**BILL ANALYSIS**

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| Senate Research Center | S.B. 1962 |
| 89R12838 AMF-F | By: Bettencourt et al. |
|  | Education K-16 |
|  | 3/29/2025 |
|  | As Filed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In spite of law requiring them, no A-F ratings were issued for the 2022–2023 and 2023–2024 school years. Roughly 100 ISDs filed suit in 2023 to seek an injunction preventing the ratings from being issued, using taxpayer money to do so. Roughly 30 ISDs filed suit in 2024. Legal delays have meant that, even though these ISDs have not received a final ruling on this case, they have prevented A-F ratings from being issued for more than a full year. The net result is that parents do not have access to information about how their schools perform, and districts are not consistently implementing school improvement plans.

S.B. 1962 seeks to Address Litigation Weaknesses and Strengthen A-F by:

* Insulation from lawfare:
  + Removes grounds for challenging ratings.
  + Prohibits school districts from using taxpayer funds to legally challenge state actions except for rule challenges or places where explicitly authorized.
  + Requires school systems to put legal fees into escrow, rather than paying them to an attorney during the case, in the event of an ultra vires claim against the state.
  + Clarifies that administrative appeals filed to the commissioner of education (commissioner) by staff and parents aggrieved by district practices can be appealed to Travis county district court.
  + Explicitly expands the existing Government Code provision that provides for a three-judge panel at the district court level for school finance lawsuits to also include accountability lawsuits.
* Structural changes to improve clarity of A-F rule requirements:
  + Plain language requirement for commissioner to assign an A-F accountability ratings and distinction designations each school year.
  + Plain language requirement that commissioner continue interventions if a campus receives a not rated rating for any reason.
  + Extends August 15 A-F deadline to issue ratings in years when standards are recalibrated, or a new assessment implemented.
* Changes to establish clear, high expectations in A-F indicators:
  + Requires the commissioner to refresh the A-F cut scores and indicators every five years.
  + Expands military readiness indicator by including not just students who enlist but also students who both pass the ASVAB and also successfully complete JROTC.
  + Requires that college, career, and military readiness indicators are studied and weighted based on a correlation with post-secondary.
  + Allows the commissioner to exclude invalid and unreliable indicators in the accountability system.
* Establishes a grant program to assist school districts in developing local accountability systems.
* Addresses problems of local leadership embracing low expectations when they support attacks on accountability.

As proposed, S.B. 1962 amends current law relating to public school accountability and actions and other proceedings challenging the operations of the public school system.

**RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 7 (Section 39.054, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 12 (Section 39.231, Education Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 7.057(d), Education Code, to authorize a person aggrieved by an action of the Texas Education Agency (TEA) or decision of the commissioner of education (commissioner) under Section 7.057 (Appeals) to appeal to a district court in Travis County.

SECTION 2. Amends Section 11.182(b), Education Code, to authorize a board of trustees to determine whether to use the evaluation tool, except as required by Section 39A.002 (Authorized Commissioner Actions), rather than Section 39.102(a) (relating to requiring the commissioner to take certain actions to the extent the commissioner deems necessary if a school district does not satisfy certain criteria).

SECTION 3. Amends Section 39.023(a-11), Education Code, as follows:

(a-11) Requires that an assessment instrument adopted or developed under Subsection (a) (relating to requiring TEA to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science), before the instrument is authorized to be administered under that subsection, on the basis of empirical evidence, be determined to be valid and reliable by the advisory committees established under Section 39.02302 (Advisory Committees for Assessment Instruments) or an entity that is, as determined by the commissioner, independent of TEA and of any other entity that developed the assessment instrument.

SECTION 4. Transfers Section 39.054(b-1), Education Code, to Section 39.052, Education Code, and redesignates it as Section 39.052(b-1), Education Code, and amends it to provide that consideration of the effectiveness of district programs under Subsection (b)(2)(B) (relating to authorizing the commissioner, in determining accreditation status, to evaluate and consider the effectiveness of a school district's programs for special populations) or (C) (relating to authorizing the commissioner, in determining a school accreditation status, to evaluate and consider the effectiveness of the district's career and technology program), rather than Section 39.052(b)(2)(B), has certain criteria.

