

By: Capriglione

H.B. No. 4100

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the repeal of provisions requiring school districts to
3 reduce their wealth per student to the equalized wealth level.

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

5 SECTION 1. Section 12.013(b), Education Code, is amended to
6 read as follows:

7 (b) A home-rule school district is subject to:

8 (1) a provision of this title establishing a criminal
9 offense;

10 (2) a provision of this title relating to limitations
11 on liability; and

12 (3) a prohibition, restriction, or requirement, as
13 applicable, imposed by this title or a rule adopted under this
14 title, relating to:

15 (A) the Public Education Information Management
16 System (PEIMS) to the extent necessary to monitor compliance with
17 this subchapter as determined by the commissioner;

18 (B) educator certification under Chapter 21 and
19 educator rights under Sections 21.407, 21.408, and 22.001;

20 (C) criminal history records under Subchapter C,
21 Chapter 22;

22 (D) student admissions under Section 25.001;

23 (E) school attendance under Sections 25.085,
24 25.086, and 25.087;

- 1 (F) inter-district or inter-county transfers of
2 students under Subchapter B, Chapter 25;
- 3 (G) elementary class size limits under Section
4 25.112, in the case of any campus in the district that fails to
5 satisfy any standard under Section 39.054(e);
- 6 (H) high school graduation under Section 28.025;
- 7 (I) special education programs under Subchapter
8 A, Chapter 29;
- 9 (J) bilingual education under Subchapter B,
10 Chapter 29;
- 11 (K) prekindergarten programs under Subchapter E,
12 Chapter 29;
- 13 (L) safety provisions relating to the
14 transportation of students under Sections 34.002, 34.003, 34.004,
15 and 34.008;
- 16 (M) computation and distribution of state aid
17 under Chapters 31, 42, and 43;
- 18 (N) extracurricular activities under Section
19 33.081;
- 20 (O) health and safety under Chapter 38;
- 21 (P) public school accountability under
22 Subchapters B, C, D, and J, Chapter 39, and Chapter 39A;
- 23 (Q) ~~equalized wealth under Chapter 41,~~
- 24 ~~(R)~~ a bond or other obligation or tax rate
25 under Chapters 42, 43, and 45; and
- 26 (R) ~~(S)~~ purchasing under Chapter 44.

27 SECTION 2. Section 12.029(b), Education Code, is amended to

1 read as follows:

2 (b) If [~~Except as provided by Subchapter H, Chapter 41, if~~]
3 two or more school districts having different status, one of which
4 is home-rule school district status, consolidate into a single
5 district, the petition under Section 13.003 initiating the
6 consolidation must state the status for the consolidated district.
7 The ballot shall be printed to permit voting for or against the
8 proposition: "Consolidation of (names of school districts) into a
9 single school district governed as (status of school district
10 specified in the petition)."

11 SECTION 3. Section 13.054(i), Education Code, is amended to
12 read as follows:

13 (i) The funding provided under Subsection (f), (g), or (h)
14 is in addition to other funding the district receives through other
15 provisions of this code, including funding the district receives
16 under Chapter [~~Chapters 41 and~~] 42.

17 SECTION 4. Section 21.410(h), Education Code, is amended to
18 read as follows:

19 (h) A grant a school district receives under this section is
20 in addition to any funding the district receives under Chapter 42.
21 The commissioner shall distribute funds under this section with the
22 Foundation School Program payment to which the district is entitled
23 as soon as practicable after the end of the school year as
24 determined by the commissioner. [~~A district to which Chapter 41~~
25 ~~applies is entitled to the grants paid under this section.~~] The
26 commissioner shall determine the timing of the distribution of
27 grants to a district that does not receive Foundation School

1 Program payments.

2 SECTION 5. Section 21.411(h), Education Code, is amended to
3 read as follows:

4 (h) A grant a school district receives under this section is
5 in addition to any funding the district receives under Chapter 42.
6 The commissioner shall distribute funds under this section with the
7 Foundation School Program payment to which the district is entitled
8 as soon as practicable after the end of the school year as
9 determined by the commissioner. [~~A district to which Chapter 41~~
10 ~~applies is entitled to the grants paid under this section.~~] The
11 commissioner shall determine the timing of the distribution of
12 grants to a district that does not receive Foundation School
13 Program payments.

