88R22786 JES-F

By:  Burrows, King of Uvalde, Moody, H.B. No. 3

     King of Hemphill, Bonnen, et al.

Substitute the following for H.B. No. 3:

By:  Lozano C.S.H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to the development of, implementation of, and funding for public school safety and security requirements.

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

SECTION 1.  Section 7.028(a), Education Code, is amended to read as follows:

(a)  Except as provided by Section 21.006(k), 22.093(l), 22.096, 28.006, 29.001(5), 29.010(a), 33.006(h), 37.1084, 38.003, or 39.003, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, or Subchapter A, Chapter 37, only as necessary to ensure:

(1)  compliance with federal law and regulations;

(2)  financial accountability, including compliance with grant requirements;

(3)  data integrity for purposes of:

(A)  the Public Education Information Management System (PEIMS); and

(B)  accountability under Chapters 39 and 39A; and

(4)  qualification for funding under Chapter 48.

SECTION 2.  Section 7.061(c), Education Code, is amended to read as follows:

(c)  Not later than September 1 of each even-numbered year, the commissioner shall review all rules adopted or amended under this section and amend the rules as necessary to ensure that building standards for school district and open-enrollment charter school facilities continue to provide a secure and safe environment. In reviewing and amending the rules, the commissioner shall:

(1)  in consultation with the Texas School Safety Center, identify and adopt any changes recommended under Section 37.221; and

(2)  require that new and, to the extent feasible, existing school facilities meet or exceed the amended building standards.

SECTION 3.  Section 11.201(c), Education Code, is amended to read as follows:

(c)  For purposes of this subsection, "severance payment" means any amount paid by the board of trustees of an independent school district to or in behalf of a superintendent on early termination of the superintendent's contract that exceeds the amount earned by the superintendent under the contract as of the date of termination, including any amount that exceeds the amount of earned standard salary and benefits that is paid as a condition of early termination of the contract. The board of trustees may not make a severance payment to a superintendent who was terminated as a result of the district's noncompliance with safety and security requirements as provided by Section 37.1085. The board of trustees that makes a severance payment to a superintendent shall report the terms of the severance payment to the commissioner. The commissioner shall reduce the district's Foundation School Program funds by any amount that the amount of the severance payment to the superintendent exceeds an amount equal to one year's salary and benefits under the superintendent's terminated contract. The commissioner may adopt rules as necessary to administer this subsection.

SECTION 4.  Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

(b)  An open-enrollment charter school is subject to:

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

(2)  the provisions in Chapter 554, Government Code; and

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

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

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

(C)  reading instruments and accelerated reading instruction programs under Section 28.006;

(D)  accelerated instruction under Section 28.0211;

(E)  high school graduation requirements under Section 28.025;

(F)  special education programs under Subchapter A, Chapter 29;

(G)  bilingual education under Subchapter B, Chapter 29;

(H)  prekindergarten programs under Subchapter E or E-1, Chapter 29, except class size limits for prekindergarten classes imposed under Section 25.112, which do not apply;

(I)  extracurricular activities under Section 33.081;

(J)  discipline management practices or behavior management techniques under Section 37.0021;

(K)  health and safety under Chapter 38;

(L)  the provisions of Subchapter A, Chapter 39;

(M)  public school accountability and special investigations under Subchapters A, B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(N)  the requirement under Section 21.006 to report an educator's misconduct;

(O)  intensive programs of instruction under Section 28.0213;

(P)  the right of a school employee to report a crime, as provided by Section 37.148;

(Q)  bullying prevention policies and procedures under Section 37.0832;

(R)  the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student;

(S)  the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment;

(T)  a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(U)  establishment of residency under Section 25.001;

(V)  school safety requirements under Sections 37.0814, 37.108, 37.1081, 37.1082, 37.1084, 37.1085, 37.109, 37.113, 37.114, 37.1141, 37.115, 37.207, and 37.2071;

(W)  the early childhood literacy and mathematics proficiency plans under Section 11.185;

(X)  the college, career, and military readiness plans under Section 11.186; and

(Y) [~~(X)~~]  parental options to retain a student under Section 28.02124.

SECTION 5.  Section 29.202(a), Education Code, is amended to read as follows:

(a)  A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student is assigned to attend a public school campus:

(1)  assigned an unacceptable performance rating that is made publicly available under Section 39.054; or

(2)  determined by the commissioner to be noncompliant with safety and security requirements under Section 37.1085.

SECTION 6.  Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0814 to read as follows:

Sec. 37.0814.  ARMED SECURITY OFFICER REQUIRED. (a) The board of trustees of each school district shall determine the appropriate number of armed security officers for each district campus. The board must ensure at least one armed security officer is present during regular school hours at each district campus.