SECTION 5. Amends Section 39.053, Education Code, by amending Subsections (a), (c), and (f) and adding Subsections (c-4), (f-1), (f-2), (f-3), and (f-4), as follows:

(a) Requires the commissioner to periodically review the indicators for the consideration of appropriate revisions and authorizes the commissioner, if the commissioner determines an indicator otherwise required under Subchapter C (Accreditation) is not valid or reliable, to exclude the indicator from the set of indicators adopted under Section 39.053 (Performance Indicators: Achievement).

(c) Requires that school districts and campuses be evaluated based on three domains of indicators of achievement adopted under this section that include a student achievement domain, school progress domain, and closing the gap domain that all include certain criteria.

(c-4) Requires TEA to study the college, career, and military readiness indicators adopted under Subsection (c) to determine the correlation of each indicator with postsecondary success, including the correlation of industry certifications with wages and available jobs. Requires that the value assigned to each indicator be based on the strength of the indicator's correlation with successful outcomes and updated in accordance with Subsection (f-1).

(f) Provides that the commissioner is required annually to define and authorized to modify the state standards for each indicator adopted under this subchapter, rather than define the state standard for the current school year for each achievement indicator adopted under this section, in consultation with educators, parents, and business and industry representatives, as necessary. Requires the commissioner to increase the rigor by which the commissioner determines the overall performance ratings under Section 39.054(a) (relating to requiring the commissioner to adopt rules to evaluate school district and campus performance and assign each district and campus overall performance ratings), rather than establish and modify standards, to continuously improve student performance to, not later than the 15th year after the date the commissioner modifies the performance standards under Subsection (f-1), achieve the goals of:

(1) creates this subdivision from existing text and makes a nonsubstantive change; and

(2) ensuring this state ranks nationally in the top five states, rather than is a national leader, in preparing students for postsecondary success and on the National Assessment of Educational Progress or its successor assessment. Makes a nonsubstantive change.

(f-1) Requires the commissioner, beginning with the indicators adopted for the 2027–2028 school year and as required to meet the goals under Subsection (f), to increase the scores needed to achieve performance standards on indicators adopted under this subchapter only every fifth school year unless an indicator adopted under Subsection (c) requires adjustment before that school year to ensure consistency of performance standards.

(f-2) Requires the commissioner, to the extent practicable, for each of the two school years preceding a school year the commissioner increases a score under Subsection (f-1), to report, in a manner that can be reviewed by school administrators, the overall performance of school districts and campuses under that increased score.

(f-3) Requires the commissioner, in reporting the performance of school districts and campuses on indicators adopted under this subchapter for a school year in which the score needed to achieve performance standards on one or more of those indicators was increased under Subsection (f-1), to include in the report an informational report on the performance of districts and campuses during the preceding school year under the increased score.

(f-4) Authorizes the commissioner, notwithstanding Subsection (f), to define state standards for an indicator adopted under this subchapter for multiple school years provided that the commissioner annually affirms that those standards are applicable to the current school year. Provides that the commissioner is not required to adopt the affirmation described by this subsection by rule.

SECTION 6. Amends Subchapter C, Chapter 39, Education Code, by adding Section 39.0531, as follows:

Sec. 39.0531. INDUSTRY CERTIFICATION LIST. (a) Requires TEA to maintain a list of industry certifications that are eligible for purposes of Section 39.053(c)(1)(B)(v) (relating to requiring that school districts be evaluated based on certain domains of indicators of achievement that include indicators that account for students who earn industry certifications). Requires TEA, in developing the list, to consider the inventory of industry-recognized certifications developed under Section 312.003, Labor Code. Requires that the certifications be aligned to a program of study that, according to labor market data, prepares students for high-wage, high-skill, in-demand occupations; allow students to demonstrate mastery of the skills required for occupations within an approved program of study; and be obtained through an assessment of the knowledge and skills provided by or determined by an independent, third-party certifying entity using predetermined standards for knowledge, skills, and competencies.