14 SECTION 6. Section 21.412(h), Education Code, is amended to
15 read as follows:

16 (h) A grant a school district receives under this section is
17 in addition to any funding the district receives under Chapter 42.
18 The commissioner shall distribute funds under this section with the
19 Foundation School Program payment to which the district is entitled
20 as soon as practicable after the end of the school year as
21 determined by the commissioner. [~~A district to which Chapter 41~~
22 ~~applies is entitled to the grants paid under this section.~~] The
23 commissioner shall determine the timing of the distribution of
24 grants to a district that does not receive Foundation School
25 Program payments.

26 SECTION 7. Section 21.413(h), Education Code, is amended to
27 read as follows:

1 (h) A grant a school district receives under this section is
2 in addition to any funding the district receives under Chapter 42.
3 The commissioner shall distribute funds under this section with the
4 Foundation School Program payment to which the district is entitled
5 as soon as practicable after the end of the school year as
6 determined by the commissioner. [~~A district to which Chapter 41~~
7 ~~applies is entitled to the grants paid under this section.~~] The
8 commissioner shall determine the timing of the distribution of
9 grants to a district that does not receive Foundation School
10 Program payments.

11 SECTION 8. Section 25.081(f), Education Code, as added by
12 Chapter 851 (H.B. 2442), Acts of the 85th Legislature, Regular
13 Session, 2017, is amended to read as follows:

14 (f) The commissioner may proportionally reduce the amount
15 of funding a district receives under Chapter [~~41~~] 42[~~7~~] or 46 and
16 the average daily attendance calculation for the district if the
17 district operates on a calendar that provides fewer minutes of
18 operation than required under Subsection (a).

19 SECTION 9. Section 29.087(j), Education Code, is amended to
20 read as follows:

21 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
22 46, a student attending a program authorized by this section may be
23 counted in attendance only for the actual number of hours each
24 school day the student attends the program, in accordance with
25 Section 25.081.

26 SECTION 10. Section 29.203(b), Education Code, is amended
27 to read as follows:

1 (b) A school district is entitled to the allotment provided
2 by Section 42.157 for each eligible student using a public
3 education grant. [~~If the district has a wealth per student greater
4 than the guaranteed wealth level but less than the equalized wealth
5 level, a school district is entitled under rules adopted by the
6 commissioner to additional state aid in an amount equal to the
7 difference between the cost to the district of providing services
8 to a student using a public education grant and the sum of the state
9 aid received because of the allotment under Section 42.157 and
10 money from the available school fund attributable to the student.~~]

11 SECTION 11. Section 37.0061, Education Code, is amended to
12 read as follows:

13 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
14 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
15 education services to pre-adjudicated and post-adjudicated
16 students who are confined by court order in a juvenile residential
17 facility operated by a juvenile board is entitled to count such
18 students in the district's average daily attendance for purposes of
19 receipt of state funds under the Foundation School Program. [~~If the
20 district has a wealth per student greater than the guaranteed
21 wealth level but less than the equalized wealth level, the district
22 in which the student is enrolled on the date a court orders the
23 student to be confined to a juvenile residential facility shall
24 transfer to the district providing education services an amount
25 equal to the difference between the average Foundation School
26 Program costs per student of the district providing education
27 services and the sum of the state aid and the money from the~~]

1 ~~available school fund received by the district that is attributable~~
2 ~~to the student for the portion of the school year for which the~~
3 ~~district provides education services to the student.]~~

