

## **BILL ANALYSIS**

Senate Research Center

S.B. 2392  
By: Shapiro, Ogden  
Education  
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As Filed

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

The current school finance system, which established target revenue for every school district, was passed after several special sessions to satisfy a court ruling that districts must have discretion in setting their tax rates. Some criticize target revenue as a static funding system that was passed as an intermediate step to a restructured school finance formula. Proponents desire a system that improves equitable access to funding while reducing the impact of recapture. Regardless of whether a district is considered wealthy or poor or has a high target revenue or low, all districts face financial pressures. Any solution must help address the financial pressures faced by all districts.

This bill would initiate revisions of the school finance system by creating a single-tier funding mechanism for the first 100 pennies, sunsetting student and district adjustments to ensure that the legislature revisits the formulas next session, increasing by two the number of golden pennies to which districts have access, and providing an indeterminate minimum increase for every district in terms of ADA funding.

As proposed, S.B. 2392 amends current law relating to public school finance.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education (commissioner) in SECTION 1.15 (Section 42.160, Education Code) and SECTION 1.16 (Section 42.2516, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is rescinded in SECTION 1.16 (Section 42.2516, Education Code) and SECTION 3.01 (Sections 42.2512 and 42.2514, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 2.01 (Section 21.402, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1.01. Amends Section 41.002(a), Education Code, as follows:

(a) Prohibits a school district (district) from having a wealth per student that exceeds:

(1) \$\_\_\_\_, rather than a wealth per student, that exceeds the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district at the 88th percentile in wealth per student, for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516 (Additional State Aid For Tax Reduction), multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District (A.I.S.D.), as determined by the commissioner of education (commissioner) in cooperation with the Legislative Budget Board (LBB), for the first eight cents, rather than six cents, by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression

percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first eight cents, rather than six cents, by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 1.02. Amends Section 41.093(b-1), Education Code, as follows:

(b-1) Requires the commissioner, in computing the amounts described by Subsections (a)(1) (relating to the cost of each credit is an amount equal to the greater of the district's maintenance and operation tax revenue per student) and (2) (relating to the cost of each credit is an amount equal to the greater of the amount of the statewide district average of maintenance and operations tax revenue per student) and determining the cost of an attendance credit, if the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302(a-1)(1), rather than Section 42.302(a-1)(2), for which state funds are appropriated for a school year is an amount at least equal to the amount of revenue per weighted student per cent of tax effort available to A.I.S.D., as determined by the commissioner in cooperation with LBB, to exclude maintenance and operations tax revenue resulting from the first eight cents, rather than six cents, by which a district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 1.03. Amends Subchapter A, Chapter 42, Education Code, by adding Section 42.008, as follows:

Sec. 42.008. LIMITATION ON REVENUE INCREASES. (a) Provides that notwithstanding any other provision of this title, a school district is not entitled in any school year to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than \_\_\_\_ percent the amount of state and local maintenance and operations revenue per student in weighted average daily attendance received by the district during the preceding school year.

(a-1) Provides that Subsection (a) applies beginning with the 2010-2011 school year. Provides that for the 2009-2010 school year, a school district is not entitled to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than \_\_\_\_ percent the amount of state and local maintenance and operations revenue per student in weighted average daily attendance that the district would have received during that year under Chapter 41 (Equalized Wealth Level) and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year. Provides that this subsection expires September 1, 2010.

(b) Provides that enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the limitation imposed by this section.

(c) Requires the commissioner to make adjustments to amounts due to a school district under this chapter or amounts required for a district to comply with Chapter 41 as necessary to comply with the limitation imposed by this section.

(d) Provides that a determination by the commissioner under this section is final and is prohibited from being appealed.

SECTION 1.04. Amends Section 42.101, Education Code, as follows:

Sec. 42.101. BASIC ALLOTMENT. (a) Creates this subsection from existing text. Entitles a school district, for each student in average daily attendance in the regular program, to an allotment equal to the lesser of \$\_\_\_\_\_ or the amount that results from a certain formula. Deletes existing text entitling a district, for each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C (Special Allotments), to an allotment in an amount equal to the product of the amount per student per cent of tax effort available to a district at the percentile in wealth per student specified by Section 42.302(a-1)(1), multiplied by 86.

(b) Entitles a district, for each student in average daily attendance in an educational program for which a special allotment is provided under Subchapter C, to an allotment of \$\_\_\_\_\_.

(c) Provides that except as provided by Subsection (d), a reference in this title to the basic allotment means the amount specified under Subsection (a) or (b), and a reference in this title to the adjusted basic allotment means the amount specified under Subsection (a) or (b), as adjusted in accordance with this subchapter.