(b) Requires TEA to review the eligibility of industry certifications under Subsection (a), including whether the programs of study for those certifications still meet the requirements under that subsection in consultation with the advisory council established under Chapter 312 (Industry-Based Certification Advisory Council), Labor Code, and to the extent practicable, concurrently with the modification of performance standards under Section 39.053(f-1).

(c) Requires TEA, if, after reviewing an industry certification under Subsection (b), TEA determines the certification is no longer eligible for purposes of Section 39.053(c)(1)(B)(v) and should be removed from the list maintained under Subsection (a), to the extent practicable, to post on TEA's Internet website information regarding the removal of the certification not later than two years before the date TEA intends to remove the certification from the list.

(d) Authorizes a school district, during the three years following TEA's determination under Subsection (c) that an industry certification is no longer eligible for purposes of Section 39.053(c)(1)(B)(v), to receive the benefit of achievement indicators based on that industry certification for purposes of Section 39.053(c) only for a cohort of students who were participating in the program of study aligned with that certification during the school year TEA determines the certification is no longer eligible and earn the certification within the three-year period.

SECTION 7. Amends Section 39.054, Education Code, by amending Subsections (a), (a-3), (a-4), (a-5), and (b) and adding Subsections (a-6), (c), and (d), as follows:

(a) Requires the commissioner, except as provided by Subsection (a-4), to adopt rules to evaluate school district and campus performance and, each school year, assign each district and campus an overall performance rating of A, B, C, D, or F. Makes a conforming change.

(a-3) Creates an exception under Subsection (c).

(a-4) Creates an exception under Subsection (a-6).

(a-5) Requires that any interventions or sanctions to which a school district or campus is subject under Chapter 39A (Accountability Interventions and Sanctions) continue during a period in which the district or campus is assigned an overall performance rating of "Not Rated."

(a-6) Prohibits the commissioner from assigning an overall performance rating of "Not Rated" to all school districts or all campuses on a statewide basis.

(b) Requires the commissioner, for purposes of assigning school districts and campuses an overall and a domain performance rating under Subsection (a), to the extent practicable, to ensure that the method used to evaluate performance is implemented in a manner that provides the mathematical possibility that all districts and campuses receive an A rating.

(c) Requires the commissioner to make the information under Subsection (a-3) available as soon as reasonably possible in years in which the standards are modified or recalibrated or in which a new assessment instrument is offered.

(d) Provides that failure to assign a performance rating to a school district or campus before the deadline provided by Subsection (a-3) does not invalidate the performance rating assigned to the district or campus or any resulting intervention or sanction imposed on the district or campus.

SECTION 8. Amends Section 39.0541, Education Code, by authorizing the commissioner to adopt indicators and standards under this subchapter at any time, rather than during a school year, before issuing the evaluation of a school district or campus.

SECTION 9. Amends Section 39.0542, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Makes conforming changes to this subsection.

(d) Provides that failure to provide the document described by Subsection (a) (relating to requiring the commissioner to provide each school district a document that explains the measures, methods, and procedures that will be applied in assigning a performance rating) does not prevent the assignment of performance ratings under Section 39.054 and is prohibited from being the basis of a challenge to a performance rating assigned under that section.

SECTION 10. Amends Section 39.151(e), Education Code, as follows:

(e) Prohibits a school district or open-enrollment charter school from challenging on any basis, including a lack of commissioner or TEA authority, a TEA decision relating to an academic or financial accountability rating under Chapter 39 (Public School System Accountability), including a decision relating to a determination of consecutive school years of unacceptable performance ratings, in another proceeding unless the district or school has exhausted the district's or school's remedies, rather than had an opportunity to challenge the decision, under Section 39.151 (Review by Commissioner; Accountability Determination). Makes a nonsubstantive change.