4 SECTION 12. Section 42.009(b), Education Code, is amended
5 to read as follows:

6 (b) In making the determinations regarding funding levels
7 required by Subsection (a), the commissioner shall:

8 (1) make adjustments as necessary to reflect changes
9 in a school district's maintenance and operations tax rate; and

10 (2) ~~[for a district required to take action under~~
11 ~~Chapter 41 to reduce its wealth per student to the equalized wealth~~
12 ~~level, base the determinations on the district's net funding levels~~
13 ~~after deducting any amounts required to be expended by the district~~
14 ~~to comply with Chapter 41; and~~

15 ~~[(3)]~~ determine a district's weighted average daily
16 attendance in accordance with this chapter as it existed on January
17 1, 2011.

18 SECTION 13. Section 42.158(e), Education Code, is amended
19 to read as follows:

20 (e) ~~[A school district that is required to take action under~~
21 ~~Chapter 41 to reduce its wealth per student to the equalized wealth~~
22 ~~level is entitled to a credit, in the amount of the allotments to~~
23 ~~which the district is entitled under this section, against the~~
24 ~~total amount required under Section 41.093 for the district to~~
25 ~~purchase attendance credits.]~~ A school district that is otherwise
26 ineligible for state aid under this chapter is entitled to receive
27 allotments under this section.

1 SECTION 14. Section 42.160(b), Education Code, is amended
2 to read as follows:

3 (b) ~~[A school district that is required to take action under~~
4 ~~Chapter 41 to reduce its wealth per student to the equalized wealth~~
5 ~~level is entitled to a credit, in the amount of the allotments to~~
6 ~~which the district is entitled under this section, against the~~
7 ~~total amount required under Section 41.093 for the district to~~
8 ~~purchase attendance credits.]~~ A school district that is otherwise
9 ineligible for state aid under this chapter is entitled to receive
10 allotments under this section.

11 SECTION 15. Section 42.2511(b), Education Code, is amended
12 to read as follows:

13 (b) Notwithstanding any other provision of this chapter ~~[or~~
14 ~~Chapter 41]~~, a school district subject to this section is entitled
15 to receive for each student in average daily attendance at the
16 campus described by Subsection (a) an amount equivalent to the
17 difference, if the difference results in increased funding,
18 between:

- 19 (1) the amount described by Section 12.106; and
20 (2) the amount to which the district would be entitled
21 under this chapter.

22 SECTION 16. Section 42.2518(a), Education Code, is amended
23 to read as follows:

24 (a) Beginning with the 2017-2018 school year, a school
25 district is entitled to additional state aid to the extent that
26 state and local revenue under this chapter ~~[and Chapter 41]~~ is less
27 than the state and local revenue that would have been available to

1 the district under [~~Chapter 41 and~~] this chapter as it [~~those~~
2 ~~chapters~~] existed on September 1, 2015, excluding any state aid
3 that would have been provided under former Section 42.2516, if the
4 increase in the residence homestead exemption under Section 1-b(c),
5 Article VIII, Texas Constitution, and the additional limitation on
6 tax increases under Section 1-b(d) of that article as proposed by
7 S.J.R. 1, 84th Legislature, Regular Session, 2015, had not
8 occurred.

9 SECTION 17. Section 42.2521(a), Education Code, is amended
10 to read as follows:

11 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this
12 chapter, and to the extent money specifically authorized to be used
13 under this section is available, the commissioner shall adjust the
14 taxable value of property in a school district that, due to factors
15 beyond the control of the board of trustees, experiences a rapid
16 decline in the tax base used in calculating taxable values in excess
17 of four percent of the tax base used in the preceding year.

18 SECTION 18. Section 42.2523(a), Education Code, is amended
19 to read as follows:

20 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this
21 chapter, the commissioner shall adjust the taxable value of
22 property of a school district all or part of which is located in an
23 area declared a disaster area by the governor under Chapter 418,
24 Government Code, as necessary to ensure that the district receives
25 funding based as soon as possible on property values as affected by
26 the disaster.