(d) Provides that a reference in Subchapter C to the adjusted basic allotment means the amount specified under Subsection (b), as adjusted in accordance with this subchapter.

(e) Authorizes a greater amount than the amount specified under Subsection (a) or (b), rather than a greater amount for any school year, to be provided for any school year by appropriation.

SECTION 1.05. Amends Section 42.102, Education Code, by adding Subsection (c), to provide that this section expires September 1, 2011.

SECTION 1.06. Amends Section 42.103, Education Code, by adding Subsection (f), to provide that this section expires September 1, 2011.

SECTION 1.07. Amends Section 42.105, Education Code, to provide that this section expires September 1, 2011.

SECTION 1.08. Amends Section 42.151, Education Code, adding Subsection (n), to provide that this section expires September 1, 2011.

SECTION 1.09. Amends Section 42.152, Education Code, by adding Subsection (v), to provide that this section expires September 1, 2011.

SECTION 1.10. Amends Section 42.153, Education Code, by adding Subsection (d), to provide that this section expires September 1, 2011.

SECTION 1.11. Amends Section 42.154, Education Code, by adding Subsection (f), to provide that this section expires September 1, 2011.

SECTION 1.12. Amends Section 42.155, Education Code, by adding Subsection (l), to provide that this section expires September 1, 2011.

SECTION 1.13. Amends Section 42.156, Education Code, by adding Subsection (g), to provide that this section expires September 1, 2011.

SECTION 1.14. Amends Section 42.157, Education Code, by adding Subsection (c), to provide that this section expires September 1, 2011.

SECTION 1.15. Amends Subchapter C, Chapter 42, Education Code, by adding Section 42.160, as follows:

Sec. 42.160. HIGH SCHOOL ALLOTMENT. (a) Entitles a school district to an annual allotment of \$275 for each student in average daily attendance in grades 9 through 12 in the district.

(b) Requires a school district or campus, except as provided by Subsection (c), to use funds allocated under this section to implement or administer certain programs.

(c) Authorizes a school district to use funds allocated under this section on any instructional program in grades 6 through 12 other than an athletic program if the district is recognized as exceptional by the commissioner under the academic accountability indicator adopted under Section 39.051(b)(13) (relating to the requirement that the performance indicators include the measure of progress toward preparation for postsecondary success) and the district's completion rates for grades 9 through 12 meet or exceed completion rate standards required by the commissioner to achieve a rating of exemplary under Section 39.072 (Accreditation Standards).

(d) Entitles an open-enrollment charter school to an allotment under this section in the same manner as a school district.

(e) Requires the commissioner to adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

SECTION 1.16. Amends Section 42.2516, Education Code, as follows:

Sec. 42.2516. ADDITIONAL STATE AID FOR TAX REDUCTION. (a) Makes no changes to this subsection. Deletes existing Subsection (a-1) (relating to the expiration of Subsection (a)). Deletes existing Subsection (b) (relating to entitlement of a district to state revenue necessary to provide the district with the sum of certain amounts). Deletes existing Subsection (b-1) (relating to the amount determined for a district under Subsection (b) being increased or reduced for certain reasons). Deletes existing Subsection (b-2) (relating to the amount determined for a district under Subsection (b) being increased or reduced for certain reasons). Deletes existing Subsection (c) (relating to requiring the commissioner to include certain amounts in determining the amount to which a district is entitled under Subsection (b)(1)). Deletes existing Subsection (d) (relating to requiring the commissioner to reduce the amount of state revenue to which the district is entitled if it enters into an agreement under Subchapter E, Chapter 41, for the 2006-2007 or a subsequent school year). Deletes existing Subsection (e) (relating to not including the amount of revenue to which a district is entitled because of a technology allotment in making a determination under Subsection (b)(1)). Deletes Subsection (f) (relating to requiring the commissioner to use the average tax collection rate for the district for certain tax years for purposes of determining the amount of revenue to which a district is entitled). Deletes existing Subsection (f-1) (relating to requiring the commissioner, in accordance with rules adopted by the commissioner, to adjust the amount of a district's local revenue derived from maintenance and operations tax collections for certain reasons). Deletes existing Subsection (f-2) (relating to requirements of the rules adopted by the commissioner under Subsection (f-1)). Deletes existing Subsection (f-3) (relating to an adjustment made by the commissioner under the rules adopted under Subsection (f-1) being final and prohibited from being repealed). Deletes existing Subsection (g) (relating to requiring the commissioner to reduce the district's entitlement for certain reasons). Deletes existing Subsection (h) (relating to requiring the commissioner to reduce the amount of state aid provided to the district or to require the district to purchase attendance credits for certain reasons). Deletes existing Subsection (i) (relating to authorization of a district that is required to reduce its wealth per student to the equalized wealth level to take certain actions). Deletes Subsection (j) (relating to prohibiting the commissioner from reducing the amount to which the district

is entitled for certain reasons). Deletes existing Subsection (k) (relating to authorizing the commissioner to adopt rules necessary to administer this section). Deletes existing Subsection (l) (relating to a determination by the commissioner under this section being final and prohibited from being appealed).