SECTION 11. Amends Section 39.201(a), Education Code, as follows:

(a) Requires the commissioner to award distinction designations for outstanding performance as provided by Subchapter G (Distinction Designations) concurrently with the assignment of performance ratings under Section 39.054, rather than not later than August 8 of each year. Requires that a distinction designation awarded to a district or campus under this subchapter be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the performance ratings as provided by rules adopted under Section 39.054, rather than Section 39.054(a).

SECTION 12. Amends Subchapter H, Chapter 39, Education Code, by adding Section 39.231, as follows:

Sec. 39.231. LOCAL ACCOUNTABILITY GRANT PROGRAM. (a) Requires TEA, from money appropriated or otherwise available for the purpose, to establish a grant program with capacity to assist at least one school district per education service center region in developing a local accountability system that complies with the requirements of Section 39.0544 (Local Accountability System).

SECTION 13. Amends Section 39A.001, Education Code, as follows:

Sec. 39A.001. GROUNDS FOR COMMISSIONER ACTION. Requires the commissioner to take any of the actions authorized by Subchapter A (Interventions and Sanctions for School Districts) to the extent the commissioner determines necessary if:

(1)-(2) makes nonsubstantive changes to these subsections; or

(3) a school district initiates or maintains an action or proceeding against the state or an agency or officer of the state.

SECTION 14. Amends Subchapter A, Chapter 39A, Education Code, by adding Section 39A.008, as follows:

Sec. 39A.008. INTERVENTION RELATED TO SCHOOL DISTRICT OR OPEN-ENROLLMENT CHARTER SCHOOL ACTION OR PROCEEDING AGAINST STATE. (a) Provides that this section applies to a school district or open-enrollment charter school subject to commissioner action under Section 39A.001(3).

(b) Requires the commissioner to appoint a conservator to a school district or open-enrollment charter school to which this section applies.

(c) Requires the conservator appointed under Subsection (b) to require the school district or open-enrollment charter school to demonstrate, by a deadline established by the conservator, that the district or school is in compliance with Sections 45.105(c-1) and 45.1051. Requires the conservator, if the conservator determines that the district or school is not in compliance with those sections, to order the district or school to, as applicable, withdraw from the action or proceeding or take the necessary actions to come into compliance with Section 45.1051.

(d) Authorizes the commissioner, if a school district or open-enrollment charter school fails to comply with an order by the conservator by the deadline established by the conservator, to, for a school district, appoint a board of managers to oversee the operations of the district or, for an open-enrollment charter school, order reconstitution of the school's governing board.

(e) Provides that an action taken or decision made by the commissioner or a conservator under this section is final and not subject to appeal under Section 7.057, Chapter 39, or this chapter.

SECTION 15. Amends Subchapter Z, Chapter 39A, Education Code, by adding Sections 39A.908 and 39A.909, as follows:

Sec. 39A.908. INTERVENTIONS AND SANCTIONS WHILE ASSIGNMENT OF PERFORMANCE RATINGS ENJOINED. (a) Requires that any previously imposed interventions or sanctions to which a school district, open-enrollment charter school, or district or school campus is subject, notwithstanding any other law, during a period in which TEA is enjoined from assigning performance ratings to the district, school, or campus, to continue throughout that period.

(b) Requires TEA, as soon as practicable after the dissolution of an injunction described by Subsection (a), to:

(1) assign performance ratings for each school year and to each school district, open-enrollment charter school, and district or school campus for which TEA was enjoined from assigning performance ratings; and

(2) as applicable, impose any appropriate interventions or sanctions authorized under this chapter based on the ratings assigned under Subdivision (1).

