

BILL ANALYSIS

Senate Research Center
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S.B. 895
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Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 895 broadens the intervention options for failing campuses by establishing a statewide turnaround district, called an opportunity school district (OSD), which may manage certain campuses that are failing after two or more consecutive years, and which have been placed in the OSD by the commissioner of education.

The bill empowers a commissioner-appointed OSD superintendent to have authority over the failing campuses removed to the OSD. The superintendent may operate a campus directly or contract with an alternative non-profit education management organization to manage the campus.

S.B. 895 empowers the superintendent of an independent school district (ISD) to operate a campus that has been identified as failing for two consecutive years with the same flexibilities and authority as the OSD superintendent unless the commissioner orders a different intervention.

A campus removed to the jurisdiction of the OSD must be returned to its original school district after eight years under the jurisdiction of the OSD. However, a campus may be returned to the prior system at any time ordered by the commissioner in alignment with an agreed upon transition plan between the OSD superintendent and the prior system.

As proposed, S.B. 895 amends current law relating to state interventions and sanctions against public school campuses with unacceptable performance and the establishment of the Texas Opportunity School District.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 11.405, Education Code) and SECTION 5 (Sections 39.1071 and 39.1072, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 11, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. TEXAS OPPORTUNITY SCHOOL DISTRICT

Sec. 11.401. TEXAS OPPORTUNITY SCHOOL DISTRICT ESTABLISHED. (a) Provides that the Texas Opportunity School District is established as a school district under this code and an intermediate educational unit under 34 C.F.R. Section 222.50 for the purpose of educating students attending a campus placed in the jurisdiction of the opportunity school district under Chapter 39 (Public School System Accountability).

(b) Defines "prior system" in this subchapter.

(c) Requires the commissioner of education (commissioner) to select the superintendent of the opportunity school district. Requires the superintendent to report to the commissioner under a written contract for services.

(d) Provides that the opportunity school district does not have authority to impose taxes but has authority to seek and expend federal funding and grant funding and to otherwise seek, obtain, and expend funding with the same authority as an independent school district.

(e) Authorizes the opportunity school district, subject to the requirements of this subchapter and Section 39.1071, to provide for the supervision, management, and operation of each campus placed in the opportunity school district's jurisdiction and receive, control, and expend the local, state, and federal funding attributable to that campus, with all the same power and authority as the prior system and with any other power or authority otherwise granted by law.

(f) Entitles the opportunity school district to the same level of services provided to other school districts by regional education service centers, and to participate in any state program available to school districts, including a purchasing program.

(g) Authorizes the opportunity school district to employ such staff as the superintendent deems necessary.

Sec. 11.402. APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO OPPORTUNITY SCHOOL DISTRICT. (a) Provides that, except as expressly provided by law, the opportunity school district is subject to federal and state laws and rules and municipal zoning ordinances governing school districts.

(b) Provides that, except as expressly provided by other law, the opportunity school district is subject to a provision of this title to the extent and in the manner that the provision applies to an open-enrollment charter school under Subchapter D (Open Enrollment Charter School), Chapter 12 (Charters).

(c) Prohibits the performance of a campus under the jurisdiction of the opportunity school district from being used for purposes of determining the prior system's performance rating under Section 39.054 (Methods and Standards for Evaluating Performance).

(d) Provides that any requirement of Chapter 551 (Open Meetings) or 552 (Public Information), Government Code, or other law concerning open meetings requirements or public information requirements applies to the opportunity school district and the superintendent and students of the opportunity school district to the same extent those requirements apply to any other school district and the board of trustees and students of the other school district.

(e) Provides that the opportunity school district is not a special-purpose school district described by Subchapter H (Special-Purpose School Districts).

Sec. 11.403. IMMUNITY. Provides that the opportunity school district is immune from liability to the same extent as any other school district, and the opportunity school district's employees and volunteers are immune from liability to the same extent as other school district employees and volunteers.

Sec. 11.404. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS BY OPPORTUNITY SCHOOL DISTRICT EMPLOYEES. (a) Provides that an employee of the opportunity school district who qualifies for membership in the Teacher Retirement System of Texas is covered under the system to the same extent a qualified employee of any other school district is covered.

(b) Provides that, for each employee of the opportunity school district covered under the system, the opportunity school district is responsible for making any contribution that otherwise would be the legal responsibility of the prior system, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were that of another school district.