(b) Entitles a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, notwithstanding any other provision of this title, to at least the amount of state revenue necessary to provide the district with the sum of the amount of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, and an amount equal to the product of \$\_\_\_ multiplied by the number of students in average daily attendance in the district.

(c) Provides that enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the amount to which a district is entitled under this section.

(d) Authorizes a school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section to receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D (Purchase of Attendance Credit), Chapter 41, or the total number of nonresident students required to be educated under Subchapter E (Education of Nonresident Students), Chapter 41, as determined by the commissioner.

(e) Authorizes the commissioner to adopt rules necessary to implement this section.

(f) Provides that a determination by the commissioner under this section is final and is prohibited from being appealed.

SECTION 1.17. Amends Section 42.252(a), Education Code, to provide that the formula for each district's share of the Foundation School Program is  $LFA=TR \times DPV$ , where "TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of the amount equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the lesser of \$1.50 or the maintenance and operations tax rate adopted by the district for the 2005 tax year, rather than "TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of \$0.86.

SECTION 1.18. Amends Section 42.260(a), Education Code, to redefine "participating charter school."

SECTION 1.19. Amends Section 42.302, Education Code, by amending Subsections (a), (a-1), and (a-2) and adding Subsection (g), as follows:

(a) Provides that the amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:  $GVA=(GL \times WADA \times DTR \times 100) - LR$ , where "WADA" is the number of students in weighted average daily attendance, which is determined in the manner provided by Subsection (g), rather than calculated by dividing the sum of the district's allotments under Subchapters B (Basic Entitlement) and C, less any allotment under Section 42.158, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year.

(a-1) Defines "wealth per student." Provides that for purposes of Subsection (a), the dollar amount guaranteed level of state and local funds per weighted student per cent of

tax effort ("GL") for a district is the greater of the amount of district tax revenue per weighted student per cent of tax effort that would be available to the A.I.S.D, as determined by the commissioner in cooperation with LBB, if the reduction of the limitation on tax increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, did not apply, or the amount of district tax revenue per weighted student per cent of tax effort used for purposes of this subdivision in the preceding school year, for the first eight cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, rather than under Section 42.2516 and notwithstanding the limitation on district enrichment tax rate ("DTR") under Section 42.303, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and \$31.95, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (1). Deletes existing Subdivision (1) (relating to the amount of district tax revenue per weighted student per cent of tax effort available to a district at the 88th percentile in wealth per student multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year). Makes conforming and nonsubstantive changes.

(a-2) Makes a conforming change.

(g) Provides that the number of students in weighted average daily attendance is the sum of the quotient resulting from dividing the sum of the school district's allotments under Section 42.101(a), as adjusted in accordance with Subchapter B, except excluding 50 percent of the adjustment under Section 42.102 (Cost of Education Adjustment), by the amount of the allotment under Section 42.101(a), and the quotient resulting from dividing the sum of the school district's allotments under Section 42.101(b) and Subchapter C, less any allotment under Section 42.155 (Transportation Allotment), 42.158 (New Instructional Facility Allotment), or 42.160, adjusted in accordance with Subchapter B, except excluding 50 percent of the adjustment under Section 42.102, by the amount of the allotment under Section 42.101(b).

SECTION 1.20. Amends Section 42.303, Education Code, to prohibit the district enrichment tax rate ("DTR") under Section 42.302 from exceeding the amount per \$100 of valuation by which the maximum rate permitted under Section 45.003 exceeds the rate used to determine the district's local share under Section 42.252 (Local Share of Program Cost (Tier one)), rather than the rate of \$0.86, or a greater amount for any year provided by appropriation.