(c) Requires TEA, notwithstanding any other law, if TEA is permanently enjoined from assigning performance ratings to a school district, open-enrollment charter school, or district or school campus for a school year, to consider the district, school, or campus to have received a "Not Rated" rating for that school year for purposes of:

(1) calculating consecutive years of performance; and

(2) determining whether to impose an intervention or sanction authorized under this chapter.

(d) Authorizes TEA, to ensure the expeditious implementation of interventions or sanctions under this chapter, to modify or waive a deadline or time frame required by law or TEA rule applicable to the assignment of performance ratings for a school year for which TEA was enjoined from assigning performance ratings.

(e) Requires TEA, except as provided by Subsection (f) and Section 39A.909, to impose an intervention or sanction described by Subsection (b)(2) or (c)(2) as required by law unless the intervention or sanction, as determined by the commissioner, has been superseded by a subsequent intervention or sanction or is authorized to be removed based on the subsequent performance of a school district, open-enrollment charter school, or district or school campus.

(f) Requires the commissioner to impose an intervention described by certain provisions of the Education Code, as applicable, on a school district, open-enrollment charter school, or district or school campus if the district, school, or campus would have been subject to commissioner action under the applicable section based on the performance rating of the district, school, or campus for a school year for which TEA was enjoined from assigning performance ratings, regardless of the performance of the district, school, or campus in a subsequent school year.

(g) Requires the commissioner to revoke a charter holder's charter for an open-enrollment charter school for which the charter holder received a charter renewal based on the absence of a performance rating for a school year for which TEA was enjoined from assigning a performance rating if, after the assignment of performance ratings for that year, the charter would not have been renewed under Section 12.1141(d) (relating to prohibiting the commissioner from renewing the charter for an open-enrollment charter school if certain conditions are met), regardless of the performance of the school in a subsequent school year.

Sec. 39A.909. INTERVENTIONS OR SANCTIONS RELATED TO 2022-2023 OR 2023-2024 SCHOOL YEAR PERFORMANCE RATINGS. (a) Requires the commissioner to appoint a board of managers to govern a school district or open-enrollment charter school as provided by Section 39A.202 (Board of Managers of School District) if the district or school:

(1) brought or joined an action or proceeding to prevent the implementation of the public school accountability system under Chapter 39 for the 2022–2023 or 2023–2024 school year; and

(2) includes a campus that, based on the campus's performance rating for the school year in which the district or school brought or joined the action or proceeding described by Subdivision (1), would have been subject to commissioner action under Section 39A.111 (Continued Unacceptable Performance Rating).

(b) Requires the commissioner, notwithstanding any other law, to impose an intervention described by Section 39A.107(c) (relating to requiring the commissioner, if they do not approve a campus turnaround plan, to order certain actions) on a school district or open-enrollment charter school if the district or school:

(1) brought or joined an action or proceeding to prevent the implementation of the public school accountability system under Chapter 39 for the 2022–2023 or 2023–2024 school year; and

(2) includes a campus that, based on the campus's performance rating for the school year in which the district or school brought or joined the action or proceeding described by Subdivision (1), would have constituted the second, third, or fourth consecutive year of unacceptable performance.

(c) Requires the commissioner to impose an intervention described by certain provisions of the Education Code, as applicable, on a school district, open-enrollment charter school, or district or school campus if the district, school, or campus would have been subject to commissioner action under the applicable section based on the performance rating of the district, school, or campus for the 2022–2023 or 2023–2024 school year, regardless of the performance of the district, school, or campus in a subsequent school year.

(d) Requires the commissioner to revoke a charter holder's charter for an open-enrollment charter school for which the charter holder received a charter renewal based on the absence of a performance rating for the 2022–2023 or 2023–2024 school year if, after the assignment of performance ratings for those years, the charter would not have been renewed under Section 12.1141(d), regardless of the performance of the school in a subsequent school year.