27 SECTION 19. Sections 42.2524(c) and (d), Education Code,

1 are amended to read as follows:

2 (c) The commissioner may provide reimbursement under this
3 section only if funds are available for that purpose [~~as follows:~~

4 [~~(1) reimbursement for a school district not required~~
5 ~~to take action under Chapter 41 may be provided]~~ from:

6 (1) [~~(A)~~] amounts appropriated for that purpose,
7 including amounts appropriated for those districts for that purpose
8 to the disaster contingency fund established under Section 418.073,
9 Government Code; or

10 (2) [~~(B)~~] Foundation School Program funds available
11 for that purpose, based on a determination by the commissioner that
12 the amount appropriated for the Foundation School Program,
13 including the facilities component as provided by Chapter 46,
14 exceeds the amount to which districts are entitled under this
15 chapter and Chapter 46 [~~, and~~

16 [~~(2) reimbursement for a school district required to~~
17 ~~take action under Chapter 41 may be provided from funds described by~~
18 ~~Subdivision (1)(B) if funds remain available after fully~~
19 ~~reimbursing each school district described by Subdivision (1) for~~
20 ~~its disaster remediation costs].~~

21 (d) If the amount of money available for purposes of
22 reimbursing school districts [~~not required to take action under~~
23 ~~Chapter 41]~~ is not sufficient to fully reimburse each district's
24 disaster remediation costs, the commissioner shall reduce the
25 amount of assistance provided to each of those districts
26 proportionately. [~~If the amount of money available for purposes of~~
27 ~~reimbursing school districts required to take action under Chapter~~

1 ~~41 is not sufficient to fully reimburse each district's disaster~~
2 ~~remediation costs, the commissioner shall reduce the amount of~~
3 ~~assistance provided to each of those districts proportionately.]~~

4 SECTION 20. Section 42.253(h), Education Code, is amended
5 to read as follows:

6 (h) If the amount appropriated for the Foundation School
7 Program for the second year of a state fiscal biennium is less than
8 the amount to which school districts and open-enrollment charter
9 schools are entitled for that year, the commissioner shall certify
10 the amount of the difference to the Legislative Budget Board not
11 later than January 1 of the second year of the state fiscal
12 biennium. The Legislative Budget Board shall propose to the
13 legislature that the certified amount be transferred to the
14 foundation school fund from the economic stabilization fund and
15 appropriated for the purpose of increases in allocations under this
16 subsection. If the legislature fails during the regular session to
17 enact the proposed transfer and appropriation and there are not
18 funds available under Subsection (j), the commissioner shall adjust
19 the total amounts due to each school district and open-enrollment
20 charter school under this chapter [~~and the total amounts necessary~~
21 ~~for each school district to comply with the requirements of Chapter~~
22 ~~41]~~ by an amount determined by applying to each district and school
23 the same percentage adjustment to the total amount of state and
24 local revenue due to the district or school under this chapter [~~and~~
25 ~~Chapter 41]~~ so that the total amount of the adjustment to all
26 districts and schools results in an amount equal to the total
27 adjustment necessary. The following fiscal year, [+

1 ~~[(1)]~~ a district's or school's entitlement under this
2 section is increased by an amount equal to the adjustment made under
3 this subsection~~[, and~~

4 ~~[(2) the amount necessary for a district to comply~~
5 ~~with the requirements of Chapter 41 is reduced by an amount~~
6 ~~necessary to ensure a district's full recovery of the adjustment~~
7 ~~made under this subsection].~~

8 SECTION 21. Sections 42.2531(a), (b), and (c), Education
9 Code, are amended to read as follows:

10 (a) The commissioner may make adjustments to amounts due to
11 a school district under this chapter or Chapter 46~~[, or to amounts~~
12 ~~necessary for a district to comply with the requirements of Chapter~~
13 ~~41,]~~ as provided by this section.