SECTION 1.21. Amends Section 26.08(n), Tax Code, as follows:

(n) Provides that for purposes of this section, the rollback tax rate of a school district whose maintenance and operations tax rate for the 2005 tax year was \$1.50 or less per \$100 of taxable value is:

(1) for the 2009 tax year, rather than the 2006 tax year, the sum of the rate that is equal to 66.67 percent, rather than 88.67 percent, of the maintenance and operations tax rate adopted by the district for the 2005 tax year; the rate of \$0.06, rather than \$0.04, per \$100 of taxable value; the rate that is equal to the sum of the differences for the 2006 and each subsequent tax year between the adopted tax rate of the district for that year if the rate was approved at an election under this section and the rollback tax rate of the district for that year; and the district's current debt rate; and

(2) for the 2010 and subsequent tax years, rather than the 2007 and subsequent tax years, the lesser of the sum of the rate per \$100 of taxable value that is equal to the product of the state compression percentage, as determined under Section 42.2516, Education Code, for the current year and \$1.50; the rate of \$0.06, rather than \$0.04, per \$100 of taxable value, the rate that is equal to the sum of the differences for the 2006 and each subsequent tax year between the adopted tax rate of the district for that year if the rate was approved at an election under this section and the rollback tax rate of the district for that year, and the district's current debt rate; or the sum of the effective maintenance and operations tax rate

of the district as computed under Subsection (i), rather than Subsection (i) or (k), as applicable, the rate per \$100 of taxable value that is equal to the product of the state compression percentage, as determined under Section 42.2516, Education Code, for the current year and \$0.06, and the district's current debt rate.

## ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 21.402(a), Education Code, as follows:

(a) Requires a school district, except as provided by Subsection (d) (relating to certain employees' entitlement to a salary that is at least equal to the salary the employee received for the 2006-2007 school year), (e) (relating to a minimum monthly salary for a particular level of experience), or (f) (relating to a teacher or librarian who received a career ladder supplement), to pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:  $MS = SF \times FS$ , where "MS" is the minimum monthly salary, "SF" is the applicable salary factor specified by Subsection (c), and "FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student, including funds provided under Section 42.2516, rather than 42.2516(b)(1)(B) (relating to the amount of state and local revenue per student in weighted average daily attendance for the 2006-2007 school year), but not funds provided under Section 42.2516(b)(1)(A) (relating to the amount of state and local revenue per student in weighted average daily attendance for the 2005-2006 school year), (b)(1)(C) (relating to the amount of state and local revenue per student in weighted average daily attendance as it existed on January 1, 2006), (b)(2) (relating to an amount equal to the product of \$2,500), or (b)(3) (relating to an amount equal to the product of \$275), available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per \$100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by \$1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 2.02. Amends Section 29.097(g), Education Code, to provide that for purposes of Subsection (f)(2) (relating to requiring that a grant awarded under this section be matched by certain funds), a district is encouraged to use funds allocated under Section 42.160 (Use of Certain Funds), rather than Section 42.2516(b)(3).

SECTION 2.03. Amends Section 29.098(h), Education Code, to make a conforming change.

SECTION 2.04. Amends Section 29.918(a), Education Code, as follows:

(a) Requires a school district or open-enrollment charter school with a high dropout rate, as determined by the commissioner, notwithstanding Section 42.152 or 42.160, rather than Section 39.114 or 42.152, to submit a plan to the commissioner describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 and the high school allotment under Section 42.160 for developing and implementing research-based strategies for dropout prevention. Makes a conforming change.

SECTION 2.05. Amends Section 29.919(e), Education Code, to make a conforming change.

SECTION 2.06. Amends Section 39.113(a), Education Code, to make conforming changes.

SECTION 2.07. Amends Section 1579.251(a), Insurance Code, to require that the state contribution be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by Section 42.260, rather than Sections 42.2514 and 42.260, Education Code.

SECTION 2.08. Amends Section 1581.053(b), Insurance Code, to make a conforming change.

ARTICLE 3. REPEALER; CONFLICTS; EFFECTIVE DATE

SECTION 3.01. (a) Repealer: Section 39.114 (High School Allotment), Education Code.

Repealers: Sections 42.2511 (Additional State Aid For Homestead Exemption), 42.2512 (Additional State Aid For Professional Staff Salaries), and 42.2514 (Additional State Aid For School Employee Benefits), Education Code.

Repealer: Section 403.302(j) (relating to requiring the comptroller to certify certain values for each school district to the commissioner), Government Code.

Repealer: Subchapter C (State Assistance For Meeting Minimum Effort), Chapter 1581 (Employer Expenditures For School Employee Health Coverage Plans), Insurance Code.

Repealer: Section 2 (relating to definition of "wealth per student"), Chapter 1191 (H.B. 828), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 3.02. Provides that to the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.03. Effective date: September 1, 2009.