(b)  A security officer described by Subsection (a) must be:

(1)  a school district peace officer;

(2)  a school resource officer;

(3)  a commissioned peace officer employed as security personnel under Section 37.081;

(4)  a school marshal; or

(5)  a school district employee who:

(A)  has completed school safety training provided by a qualified handgun instructor certified in school safety under Section 411.1901, Government Code; and

(B)  carries a handgun on the employee's person while on school premises in accordance with written regulations or written authorization of the district under Section 46.03(a)(1)(A), Penal Code.

SECTION 7.  Section 37.108, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (h) to read as follows:

(a)  Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center in conjunction with the governor's office of homeland security, [~~and~~] the commissioner of education, and the [~~or~~] commissioner of higher education[~~, as applicable~~]. The plan must provide for:

(1)  training in responding to an emergency for district employees, including substitute teachers;

(2)  measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

(3)  measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

(4)  if the plan applies to a school district, mandatory school drills and exercises, including drills required under Section 37.114, to prepare district students and employees for responding to an emergency;

(5)  measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; [~~and~~]

(6)  the implementation of a safety and security audit as required by Subsection (b); and

(7)  any other requirements established by the Texas School Safety Center in consultation with the agency.

(b)  At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district's facilities. A [~~To the extent possible, a~~] district shall follow safety and security audit procedures developed by the Texas School Safety Center in coordination with the commissioner of education or commissioner of higher education, as applicable, or a person included in the registry established by the Texas School Safety Center under Section 37.2091.

(h)  The Texas School Safety Center and the agency shall provide school safety-related data collected by the center or agency to each other on request.

SECTION 8.  Section 37.1081(a), Education Code, is amended to read as follows:

(a)  If the board of trustees of a school district receives notice of noncompliance under Section 37.207(e) or 37.2071(d) or (g) [~~37.2071(g)~~], the board shall hold a public hearing to notify the public of:

(1)  the district's failure to:

(A)  submit or correct deficiencies in a multihazard emergency operations plan; or

(B)  report the results of a safety and security audit to the Texas School Safety Center as required by law;

(2)  the dates during which the district has not been in compliance; and

(3)  the names of each member of the board of trustees and the superintendent serving in that capacity during the dates the district was not in compliance.

SECTION 9.  Subchapter D, Chapter 37, Education Code, is amended by adding Sections 37.1084 and 37.1085 to read as follows:

Sec. 37.1084.  AGENCY MONITORING OF SCHOOL DISTRICT SAFETY AND SECURITY REQUIREMENTS. (a) The agency shall monitor school district compliance with safety and security requirements, including by annually conducting on-site audits of school districts. The agency may conduct the on-site audits using a cycle of random selection. The on-site audits must be conducted in accordance with criteria developed by the agency in consultation with the Texas School Safety Center.

(b)  The monitoring must include intruder detection audits of each school district to determine whether an intruder could gain unsecured, unauthorized access to a district campus. The agency shall ensure that an intruder detection audit is conducted annually at each school district and that the audit includes an on-site audit of not less than 25 percent of the district's campuses.

(c)  The agency may establish an office of school safety and security within the agency to coordinate the agency's monitoring of school district compliance with safety and security requirements under this section. The head of an office of school safety and security established under this subsection must report directly to the commissioner.

(d)  The agency shall, in coordination with the Texas School Safety Center, provide technical assistance to support implementation of school district multihazard emergency operations plans and safety and security audits and other school district safety and security requirements.

(e)  The agency may use or require the use of third parties to conduct the monitoring required under this section.

(f)  The agency and the Texas School Safety Center may identify, develop, and make available to school districts information to assist districts in the implementation and operation of safety and security requirements, including relevant:

(1)  guidelines;

(2)  techniques;

(3)  blueprints;

(4)  best practices; and

(5)  procedures.

(g)  The agency may require a school district to submit information necessary for the agency to conduct an on-site audit or otherwise monitor school district compliance with safety and security requirements under this section, including:

(1)  notice of an event requiring a district's emergency response; and

(2)  information regarding the district's response and use of emergency operations procedures during an event described by Subdivision (1).

(h)  The agency may review school district records as necessary to ensure compliance with this subchapter and Subchapter G.

(i)  Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements under this section is confidential under Sections 418.177 and 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code.

(j)  The commissioner may adopt rules as necessary to administer this section.

Sec. 37.1085.  ACTIONS BASED ON NONCOMPLIANCE WITH SAFETY AND SECURITY REQUIREMENTS. (a) For purposes of this section, the commissioner may determine that a school district or a campus of the district is noncompliant with the safety and security requirements under Section 37.1084 if the district fails to:

(1)  submit to the required monitoring under that section;

(2)  comply with applicable safety and security requirements; or

(3)  address in a reasonable time period, as determined by commissioner rule, issues raised by the agency's monitoring of the district under that section.