Sec. 11.405. FUNDING OF STUDENTS ENROLLED IN OPPORTUNITY SCHOOL DISTRICT. (a) Entitles the opportunity school district each school year to receive for the education of each student transferred to the opportunity school district funding under Chapter 42 (Foundation School Program) in an amount equal to the amount of state and local funding per student in weighted average daily attendance, including enrichment funding under Section 42.302 (Allotment), to which the prior system would be entitled under Chapter 42 for that school year.

(b) Entitles the opportunity school district to funds that are available to other school districts from the agency or the commissioner in the form of grants or other discretionary funding. Entitles the opportunity school district to a pro rata share of all revenue provided to the prior system from the Texas Education Agency (TEA) or the commissioner in the form of grants or other discretionary funding.

(c) Entitles the opportunity school district to share in the available school fund apportionment and other privileges in the same manner as the prior system. Requires the opportunity school district to report its student attendance and receive funding in the same manner as any other district.

(d) Provides that, for purposes of calculating for the prior system obligations under Chapter 41 (Equalized Wealth Level) and entitlements under Chapter 42, students transferred to the opportunity school district who would otherwise have attended the prior system are not included in calculating the average daily attendance of the prior system.

(e) Provides that, for purposes of calculating for the prior system allotments under Chapter 46 (Assistance with Instructional Facilities and Payment of Existing Debt), students transferred to the opportunity school district who would otherwise have attended the prior system are included in calculating the average daily attendance of the prior system.

(f) Requires the commissioner to adopt rules necessary to implement this section.

Sec. 11.406. FACILITIES SUPPORT FOR STUDENTS ENROLLED IN OPPORTUNITY SCHOOL DISTRICT. (a) Entitles the opportunity school district to use any school building and any other facility or property otherwise part of a campus placed in the opportunity school district that was recognized as part of the facilities or property of the campus before the campus was placed in the opportunity school district. Entitles the opportunity school district to access to any additional facilities that are typically available to the campus, its students, and faculty and staff before the campus was placed in the opportunity school district. Prohibits the opportunity school district's use of a school building, facility, or property from being restricted, except that the opportunity school district is responsible for and obligated to provide for routine maintenance and repair necessary to ensure that the school building, facility, or property is maintained in as good an order as when the right of use was acquired by the opportunity school district.

(b) Requires the commissioner or the commissioner's designee, if a dispute arises between the opportunity school district and the prior system regarding the maintenance and repair required under this section, to determine each entity's responsibilities concerning the maintenance and repair.

Sec. 11.407. OTHER SUPPORT FOR STUDENTS ENROLLED IN OPPORTUNITY SCHOOL DISTRICT. (a) Authorizes the opportunity school district to require the prior system to provide school support or student support services for a campus transferred from the prior system's jurisdiction, including:

(1) school food service;

(2) transportation of:

(A) students who attend the campus placed in the opportunity school district; and

(B) students who reside in the assigned attendance zone of the campus placed in the opportunity school district but who attend a different campus in the prior system; and

(3) student assessment services to determine special education eligibility that are compliant with all applicable laws and regulations.

(b) Requires the opportunity school district to reimburse the prior system in an amount equal to the actual cost of the services described in Subsection (a) to the prior system. Requires the commissioner or the commissioner's designee, if a dispute arises between the opportunity school district and the prior system regarding the actual cost of services, to determine the cost to be reimbursed.

Sec. 11.408. EXPENDITURES FOR SUPPORT OF STUDENTS ENROLLED IN OPPORTUNITY SCHOOL DISTRICT. Requires that funds received by the opportunity school district under Section 11.405 be used for the operation and administration of campuses placed in the opportunity school district.

Sec. 11.409. OPPORTUNITY DISTRICT CHARTER. (a) Authorizes the opportunity school district to grant a district charter under Section 12.0522 (District Charter Authorization) to a campus that has been placed in the opportunity school district.

(b) Provides that the grant of a district charter by the opportunity school district is not subject to the limitation imposed by Section 12.0522(b) (authorizing a district charter to be granted under this section only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year, except as otherwise provided by this subsection or Subsection (c)).

(c) Provides that a campus granted a district charter under this section is eligible for funding under Section 11.405. Authorizes any administrative costs related to authorizing a district charter under this section to be paid from funds appropriated to the opportunity school district, as approved by the superintendent of the opportunity school district.

SECTION 2. Amends Section 39.106(f), Education Code, to authorize the commissioner, notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Subsection (a) is not fully implementing the campus intervention team's recommendations or targeted improvement plan or updated plan, to order the reconstitution of the campus as provided by Section 39.107 or the placement of the campus in the opportunity school district established by Subchapter I, Chapter 11.

