

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 933
By: Bettencourt et al.
Education
4/6/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background:

Currently, the commissioner of education (commissioner) lacks explicit statutory authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority. When entities subject to the commissioner's authority commit fraud, waste, or abuse, the commissioner must rely on implicit authority to investigate such misconduct and act on it, which subjects the commissioner's investigations and actions regarding fraud, waste, and abuse to legal challenges in administrative and court proceedings. In addition, the commissioner does not currently have a formally designated Office of the Inspector General (OIG) to investigate on the commissioner's behalf instances of fraud, waste, and abuse by entities subject to the commissioner's regulatory authority.

Purpose:

This bill would modify statute to make explicit the commissioner's authority to investigate and take action regarding instances of fraud, waste, and abuse by school districts, open-enrollment charter schools, regional education service centers, and other entities subject to the commissioner's regulatory authority. In addition, the bill would establish an OIG to carry out investigations of fraud, waste, and abuse on behalf of the commissioner. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 933 amends current law relating to the creation of the office of inspector general at the Texas Education Agency to investigate the administration of public education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 7, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

Sec. 7.151. DEFINITIONS. Defines "fraud" and "office."

Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) Provides that the office of inspector general (office) is established as a division within the Texas Education Agency (TEA).

(b) Requires the commissioner of education (commissioner) to appoint an inspector general to serve as director of the office. Provides that the inspector general serves until removed by the commissioner.

(c) Requires TEA to provide staff and administrative resources and support services as necessary to ensure investigation and reviews authorized by this subchapter are conducted expeditiously.

Sec. 7.153. GENERAL RESPONSIBILITIES. (a) Provides that the office is responsible for the investigation, prevention, and detection of criminal misconduct and wrongdoing and of fraud, waste, and abuse in the administration of public education by TEA, the State Board of Education (SBOE), school districts, open-enrollment charter schools, regional education service centers, and other local education agencies in this state.

(b) Requires the office to investigate allegations of fraud, waste, and abuse and violations of this code or other law.

(c) Authorizes the office to:

(1) conduct criminal, civil, and administrative investigations and initiate reviews of TEA, SBOE, a school district, open-enrollment charter school, regional education service center, or other local education agency as considered appropriate by the inspector general;

(2) receive and investigate complaints from any sources on its own initiative;

(3) conduct special accreditation investigations authorized by the commissioner under Section 39.057(a); and

(4) make findings of fact that TEA, SBOE, a school district, an open-enrollment charter school, a regional education service center, or another local education agency or an employee or agent of the entity committed an act of criminal misconduct, wrongdoing, fraud, waste, or abuse in the administration of public education and take appropriate action as determined by the commissioner, regardless of any time requirement relating to the action under Chapter 8 (Regional Education Service Centers), 12 (Charters), or 39A (Accountability Interventions and Sanctions).

(d) Authorizes the commissioner or chair of any legislative committee to order the office to conduct a forensic audit of any entity over which the office has jurisdiction.

(e) Requires the office to perform all other duties and exercise all other powers granted to the office by this subchapter or another law.

Sec. 7.154. GENERAL POWERS. (a) Provides that the office has all the powers necessary or appropriate to carry out its responsibilities and functions under this subchapter and other law.

(b) Authorizes the office, subject to Subsection (c), in conducting an investigation under this subchapter of TEA, SBOE, the board of trustees of a school district, the governing body of an open-enrollment charter school, the board of directors of a regional education service center, another local education agency, or the executive leadership of any of those entities, to:

(1) attend any meeting or proceeding of TEA, SBOE, the school district, the open-enrollment charter school, the regional education service center, or other local education agency, including a meeting or proceeding that is closed to the public; and

(2) inspect the records, documents, and files of TEA, SBOE, the school district, the open-enrollment charter school, the regional education service

center, or other local education agency, including any record, document, or file that is an attorney-client communication between a member of SBOE, executive leadership of TEA, the board of trustees of a school district, the governing body of an open-enrollment charter school, the board of directors of a regional education service center, or the executive leadership of another local education agency and the attorney of the entity by which the person is employed.

(c) Provides that the office's authority under Subsection (b) applies only to a meeting, a proceeding, or information that is relevant to the discovery of relevant information regarding an allegation of criminal misconduct, wrongdoing, or a violation of this code or of fraud, waste, or abuse in the administration of public education by a person or entity described by Subsection (b). Prohibits the office from inspecting a record, document, or file that is a privileged communication between an individual and the individual's personal attorney.

Sec. 7.155. SUBPOENAS. (a) Authorizes the inspector general to issue a subpoena to compel the attendance of a relevant witness at a hearing or deposition under this subchapter or to compel the production, for inspection or copying, of books, papers, records, documents, or other relevant materials, including electronic data, in connection with an investigation, review, hearing, or deposition conducted under this subchapter.

(b) Authorizes a subpoena to be served personally or by certified mail. Authorizes the inspector general, if a person fails to comply with a subpoena, acting through the Texas attorney general (attorney general), to file suit to enforce the subpoena in a district court in this state.

(c) Requires the court, on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena. Authorizes the court to hold in contempt a person who fails to obey the court order.

Sec. 7.156. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) Authorizes the office to provide information and evidence relating to criminal acts to the Texas State Auditor's Office and appropriate law enforcement officials.

(b) Authorizes the office to refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

SECTION 2. Amends Section 39.057(a), Education Code, as follows:

(a) Authorizes the commissioner to authorize special accreditation investigations to be conducted for certain purposes, including by the office for the purpose of investigating allegations of fraud, waste, and abuse in the administration of public education. Makes nonsubstantive changes to this section.

SECTION 3. Provides that TEA is required to implement a provision of this Act only if the legislature appropriates the money specifically for that purpose. Authorizes, but does not require TEA, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 4. Effective date: upon passage or September 1, 2019.