

By: Huberty

H.B. No. 3445

A BILL TO BE ENTITLED

AN ACT

relating to requiring the use of a public school's excess funds for certain purposes.

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

SECTION 1. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.013 to read as follows:

Sec. 44.013. USE OF EXCESS FUNDS REQUIRED. (a) In this section:

(1) "Cash on hand" includes cash equivalents and money invested in short-term investments.

(2) "Operating expenses" means total general fund expenditures less any capital outlay.

(b) Each school district and open-enrollment charter school shall annually review the district's or school's fund balances to determine the amount of excess funds held by the district or school as described by Subsection (c).

(c) For purposes of this section, a school district or open-enrollment charter school has excess funds if:

(1) for a district, the total amount of the district's cash on hand or unobligated funds exceeds the district's operating expenses for a period of 110 days; or

(2) for a school, the total amount of the school's cash on hand or net assets exceeds the school's operating expenses for a period of 80 days.

1 (d) Not later than the end of the fiscal year following a
2 determination made under Subsection (b), each school district or
3 open-enrollment charter school shall use the amount of excess funds
4 identified under that subsection, if any, to, as applicable:

5 (1) pay down debt obligations;

6 (2) lower the district's maintenance and operations
7 tax rate;

8 (3) provide employee compensation, subject to
9 Subsection (e); or

10 (4) pay costs of deferred maintenance.

11 (e) Funding provided for employee compensation under
12 Subsection (d)(3) must be used to implement a new compensation
13 program or supplement an existing compensation program and may not
14 be used to supplant funding for an existing compensation program.

15 (f) Subject to Subsection (g), for any period of the fiscal
16 year following a determination made under Subsection (b) in which
17 the school district or open-enrollment charter school has excess
18 funds, the district or school may not:

19 (1) for a district, issue a bond or hold an election
20 seeking voter approval to issue a bond under Subchapter A, Chapter
21 45; or

22 (2) for a school:

23 (A) receive funding under Section 12.106(d); or

24 (B) apply for bonds issued under Chapter 53 for
25 the school to be guaranteed by the permanent school fund under
26 Chapter 45, as provided by Section 12.135.

27 (g) The restrictions under Subsection (f) do not apply to a

1 school district or open-enrollment charter school that posts on the
2 district's or school's Internet website an explanation of how the
3 district's or school's excess funds identified under Subsection (b)
4 will be spent in accordance with Subsection (d).

5 (h) If the commissioner determines that a school district or
6 open-enrollment charter school has failed to comply with this
7 section, the commissioner shall, as applicable, increase the
8 district's local share under Section 48.256 or reduce the school's
9 entitlement under Section 12.106 by an amount equal to the amount of
10 the district's or school's excess funds not spent as required under
11 Subsection (d).

12 (i) This section does not apply to:

13 (1) a special-purpose school district established
14 under Section 11.351 that is operated by an institution of higher
15 education, as that term is defined by Section 61.003;

16 (2) an open-enrollment charter school operated under a
17 charter granted to a governmental entity; or

18 (3) a charter school granted a charter under
19 Subchapter E, Chapter 12.

20 (j) The commissioner may adopt rules as necessary to
21 implement this section.

22 SECTION 2. Section 12.106, Education Code, is amended by
23 adding Subsection (k) to read as follows:

24 (k) The commissioner shall reduce the amount of funding to
25 which a charter holder is entitled for an open-enrollment charter
26 school under this section as provided by Section 44.013(h).

27 SECTION 3. Section 48.256, Education Code, is amended by

1 adding Subsection (f) to read as follows:

2 (f) The commissioner shall increase a school district's
3 local share under this section as provided by Section 44.013(h).

4 SECTION 4. Section 48.277, Education Code, is amended by
5 amending Subsection (e) and adding Subsection (f) to read as
6 follows:

7 (e) The commissioner shall reduce a school district's or
8 open-enrollment charter school's allotment under this section as
9 necessary to comply with Section 44.013(h).

10 (f) This section expires September 1, 2025.

11 SECTION 5. Section 48.278, Education Code, is amended by
12 adding Subsection (b-1) to read as follows:

13 (b-1) The commissioner shall reduce a school district's
14 allotment under this section as necessary to comply with Section
15 44.013(h).

16 SECTION 6. This Act takes effect September 1, 2021.