

## **BILL ANALYSIS**

Senate Research Center  
81R3550 CAE-F

S.B. 982  
By: Van de Putte et al.  
Education  
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As Filed

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

Following the 2006 special session, the state was successful in reducing property tax rates, resulting in an increase in the amount of the state share of funding used for public schools and a corresponding decline in revenue needed from local taxes for school maintenance and operations. But, instead of increasing the funding level per penny of property tax in proportion to the decrease in the number of allowable pennies (and therefore maintain the funding level), the state allowed every school district to fall in to a hold-harmless target revenue, guaranteeing each district a unique "target revenue" per student. In other words, every district receives funding based on their target revenue hold-harmless, rather than through an equalized system based on current costs. This results in an inefficient use of taxpayer funds since funding is not based on the educational costs of the students within a district. Districts will continue to be capped at their target revenue hold-harmless until the cost-based formula system delivers more funding to school districts than the target revenue hold-harmless. In addition, districts will be forced to increase taxes and spend fund balances to offset the lack of funding provided under current law.

Current law has created a school funding mechanism that has placed all districts at a target revenue hold-harmless level based upon funding available to the districts in the 2005-2006 school year. Because current law establishes a yield level that is lower than what districts were actually spending in 2005-2006, current formulas are inadequate to drive additional funding to districts, thereby forcing districts whose target revenue hold-harmless level is at a lower level to either raise taxes, spend fund balances, or both, to meet current expenses.

The purpose of this legislation is to phase out the target revenue hold-harmless funding method by increasing the amount of funding provided through a dynamic child-centered, cost-based formula system; reestablish a formula-driven system; raise the basic allotment, the guaranteed level, and the equalized wealth level to the same amount that the Austin Independent School District (Austin ISD) raises with each penny of property tax (phased in over three fiscal years); improve the equity of the system through a combination of raising the funding levels and reducing the property tax rates; improve taxpayer equity by moving toward a similar yield (state + local) per penny of tax effort; reduce and contain recapture by limiting it to only districts wealthier than Austin ISD, containing less than five percent of Texas children; use increases in the state's property wealth to buy down property tax rates; bring districts funded at the lowest levels up to where other districts are funded; base school funding on real costs and actual student needs; and prevent the reoccurrence of an unconstitutional statewide property tax finding by the Texas Supreme Court and a repeat of numerous, costly special sessions.

As proposed, S.B. 982 amends current law relating to school finance.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 5 (Section 39.114, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 21.402(a), Education Code, to redefine "FS."

SECTION 2. Amends Sections 29.918(a) and (b), Education Code, as follows:

(a) Requires a school district or open-enrollment charter school with a high dropout rate, notwithstanding Section 42.152 (Compensatory Education Allotment), rather than Section 39.114 (High School Allotment) or 42.152, to submit a plan to the commissioner of education (commissioner) describing the manner in which the district or charter school intends to use the compensatory education allotment under Section 42.152 and other funds, rather than Section 42.152 and the high school allotment under Section 42.2516 (b)(3), for developing and implementing research-based strategies for dropout prevention. Makes conforming changes.

(b) Makes conforming changes.

SECTION 3. Amends Section 29.919(e), Education Code, to delete existing text authorizing the high school allotment, provided under Section 42.2516(b)(3), to be used for certain purposes.

SECTION 4. Amends Section 39.114, Education Code, as follows:

Sec. 39.114. New heading: SPECIAL HIGH SCHOOL PROGRAMS AND INITIATIVES.

SECTION 5. Amends Sections 39.114(a) and (d), Education Code, as follows:

(a) Provides that a school district or campus, including an open-enrollment charter school, is encouraged to use funds in an amount equal to the amount that would have been allocated to the district under Section 42.2516(b)(3), as that section existed on January 1, 2009, to implement or administer certain programs, rather than requiring a school district or campus to, except as provided by Subsection (b) (relating to the authorization of a school district to use certain funds), to use funds allocated under Section 42.2516(b)(3) for certain purposes.

(d) Deletes existing text requiring the commissioner, in the rules that the commissioner is required to adopt, to adopt rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

SECTION 6. Amends Section 41.002(a), Education Code, as follows:

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

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student per cent of tax effort available to a district as a result of the guaranteed level provided by Section 42.302(a-1)(1), rather than available to a district at the 80th 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, 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 per cent of tax effort available to a district as a result of the guaranteed level provided by Section 42.302(a-1)(2), rather than available to the Austin Independent School District (AISD), as determined by the commissioner in cooperation with the Legislative Budget Board (LBB), for the first 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) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student per cent of tax effort available to a district as a result of the guaranteed level provided by Section 42.302(a-1)(3), rather than \$319,500, for the district's maintenance and operations tax effort that

exceeds the first 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 7. Amends Section 41.099(a), Education Code, to delete Sections 41.002(e) (relating to the wealth per student that a district is authorized to have after certain options) and 41.098 (Early Agreement Credit) among the sections that only apply to a district that executes certain agreements.