14 (b) A school district that has a major taxpayer, as
15 determined by the commissioner, that because of a protest of the
16 valuation of the taxpayer's property fails to pay all or a portion
17 of the ad valorem taxes due to the district may apply to the
18 commissioner to have the district's taxable value of property or ad
19 valorem tax collections adjusted for purposes of this chapter or
20 Chapter ~~[41 or]~~ 46. The commissioner may make the adjustment only to
21 the extent the commissioner determines that making the adjustment
22 will not:

23 (1) in the fiscal year in which the adjustment is made,
24 cause the amount to which school districts are entitled under this
25 chapter to exceed the amount appropriated for purposes of the
26 Foundation School Program for that year; and

27 (2) if the adjustment is made in the first year of a

1 state fiscal biennium, cause the amount to which school districts
2 are entitled under this chapter for the second year of the biennium
3 to exceed the amount appropriated for purposes of the Foundation
4 School Program for that year.

5 (c) The commissioner shall recover the benefit of any
6 adjustment made under this section by making offsetting adjustments
7 in the school district's taxable value of property or ad valorem tax
8 collections for purposes of this chapter or Chapter [~~41~~] 46 on a
9 final determination of the taxable value of property that was the
10 basis of the original adjustment, or in the second school year
11 following the year in which the adjustment is made, whichever is
12 earlier.

13 SECTION 22. Section 42.258(a-1), Education Code, is amended
14 to read as follows:

15 (a-1) Notwithstanding Subsection (a), the agency may
16 recover an overallocation of state funds over a period not to exceed
17 the subsequent five school years if the commissioner determines
18 that the overallocation was the result of exceptional circumstances
19 reasonably caused by statutory changes to former Chapter 41,
20 Chapter [~~or~~] 46, or this chapter and related reporting
21 requirements.

22 SECTION 23. Section 42.260(b), Education Code, is amended
23 to read as follows:

24 (b) The amount of additional funds to which each school
25 district or participating charter school is entitled due to the
26 increases in formula funding made by Chapter 1187 (H.B. No. 3343),
27 Acts of the 77th Legislature, Regular Session, 2001, and any

1 subsequent legislation amending the provisions amended by that Act
2 that increase formula funding under [~~Chapter 41 and~~] this chapter
3 to school districts and charter schools is available for purposes
4 of Subsection (c).

5 SECTION 24. Section 45.251(2), Education Code, is amended
6 to read as follows:

7 (2) "Foundation School Program" means the program
8 established under Chapters [~~41,~~] 42[~~,~~] and 46, or any successor
9 program of state appropriated funding for school districts in this
10 state.

11 SECTION 25. Section 45.261(a), Education Code, is amended
12 to read as follows:

13 (a) If the commissioner orders payment from the money
14 appropriated to the Foundation School Program on behalf of a school
15 district [~~that is not required to reduce its wealth per student~~
16 ~~under Chapter 41~~], the commissioner shall direct the comptroller to
17 withhold the amount paid from the first state money payable to the
18 district. If the commissioner orders payment from the money
19 appropriated to the Foundation School Program on behalf of a school
20 district that is not entitled to state assistance under Chapter 42
21 [~~required to reduce its wealth per student under Chapter 41~~], the
22 commissioner shall order [~~increase amounts due from~~] the district
23 to remit to the commissioner an [~~under that chapter in a total~~]
24 amount equal to the amount of payments made on behalf of the
25 district under this subchapter. Amounts withheld or received under
26 this subsection shall be used for the Foundation School Program.