(b)  A student enrolled in a school district determined to be noncompliant under Subsection (a) is eligible to receive a public education grant to attend a school in a district other than the district in which the student resides as provided by Subchapter G, Chapter 29.

(c)  If the superintendent or an administrator of a school district is terminated by the board of trustees of the district as a result of a determination that the district was noncompliant under Subsection (a), the board may not make a severance payment of any amount to the superintendent or administrator.

(d)  Notwithstanding any other law, a school district that is determined to be noncompliant under Subsection (a) is, from the date of the determination until the date the commissioner determines that the district is compliant, ineligible to receive money under any grant program administered by the agency other than money awarded for purposes of improving school safety and security in the district.

(e)  The commissioner may adopt rules as necessary to implement this section.

SECTION 10.  Sections 37.2071(b), (c), (d), (f), (g), and (h), Education Code, are amended to read as follows:

(b)  A school district or public junior college district shall submit its multihazard emergency operations plan to the center:

(1)  not later than the 30th day after the date [~~on request of~~] the center requests the submission; and

(2)  in accordance with the center's review cycle developed under Subsection (a).

(c)  The center shall review each district's multihazard emergency operations plan submitted under Subsection (b) and:

(1)  verify the plan meets the requirements of Section 37.108; or

(2)  provide the district with written notice:

(A)  describing the plan's deficiencies; [~~and~~]

(B)  including specific recommendations to correct the deficiencies; and

(C)  stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the center.

(d)  If a district fails to submit its multihazard emergency operations plan to the center for review following a notification by the center that the district has failed to submit the district's plan, the center shall provide the district with written notice stating that the district must hold a public hearing under Section 37.1081[~~:~~

[~~(1)  has failed to submit a plan; and~~

[~~(2)  must submit a plan to the center for review and verification~~].

(f)  If one month [~~three months~~] after the date of initial notification of a plan's deficiencies under Subsection (c)(2) [~~or failure to submit a plan under Subsection (d)~~] a district has not corrected the plan deficiencies [~~or has failed to submit a plan~~], the center shall provide written notice to the district and agency that the district has not complied with the requirements of this section and must comply immediately.

(g)  If a school district still has not corrected the plan deficiencies three [~~or has failed to submit a plan six~~] months after the date of initial notification under Subsection (c)(2) [~~or (d)~~], the center shall provide written notice to the school district stating that the district must hold a public hearing under Section 37.1081.

(h)  If a school district has failed to submit a plan, the notice required by Subsection (d) [~~(g)~~] must state that the commissioner is authorized to appoint a conservator under Section 37.1082.

SECTION 11.  Section 37.2091, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  A school district must confirm that a person is included in the registry established under Subsection (b) before the district may engage the person to provide school safety or security consulting services to the district.

SECTION 12.  Subchapter G, Chapter 37, Education Code, is amended by adding Section 37.221 to read as follows:

Sec. 37.221.  FACILITIES STANDARDS REVIEW. (a) At least once every five years, the center shall review the building standards for instructional facilities adopted under Section 7.061 and make recommendations to the commissioner regarding any changes necessary to ensure that the building standards reflect best practices for student safety.

(b)  The commissioner shall coordinate with municipalities and counties as necessary to align building code requirements with building standards recommended under Subsection (a) for purposes of ensuring compliance with those standards.

SECTION 13.  Subchapter E, Chapter 45, Education Code, is amended by adding Section 45.1011 to read as follows:

Sec. 45.1011.  USE OF BOND PROCEEDS FOR SCHOOL SAFETY COMPLIANCE. (a) The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings may be used to pay the costs associated with complying with school safety and security requirements for school facilities.

(b)  This subsection applies to a school district that is determined by the agency, through the agency's monitoring of safety and security requirements under Section 37.1084, to not be in compliance with those requirements. Notwithstanding any other law, a school district to which this subsection applies must use the proceeds of bonds described by Subsection (a) to achieve compliance with applicable safety and security requirements before the district may use those proceeds for any other authorized purpose.

SECTION 14.  Section 48.115, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2) to read as follows:

(a)  A [~~From funds appropriated for that purpose, the commissioner shall provide to a~~] school district is entitled to an annual allotment equal to the sum of the following amounts or a greater [~~in the~~] amount provided by appropriation:

(1)  $10 for each student in average daily attendance, plus $1 for each student in average daily attendance per every $50 by which the district's maximum basic allotment under Section 48.051 exceeds $6,160, prorated as necessary; and

(2)  $15,000 per campus.