SECTION 16. Amends Section 45.105(c-1), Education Code, as follows:

(c-1) Prohibits the use of federal, state, or local funding, including funding under certain chapters of the Education Code, notwithstanding any other law, to initiate or maintain any action or proceeding against the state or an agency or officer of the state, including an action or proceeding that includes a claim of ultra vires conduct, except that funds may be used for an action or proceeding that is specifically authorized by a provision of this code or by Section 2001.038 (Declaratory Judgment), Government Code.

Deletes existing text prohibiting funds described by Subsection (c) (relating to authorizing certain funds and fees from being used for certain purposes necessary in the conduct of public schools) from being used to initiate or maintain any action or proceeding against the state or an agency or officer of the state arising out of a decision, order, or determination that is final and unappealable under a provision of this code or a rule adopted under this code and that results in a final and unappealable decision, order, or determination.

SECTION 17. Amends Subchapter E, Chapter 45, Education Code, by adding Section 45.1051, as follows:

Sec. 45.1051. LIMITATION ON ATTORNEY PAYMENTS FOR CERTAIN ACTIONS. (a) Requires a school district or open-enrollment charter school, if the school district or school brings an action against TEA, the State Board of Education, or the State Board for Educator Certification or an agent or officer of those entities that alleges ultra vires conduct by the entity or an agent or officer of the entity, to deposit all payments relating to the action made to the district's or school's attorney in an escrow account. Authorizes the district or school to use money deposited in the escrow account to pay the district's or school's attorney only after a final judgment is rendered and all appeals are fully resolved, and if the district or school prevails in the action.

(b) Requires a school district or open-enrollment charter school to provide money deposited in an escrow account under this section that is prohibited from being paid to the district's or school's attorney under Subsection (a) after the rendering of a final judgment and the resolution of all appeals to the state for deposit in the foundation school fund.

(c) Prohibits this section from being interpreted to authorize an action not otherwise authorized by law.

SECTION 18. Amends Section 22A.001(a), Government Code, as follows:

(a) Authorizes the attorney general to petition the chief justice of the supreme court to convene a special three-judge district court in any suit filed in a district court in this state in which this state or a state officer or agency is a defendant in a claim that performs certain actions, including challenging the finances or operations of this state's public school system, including challenges to the implementation of the public school accountability system under Chapter 39, Education Code.

SECTION 19. Amends the heading to Section 312.003, Labor Code, to read as follows:

Sec. 312.003. INVENTORY OF CERTIFICATIONS.

SECTION 20. Amends Sections 312.003(a), (b), (c), and (d), Labor Code, as follows:

(a) Requires the industry-based certification advisory council (advisory council) to develop an inventory of industry-recognized certifications, rather than credentials and certificates, that are authorized to be earned by a public high school student through a career and technology education program and that:

(1)-(2) makes nonsubstantive changes to these subdivisions; and

(3) meet the requirements of Section 39.0531(a), Education Code.

(b) Makes conforming changes to this subsection.

(c) Authorizes the advisory council, in developing the inventory, to consult with local workforce boards, the Texas Workforce Investment Council, the Texas Economic Development and Tourism Office, TEA, and the Texas Higher Education Coordinating Board.

(d) Makes a conforming change to this subsection.

SECTION 21. Repealer: Section 15, Chapter 925 (S.B. 1566), Acts of the 85th Legislature, Regular Session, 2017.

SECTION 22. Provides that the changes in law made by Sections 39.023(a-11), 39.053(a), 39.054, 39.0541 (Adoption of Indicators and Standards), and 39.0542 (Explanatory Materials for Accountability Rating System), Education Code, as amended by this Act, apply to an action or determination related to public school accountability and accountability ratings beginning with the 2022–2023 school year, regardless of whether the action or determination occurred before, on, or after the effective date of this Act.

SECTION 23. Provides that the changes in law made by Section 39.053, Education Code, as amended by this Act, and Section 39.0531, Education Code, as added by this Act, apply to accountability ratings beginning with the 2027–2028 school year.

SECTION 24. Effective date: upon passage or September 1, 2025.