27 SECTION 26. Section 403.302(a), Government Code, is amended

1 to read as follows:

2 (a) The comptroller shall conduct a study using comparable
3 sales and generally accepted auditing and sampling techniques to
4 determine the total taxable value of all property in each school
5 district. The study shall determine the taxable value of all
6 property and of each category of property in the district and the
7 productivity value of all land that qualifies for appraisal on the
8 basis of its productive capacity and for which the owner has applied
9 for and received a productivity appraisal. [~~The comptroller shall~~
10 ~~make appropriate adjustments in the study to account for actions~~
11 ~~taken under Chapter 41, Education Code.~~]

12 SECTION 27. Section 1579.251(a), Insurance Code, is amended
13 to read as follows:

14 (a) The state shall assist employees of participating
15 school districts and charter schools in the purchase of group
16 health coverage under this chapter by providing for each covered
17 employee the amount of \$900 each state fiscal year or a greater
18 amount as provided by the General Appropriations Act. The state
19 contribution shall be distributed through the school finance
20 formulas under Chapter [~~Chapters 41 and~~ 42, Education Code, and
21 used by school districts and charter schools as provided by Section
22 42.260, Education Code.

23 SECTION 28. Section 21.01, Tax Code, is amended to read as
24 follows:

25 Sec. 21.01. REAL PROPERTY. Real property is taxable by a
26 taxing unit if located in the unit on January 1 [~~, except as provided~~
27 ~~by Chapter 41, Education Code~~].

1 SECTION 29. Section 21.02(a), Tax Code, is amended to read
2 as follows:

3 (a) Except as provided by Subsection [~~Subsections (b) and~~
4 (e) and by Sections 21.021, 21.04, and 21.05, tangible personal
5 property is taxable by a taxing unit if:

6 (1) it is located in the unit on January 1 for more
7 than a temporary period;

8 (2) it normally is located in the unit, even though it
9 is outside the unit on January 1, if it is outside the unit only
10 temporarily;

11 (3) it normally is returned to the unit between uses
12 elsewhere and is not located in any one place for more than a
13 temporary period; or

14 (4) the owner resides (for property not used for
15 business purposes) or maintains the owner's principal place of
16 business in this state (for property used for business purposes) in
17 the unit and the property is taxable in this state but does not have
18 a taxable situs pursuant to Subdivisions (1) through (3) of this
19 subsection.

20 SECTION 30. Section 26.08(i), Tax Code, is amended to read
21 as follows:

22 (i) For purposes of this section, the effective maintenance
23 and operations tax rate of a school district is the tax rate that,
24 applied to the current total value for the district, would impose
25 taxes in an amount that, when added to state funds that would be
26 distributed to the district under Chapter 42, Education Code, for
27 the school year beginning in the current tax year using that tax

1 rate, would provide the same amount of state funds distributed
2 under Chapter 42, Education Code, and maintenance and operations
3 taxes of the district per student in weighted average daily
4 attendance for that school year that would have been available to
5 the district in the preceding year if the funding elements for
6 Chapter ~~[Chapters 41 and]~~ 42, Education Code, for the current year
7 had been in effect for the preceding year.

8 SECTION 31. Section 312.210(b), Tax Code, is amended to
9 read as follows:

10 (b) A tax abatement agreement with the owner of real
11 property or tangible personal property that is located in the
12 reinvestment zone described by Subsection (a) and in a school
13 district ~~[that has a wealth per student that does not exceed the~~
14 ~~equalized wealth level]~~ must exempt from taxation:

15 (1) the portion of the value of the property in the
16 amount specified in the joint agreement among the municipality,
17 county, and junior college district; and

18 (2) an amount equal to 10 percent of the maximum
19 portion of the value of the property that may under Section
20 312.204(a) be otherwise exempted from taxation.

21 SECTION 32. The following laws are repealed:

22 (1) Chapter 41, Education Code;

23 (2) Sections 7.055(b)(34), 8.056, 29.203(g), and
24 42.2524(f), Education Code; and

25 (3) Sections 21.02(b) and (c), 25.25(k), and
26 312.210(c), Tax Code.

27 SECTION 33. This Act takes effect September 1, 2019.