SECTION 8. Amends Section 41.121, Education Code, to delete existing text providing that a certain agreement is not effective unless it is determined by the commissioner that a quality educational program can be delivered at a lesser amount. Deletes existing text authorizing the commissioner to approve a special financial arrangement between districts if that arrangement serves the best educational interests of the state.

SECTION 9. Amends Section 42.2516, Education Code, by amending Subsections (d), (e), and (f) and adding Subsections (a-2), (a-3), (a-4), (b-3), (b-4), (b-5), (b-6), and (b-7), as follows:

(a-2) Requires the commissioner, if, for the 2010-2011 school year or any subsequent school year, the total amount of state and local revenue per student in weighted daily attendance for the maintenance and operations of the district to which the district would be entitled under this chapter or Chapter 41 (Equalized Wealth Level) exceeds the sum of \$200 and the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the preceding school year, to require the district, notwithstanding Subsection (a) (relating to the requirement of the commissioner to determine the state compression percentage) or any other law, to compress the district's maintenance and operations tax rate as necessary to reduce the district's available revenue to the lesser amount.

(a-3) Provides that notwithstanding any other provision of law, the amount of compression the commissioner may require under Subsection (a-2) does not affect the state compression percentage under Subsection (a). Provides that if the voters of a district required by the commissioner to compress the district's maintenance and operations tax rate under Subsection (a-2) have authorized a maintenance and operations tax rate that is higher than the required compressed rate, the district, notwithstanding Section 26.08 (Election to Ratify School Taxes), Tax Code, or any other law, is not required in a subsequent year to obtain additional voter authorization to impose a rate that does not exceed the previously authorized rate.

(a-4) Provides that the amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005 (Technology Allotment), the transportation allotment under Section 42.155 (Transportation Allotment), and the new instructional facility allotment under Section 42.158 (New Instructional Facility Allotment) is not included in making a determination under Subsection (a-2).

(b-3) Entitles a school district, subject to Subsections (b-4), (b-7), (e), (f-1) (relating to the requirement of the commissioner adjust the amount of a school district's local revenue), and (g) (relating to the commissioner being required to reduce the district's entitlement), but notwithstanding any other provision of this title, to state revenue necessary to provide the district with the sum of:

(1) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2008-2009 school year;

(2) the amount to which the district is entitled under Section 42.155 for the current school year;

(3) the amount to which the district is entitled under Section 42.158 for the current school year; and

(4) an amount equal to the product of for the 2009-2010 school year, \$75 multiplied by the number of students in weighted average daily attendance in the district; or for each subsequent school year, \$175 multiplied by the number of students in weighted average daily attendance in the district.

(b-4) Requires the commissioner, for each school year, to calculate for each school district in accordance with Subsection (b-5) the additional maintenance and operations tax effort, in excess of the district's maintenance and operations tax rate for the 2008 tax year, that is needed to entitle the district to the amount of increased revenue described by Subsection (b-3)(4). Provides that if a district's maintenance and operations tax rate is less than \$1 on the \$100 valuation of taxable property and does not equal at least the sum of the district's maintenance and operations tax rate for the 2008 tax year and the needed additional tax effort calculated by the commissioner, the amount of increased revenue to which the district is entitled under Subsection (b-3)(4) is adjusted by applying the ratio of the amount by which the district's maintenance and operations tax rate exceeds the district's maintenance and operations tax rate for the 2008 tax year divided by the needed additional tax effort calculated by the commissioner.

(b-5) Provides that notwithstanding any other provision of law, the additional school district maintenance and operations tax effort described by Subsection (b-4) is the difference between the tax rate resulting from the product of the maximum maintenance and operations tax rate permitted for the 2005 tax year under Section 45.003 and the state compression percentage under Subsection (a), minus the district's tax rate described by Section 42.302(a-1)(1). Provides that the tax effort described in Subsection (b-4) is subject to all rules and entitled to the same guaranteed level of state and local funds per weighted student per cent of tax effort as tax effort described by Section 42.302(a-1)(1).

(b-6) Provides that notwithstanding any other provision of law, the increased revenue described by Subsection (b-3)(4) is not included in the determination of the number of students in weighted average daily attendance under Section 42.302(a).

(b-7) Provides that the amount of revenue to which a district is entitled under Subsection (b-3) includes funds sufficient to ensure the maintenance of:

(1) the professional staff salary allotment provided by Subsection (b)(2) and the high school allotment provided by Subsection (b)(3) as those sections existed on January 1, 2009;

(2) the staff salary allotment provided by Section 42.2513 (Additional State Aid for Staff Salary Increases) as that section existed on January 1, 2009;

(3) funding for school district employees who participate in a group health coverage plan provided by or through the district;

(4) the \$110 per weighted student allocation authorized in Rider 82, page III-23, Chapter 1330 (H.B. 1), Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act); and

(5) the \$23.63 per weighted student allocation authorization in Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act).

