act, and that law is
2 continued in effect for that purpose.

3 SECTION 4. This Act takes effect September 1, 2019.