SECTION 3. Amends the heading to Section 39.107, Education Code, to read as follows:

Sec. 39.107. RECONSTITUTION, REPURPOSING, ALTERNATIVE MANAGEMENT, PLACEMENT IN OPPORTUNITY SCHOOL DISTRICT, AND CLOSURE.

SECTION 4. Amends Section 39.107, Education Code, by amending Subsections (a), (a-1), (c), and (e) and adding Subsection (a-2), as follows:

(a) Requires the commissioner, after a campus has been identified as unacceptable for two consecutive school years, to determine whether the district or campus has instituted meaningful change for the campus, including reconstituting the staff or leadership at the campus. Authorizes the commissioner to reevaluate the campus under this subsection

following the conclusion of the subsequent school year if the commissioner determines that the district or campus has instituted meaningful change for the campus. Authorizes the superintendent of the district, if the commissioner determines the district or campus has not instituted meaningful change for the campus, to operate the campus with the same powers and authority granted to the superintendent of the opportunity school district established under Subchapter I, Chapter 11, to operate a campus placed in the jurisdiction of the opportunity school district unless the commissioner orders one or more of the following:

- (1) reconstitution of the campus under this section;
- (2) repurposing of the campus under this section;
- (3) alternative management of the campus under this section; or
- (4) placement of the campus in the opportunity school district, as provided by Section 39.1071.

Deletes existing text requiring the commissioner, after a campus has been identified as unacceptable for two consecutive school years, to order the reconstitution of the campus.

(a-1) Requires the commissioner, in making a determination regarding action to be taken under Subsection (a), to consider recommendations from parents of students enrolled at the campus and members of the community who reside in the attendance zone of the campus.

(a-2) Create this subsection from existing text.

(c) Requires a campus reconstituted under Subsection (a), rather than subject to Subsection (a), to implement the updated targeted improvement plan as approved by the commissioner. Makes no further changes to this subsection.

(e) Authorizes the commissioner, if a campus is considered to have an unacceptable performance rating for three consecutive school years after an action is taken to reform the campus under Subsection (a), subject to Subsection (e-2), to only order:

- (1) repurposing of the campus under this section;
- (2) alternative management of the campus under this section;
- (3) closure of the campus; or
- (4) placement of the campus in the opportunity school district as provided by Section 39.1071.

Deletes existing text requiring the commissioner, if a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted under Subsection (a), subject to (e-1) or (e-2), to order certain campus changes.

SECTION 5. Amends Subchapter E, Chapter 39, Education Code, by adding Sections 39.1071 and 39.1072, as follows:

Sec. 39.1071. PLACEMENT OF CAMPUS IN OPPORTUNITY SCHOOL DISTRICT.

(a) Defines "prior system" in this section.

(b) Authorizes the commissioner, as provided by Section 39.107, to order the placement of a campus of an independent school district in the opportunity school

district established under Subchapter I, Chapter 11, except that the commissioner is prohibited from placing a campus in the opportunity school district if:

(1) the commissioner is presented with a valid petition for alternative action under Section 39.107(e-2); or

(2) the superintendent of the opportunity school district advises the commissioner that placing the campus in the opportunity school district is not the best action to be taken at the campus.

(c) Provides that if the commissioner orders placement of a campus in the opportunity school district, the students assigned to attend the campus or the students who would have been eligible to attend the campus if the campus had remained in the prior system may choose to attend the campus under the jurisdiction of the opportunity school district or may exercise an option, made available by the prior system, to attend another campus remaining under the jurisdiction of the prior system.

(d) Provides that only students who were eligible for enrollment at a campus under the prior system or who would have been eligible to enroll at the campus if the campus had remained in the prior system may attend that campus after the campus is placed in the opportunity school district.

(e) Provides that a campus placed in the opportunity school district is not required to accept enrollment of a student if enrolling the student would result in exceeding the capacity of campus facilities. Requires the opportunity school district to enroll students in the following order of priority:

(1) those students who would be eligible to attend the campus if the campus had remained in the prior system;

(2) if openings for enrollment remain after satisfying Subdivision (1), those students who would be eligible to attend a different campus in the prior system from which the campus was transferred; and

(3) if openings for enrollment remain after satisfying Subdivisions (1) and (2), those students who would be eligible to attend any other campus or school district by lottery.

(f) Authorizes a campus placed in the opportunity school district to adopt a policy that provides for the exclusion or removal of a student enrolled at the campus:

(1) who does not reside in the assigned attendance zone of the campus; and

(2) who engages in or has been subjected to disciplinary action for conduct described by Section 37.006 (Removal for Certain Conduct) or 37.007 (Expulsion for Serious Offenses).