(d) Requires the commissioner, if a school district enters into an agreement under Subchapter E (Education of Nonresident Students), Chapter 41, rather than if, for the 2006-2007 or a subsequent school year, a school district enters into an agreement under Subchapter E, Chapter 41, to reduce the amount of state revenue to which the district is entitled under Subsection (b-3), rather than (b) (relating to entitlement of school district to state revenue necessary to provide the district with the sum of certain amounts), for that school year by an amount equal to any additional revenue for that school year that the district receives and retains as a result of that agreement, which is the amount by

which the total maintenance and operations revenue available to the district exceeds the total maintenance and operations revenue that would have been available to the district if the district had not entered into the agreement and had imposed a maintenance and operations tax at the maximum rate permitted under Section 45.003(d) (relating to requirement that a proposition submitted to authorize the levy of maintenance taxes include certain information), less any amount the district pays to another entity under the agreement.

(e) Provides that the amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005, the transportation allotment under Section 42.155, and the new instructional facility allotment under Section 42.158 and the amount of state and local revenue resulting from a tax rate described by Section 42.302(a-1)(2) or (3) are not included in making a determination under Subsection (b-3)(1), rather than Subsection (b)(1). Makes nonsubstantive changes.

(f) Requires the commissioner, for purposes of determining the amount of revenue to which a school district is entitled under this section, to use the average tax collection rate for the district for the 2006, 2007, and 2008 tax years, rather than the 2003, 2004, and 2005 tax years.

SECTION 10. Amends Section 42.260(a), Education Code, to redefine "participating charter school."

SECTION 11. Amends Section 42.302(a-1), Education Code, effective September 1, 2009, as follows:

(a-1) Provides that for the purposes of Subsection (a) (relating to an amount per weighted student that each school district is guaranteed), the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for a school district is:

(1) the greater of 90 percent of the amount of district tax revenue per weighted student per cent of tax effort that would be available to AISD, rather than a district at the 88th percentile in wealth per student, as determined by the commissioner in cooperation with LBB, 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 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, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the greater of the amount district tax revenue per weighted student per cent effort that would be available to AISD, as determined by the commissioner in cooperation with LBB, if the reduction of the limitation on tax increases as provided by certain means, 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, as determined under Section 42.2516, rather than and notwithstanding the limitation on district enrichment tax rate under Section 42.303, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

(3) \$31.95, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (2).

SECTION 12. Reenacts Section 42.302(a-1), Education Code, as amended by Chapters 19 (H.B. 5) and 1191 (H.B. 828), Acts of the 80th Legislature, Regular Session, 2007, and amends it, effective September 1, 2010, to provide 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 school district is the greater of 95 percent of the amount of district tax revenue per weighted student per cent of tax effort that would be available to AISD, rather than a district at the 88th percentile in wealth per student, as determined by the commissioner in cooperation with LBB, 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 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.

SECTION 13. Reenacts Section 42.302(a-1), Education Code, as amended by Chapters 19 (H.B. 5) and 1191 (H.B. 828), Acts of the 80th Legislature, Regular Session, 2007, and amends it, effective September 1, 2011, to provide 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 school district is the greater of the amount of district tax revenue per weighted student per cent of tax effort that would be available to AISD, rather than a district at the 88th percentile in wealth per student, as determined by the commissioner in cooperation with LBB, 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 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, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 14. 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 (Foundation School Program), Education Code, and used by school districts and charter schools as provided by Section 42.260 (Use of Certain Funds), rather than Section 42.2514, Education Code.

SECTION 15. Amends Section 1581.053(b), Insurance Code, to make a conforming change.

SECTION 16. (a) Repealers: (1) Section 29.097(g) (relating to the encouragement of a school district to use certain allocated funds), Education Code;

(2) Section 29.098(h) (relating to the encouragement of a school district to use certain allocated funds), Education Code;

(3) Sections 39.114(b) (relating to the authorization of a school district to use certain funds), (b-1) (relating to the application and expiration of subsection (b) at certain times), and (c) (relating to the entitlement of an open-enrollment charter school to certain allotment), Education Code;

(4) Sections 41.002(e) (relating to the wealth per student that a school district having certain authority and prohibition), (f) (relating to the determination of a school district's effective tax rate), and (g) (relating to the adjustment rate for the wealth per student that a district is authorized to have), Education Code;

(5) Section 41.098 (Early Agreement Credit), Education Code;

(6) Sections 42.2511 (Additional State Aid for Homestead Exemption), 42.2512 (Additional State Aid for Professional Staff Salaries), 42.2513 (Additional State Aid for Staff Salary Increases), and 42.2514 (Additional State Aid for School Employee Benefits), Education Code; and

(7) Sections 42.2516(a-1) (relating to Subsection (a) applying at a certain time), (b) (relating to the entitlement of a school district to state revenue for a certain purpose), (b-1) (relating to a change in the amount determined for a school district under Subsection (b)), (b-2) (relating to a change in the amount determined for a school district), (c) (relating to the determination of the amount to which a district is entitled), and (h) (relating to the requirement of the commissioner to reduce the amount of state aid to a district or require the district to purchase certain credits), Education Code.

(b) Repealer: Section 403.302(j) (relating to the requirement of the comptroller to certify to the commissioner of education certain values), Government Code.

(c) Repealer: Subchapter C (State Assistance for Meeting Minimum Effort), Chapter 1581, Insurance Code.

SECTION 17. 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 18. Effective date, except as otherwise provided by this Act: September 1, 2009.