(b)  Funds allocated under this section must be used to improve school safety and security, including costs associated with:

(1)  securing school facilities, including:

(A)  improvements to school infrastructure;

(B)  the use or installation of physical barriers; and

(C)  the purchase and maintenance of:

(i)  security cameras or other security equipment; and

(ii)  technology, including communications systems or devices, that facilitates communication and information sharing between students, school personnel, and first responders in an emergency;

(2)  providing security for the district, including:

(A)  employing school district peace officers, private security officers, [~~and~~] school marshals, and other persons authorized by the board of trustees of the district and permitted by law to carry a weapon on school campus grounds; and

(B)  collaborating with local law enforcement agencies, such as entering into a memorandum of understanding for the assignment of school resource officers to schools in the district;

(3)  school safety and security measures [~~training and planning~~], including:

(A)  active shooter and emergency response training;

(B)  prevention and treatment programs relating to addressing adverse childhood experiences; and

(C)  the prevention, identification, and management of emergencies and threats, using evidence-based, effective prevention practices and including:

(i)  providing licensed counselors, social workers, and individuals trained in restorative discipline and restorative justice practices;

(ii)  providing mental health personnel and support;

(iii)  providing behavioral health services;

(iv)  establishing threat reporting systems; and

(v)  developing and implementing programs focused on restorative justice practices, culturally relevant instruction, and providing mental health support; [~~and~~]

(4)  providing programs related to suicide prevention, intervention, and postvention; and

(5)  employing a school safety director and other personnel to manage and monitor school safety initiatives and the implementation of school safety requirements for the district.

(b-1)  The agency and Texas School Safety Center shall coordinate to designate certain technologies that a school district, in using funds allocated under this section, may purchase only from a vendor approved by the agency and center. A school district may not use funds allocated under this section to purchase a technology designated under this subsection from a vendor not approved by the agency and center.

(b-2)  If the agency, in coordination with the Texas School Safety Center, determines that entering into a statewide contract with a vendor for the provision of a technology designated under Subsection (b-1) would result in cost savings to school districts, the agency may, after receiving approval from the Legislative Budget Board and office of the governor, enter into a contract with a vendor to provide the technology to each district that uses funds allocated under this section to purchase that technology.

SECTION 15.  Subchapter B, Chapter 85, Local Government Code, is amended by adding Section 85.024 to read as follows:

Sec. 85.024.  SCHOOL SAFETY MEETINGS. (a) The sheriff of a county with a total population of less than 350,000 in which a public school is located shall call and conduct semiannual meetings to discuss:

(1)  school safety;

(2)  coordinated law enforcement response to school violence incidents;

(3)  law enforcement agency capabilities;

(4)  available resources;

(5)  emergency radio interoperability;

(6)  chain of command planning; and

(7)  other related subjects proposed by a person in attendance at the meeting.

(b)  The following persons shall attend a meeting called under Subsection (a):

(1)  the sheriff or the sheriff's designee;

(2)  the police chief of a municipal police department in the county or the police chief's designee;

(3)  each elected constable in the county or the constable's designees;

(4)  each police chief of a school district's police department or school district security coordinator from each school district located in the county;

(5)  a representative of the Department of Public Safety assigned to the county;

(6)  a representative of each other state agency with commissioned peace officers assigned to the county;

(7)  a person appointed to a command staff position at an emergency medical service in the county;

(8)  a person appointed to a command staff position at a municipal emergency medical service in the county;

(9)  a person appointed to a command staff position at a fire department in the county;

(10)  the superintendent or the superintendent's designee of each school district located in the county; and

(11)  any other person the sheriff considers appropriate.

(c)  The sheriff shall invite any federal law enforcement official serving in the county to attend the meeting.

(d)  As soon as practicable after a meeting under Subsection (a), the sheriff shall submit a report to the Texas School Safety Center identifying the attendees of the meeting and the subjects discussed. The Texas School Safety Center shall maintain the report and make it publicly available on the center's Internet website. The center may not make publicly available and shall redact any parts of a report that the center determines may expose a safety vulnerability of a school district facility.

SECTION 16.  To the extent of any conflict, this Act prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 17.  Sections 7.028 and 29.202, Education Code, as amended by this Act, and Chapter 37, Education Code, as amended by this Act, apply beginning with the 2023-2024 school year.

SECTION 18.  Section 37.1085(c), Education Code, as added by this Act, applies only to a superintendent, administrator serving as educational leader and chief executive officer of a school district or open-enrollment charter school, or other administrator of the district or school employed under a contract entered into on or after the effective date of this Act.

SECTION 19.  Section 45.1011, Education Code, as added by this Act, applies only to a bond authorized to be issued at an election held on or after the effective date of this Act.

SECTION 20.  (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

(b)  Section 48.115, Education Code, as amended by this Act, takes effect September 1, 2023.