(g) Requires that a campus that the commissioner has decided to place in the opportunity school district, effective on a date determined by the commissioner after consulting with the superintendent of the opportunity school district, be transferred from the jurisdiction of the school district to the jurisdiction of the opportunity school district. Provides that, on that date, the school district from which the campus was transferred becomes the prior system.

(h) Requires that the campus be:

(1) reorganized and reformed, as determined necessary by the superintendent of the opportunity school district; and

(2) operated by the opportunity school district.

(i) Provides that the superintendent of the opportunity school district or the superintendent's designee has sole discretion to decide which educators may be retained at a campus placed in the opportunity school district. Authorizes an educator, if the opportunity school district does not retain an educator, to be assigned to another position by the prior system.

(j) Requires that the prior system, for the purposes of any benefit or right requiring continuous service or based on years of service, consider the period during which an employee works at the opportunity school district to be service time with the prior system if the employee returns to the prior system's employment.

(k) Requires that the benefits and privileges of any person employed at a campus by the opportunity school district who was not employed by the prior system at the time the campus was placed in the opportunity school district be determined in compliance with applicable law by the opportunity school district at the time of the employment.

(l) Requires the opportunity school district to retain jurisdiction over any campus placed in the opportunity school district until the commissioner returns the campus to the prior system in accordance with Section 39.1072.

(m) Requires the commissioner and the superintendent of the opportunity school district, on request, to provide information concerning the new operations and performance of a campus to the prior system.

(n) Authorizes a campus operated by the opportunity school district to change its name only on agreement of the prior system and the opportunity school district.

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

Sec. 39.1072. RETURN OF CAMPUS TO PRIOR SYSTEM. (a) Defines "prior system" in this section.

(b) Authorizes the superintendent of the opportunity school district established under Subchapter I, Chapter 11, or the superintendent's designee to develop a transition plan for returning a campus placed in the opportunity school district to the prior system at any time after the campus has achieved an acceptable or higher performance rating. Requires the superintendent or the superintendent's designee to develop a transition plan for returning a campus placed in the opportunity school district to the prior system if:

(1) the campus has been identified as acceptable or higher for three consecutive school years; or

(2) the commissioner orders the superintendent to develop a transition plan.

(c) Requires the superintendent or the superintendent's designee to develop a transition plan for returning a campus placed in the opportunity school district to the prior system during the eighth consecutive school year that the campus has operated under the jurisdiction of the opportunity school district.

(d) Requires the superintendent or the superintendent's designee to consider the input of parents and other affected stakeholders in developing a transition plan under Subsection (b) or (c). Requires that the transition plan include:

(1) details for the operation of the campus by the prior system, including provisions for the continuation of the programs that have provided the basis for improved academic performance by the students, including any charter granted under Section 11.409;

(2) provisions for the employment status of all persons employed by the opportunity school district who were not employed by the prior system at the time the campus was placed in the opportunity school district; and

(3) provisions for the means and timetable for the campus's transition and return to the prior system.

(e) Authorizes the commissioner to order the return of a campus to the prior system in accordance with the transition plan developed under Subsection (b) on the recommendation of the opportunity school district superintendent.

(f) Requires the commissioner to order the return of a campus to the prior system not later than the campus's eighth consecutive school year under the jurisdiction of the opportunity school district. Authorizes the commissioner to order the return of the campus to the prior system under this subsection in accordance with the transition plan developed under Subsection (c) or to order the return of the campus in accordance with an improvement plan submitted by the board of trustees of the prior system.

(g) Requires the commissioner and the superintendent of the opportunity school district to, on request, provide information concerning the operations and performance of a campus to the prior system.

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

SECTION 6. Amends Section 39.108, Education Code, as follows:

Sec. 39.108. ANNUAL REVIEW. (a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Requires that the review required by Subsection (a) form the basis of the reporting required by Section 39.332(b)(25).

SECTION 7. Amends Section 39.332(b), Education Code, by adding Subdivision (25), to require that the report contain a listing and description of the status of each campus under the jurisdiction of the opportunity school district and a summary of the reforms implemented and progress of the campus.

SECTION 8. Repealer: Section 39.107(d) (authorizing the commissioner to order repurposing of the campus under this section, alternative management of the campus under this section, or closure of the campus if the commissioner determines that the campus is not meeting certain criteria), Education Code.

Repealer: Section 39.107(e-1) (authorizing the commissioner to waive the requirement to enter an order under Subsection (e) for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year), Education Code.

SECTION 9. Provides that this Act applies beginning with the 2015-2016 school year.

SECTION 10. Effective date: upon passage or September 1, 2015.