

By: Rosenthal

H.B. No. 3545

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

17 (A) the insufficient performance;

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

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

22 (3) order the preparation of a student achievement
23 improvement plan that addresses each academic achievement
24 indicator under Section 39.053(c) for which the district's

1 performance is insufficient, the submission of the plan to the
2 commissioner for approval, and the implementation of the plan;

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

8 (5) arrange a monitoring review of the district;

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

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

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

21 (b) Chapter 823 (H.B. 1553), Acts of the 85th Legislature,
22 Regular Session, 2017, which amended Sections 39.102(a) and
23 39.111(c), Education Code, is repealed.

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

26 Sec. 39A.004. APPOINTMENT OF COMMUNITY MANAGEMENT BOARD [~~OF~~
27 ~~MANAGERS~~]. The commissioner may appoint a community management

1 board [~~of managers~~] to exercise the powers and duties of a school
2 district's board of trustees if the district is subject to
3 commissioner action under Section 39A.001 and:

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

6 (2) fails to satisfy any standard under Section
7 39.054(e); or

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

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

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

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

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

21 (1) appointment of a community management board [~~of~~
22 ~~managers~~] to govern the school district as provided by Section
23 39A.202;

24 (2) alternative management of the campus; or

25 (3) closure of the campus.

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

1 Sec. 39A.111. CONTINUED UNACCEPTABLE PERFORMANCE RATING.

2 If a campus is considered to have an unacceptable performance
3 rating for three consecutive school years after the campus is
4 ordered to submit a campus turnaround plan under Section 39A.101,
5 the commissioner, subject to Section 39A.112, shall order:

6 (1) appointment of a community management board [~~of~~
7 ~~managers~~] to govern the school district as provided by Section
8 39A.202; or

9 (2) closure of the campus.

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

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

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

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

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

27 SECTION 8. Section 39A.202, Education Code, is amended to

1 read as follows:

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

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

7 (2) the commissioner shall appoint a district
8 superintendent.

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

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

15 SECTION 9. Section [39A.203](#), Education Code, is amended to
16 read as follows:

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

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

23 (2) the commissioner shall appoint a campus principal.

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

1 the commissioner approves the amendments, the board of trustees of
2 the district shall adopt the amendments.

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

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

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

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

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

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

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

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

24 (7) a community nonprofit representative with
25 experience in public schools and the local community [~~community~~
26 ~~leaders, business representatives who have expertise in~~
27 ~~leadership, and individuals who have knowledge or expertise in the~~

1 ~~field of education~~].

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

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

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

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

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

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

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

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

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

27 SECTION 14. Section 39A.208, Education Code, is amended to

1 read as follows:

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

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

22 (c) If, before the second anniversary of the date the
23 community management board [~~of managers~~] of a school district was
24 appointed, the commissioner determines, after receiving local
25 feedback, that insufficient progress has been made toward improving
26 the academic or financial performance of the district, the
27 commissioner may extend the authority of the community management

1 board [~~of managers~~] for a period of up to two additional years.

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

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

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

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

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

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

22 (b) If a campus that was the basis for the appointment of a
23 community management board [~~of managers~~] receives an unacceptable
24 performance rating for two additional consecutive years following
25 the appointment of the community management board [~~of managers~~],
26 the commissioner may remove the community management board [~~of~~
27 ~~managers~~] and, in consultation with the local community, may

1 appoint a new community management board [~~of managers~~] to govern
2 the school district.

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

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

13 Sec. 39A.256. APPOINTMENT OF COMMUNITY MANAGEMENT BOARD [~~OF~~
14 ~~MANAGERS~~] FOR OPEN-ENROLLMENT CHARTER SCHOOL. (a) A community
15 management board [~~of managers~~] appointed for an open-enrollment
16 charter school or a campus of an open-enrollment charter school
17 under this chapter or Chapter 12 has the powers and duties
18 prescribed by Section 39A.201(b), if applicable, and Sections
19 39A.201(a), 39A.202, and 39A.203 [~~, and 39A.206(b)~~].

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

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

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

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

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

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

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

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

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

26 (c) The commissioner shall use funds received by or due to
27 the former charter holder under Section 12.106 or funds returned to

1 the state from liquidation of state property held by a former
2 charter holder for compensation of a member of a community
3 management board [~~of managers~~] for an open-enrollment charter
4 school or a campus of an open-enrollment charter school or a
5 superintendent.

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

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

- 14 (1) sovereign immunity; and
15 (2) representation by the attorney general for any act
16 or omission taken while acting in the person's official capacity.

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

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

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

- 27 (2) recover the amount of the costs in the manner

1 provided for recovery of an overallocation of state funds under
2 Section 42.258.

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

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

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

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

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

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

1 regardless of the district's accreditation status or the duration
2 of a particular accreditation status.

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

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

6 (2) Section 39A.206(b).

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

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

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

26 (c) A policy or procedure of a conservator, board of
27 managers, or management team under Chapter 39A, Education Code, as

1 that chapter existed immediately before the effective date of this
2 Act, that is in effect on the effective date of this Act remains in
3 effect until changed under procedures consistent with the
4 governance procedures authorized under Chapter 39A, Education
5 Code, as amended by this Act.

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

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