



## Senate Education Committee Hearing Wednesday, April 22, 2009

The Senate Education Committee met on Tuesday, April 21, 2009 to hear testimony on several bills including **SB 982** filed by **Sen. Van de Putte**, **SB 2392** filed by **Sen. Shapiro**, and **SB 2430** filed by **Sen. Davis**. These bills, particularly SB 982 and SB 2392, represent the major finance bills that were filed in the senate this session and many individuals were present to demonstrate their support or opposition to the proposed legislation. Testimony heard was overwhelmingly in favor of **SB 982** although **Sen. Davis' SB 2430** was not opposed by any witnesses.

**Lynn Moak** testified in favor of all three finance bills on behalf of the **Texas School Alliance** and was supportive of the changes made in the substitute for **SB 2392**. However, he did recommend a combination of all three bills as the most favorable outcome for districts. **Dan Casey**, representing the **Fast Growth Schools Coalition** also gave supportive testimony for these bills but suggested that the interim select committee examine an improvement for facilities funding.

The committee took up several non-finance bills and many were passed out of the committee with favorable recommendations to the full senate. Of these, **Sen. Patrick's** pending bill, **SB 1830**, which now, as substituted, would increase (instead of eliminating the cap) the annual number of charters the state may grant open-enrollment charter schools to 20, and removes the provision for facilities funding from the original bill was passed out to the full senate.

Pending bills heard also included **SB 3** which received lengthy debate amongst committee members. Various amendments were discussed and adopted, and we will soon provide more detail regarding these changes at [www.moakcasey.com](http://www.moakcasey.com). Ultimately, the bill was unanimously passed out of the committee with a favorable recommendation to the full senate.

### Finance Bills

The school finance bills **SB 982** filed by **Sen. Van de Putte**, **SB 2392** filed by **Sen. Shapiro**, and **SB 2430** filed by **Sen. Davis**, were laid out in succession, and testimony was held until each author had introduced their bill. Testimony for all three bills was combined and witnesses were asked to come forward one time with comments regarding all three bills, rather than coming forward three separate times. Summaries for these witness testimonies are provided after the descriptions for each bill below.

### **SB 982 Van de Putte**

**Sen. Van de Putte** laid out the bill and introduced a committee substitute. The substitute prohibits property tax increases for 2009-2010 if the district receives at least a \$200 increase in WADA. It would also compress all pennies up to the current compressed rate. This compression will be phased in over a three year period to the Austin yield level. She explained that teacher salary provisions were added and also discussed the LBB's fiscal note of approximately \$5 billion.

### **SB 2392 Shapiro**

Relating to public school finance.

Remarks: More details available on [www.moakcasey.com](http://www.moakcasey.com).

**Sen. Shapiro** introduced the committee substitute. The bill creates a basic allotment of \$4800 for a local fund assignment related to a districts compressed tax rate (the basic allotment is prorated based on the relationship between the districts compressed rate and the state compressed rate). There is no longer a dual basic allotment structure. The equalized wealth level is set at \$480,000. The bill also creates a select committee on public school finance to study the Texas system of weights and adjustments. School districts would receive a minimum guarantee of \$100 per WADA over 2009-10 current law revenue per WADA, excluding enrichment revenue. School district gains would be limited to 6 percent over the prior year revenue per WADA (or over 2009-10 current law revenue for that year). Additionally, school boards would be entitled to adopt an additional \$0.02 without an election, subject to the current \$1.17 cap.

### **SB 2430 Davis, Wendy**

Relating to public school finance and certain limitations on the ad valorem tax rate of a school district.

**Remarks:** As filed: Increases the guaranteed yield on the current \$31.95 pennies to the Austin ISD yield. Allows districts discretion to increase local M&O rates by \$0.04 per year. Repeals current law provisions related to rollback elections.

Repeals Tax Code 313.029 with respect to two year rollback provision currently in place under the Texas Economic Development Act.

**Sen. Davis** introduced the committee substitute, which corrects a drafting error by ensuring that Ch. 41 districts pay less recapture and boosts Ch. 42 districts to the Austin yield level. The substitute also specifies that the equalized level be tied to the Austin ISD 2010 tax year.

### **Testimony for All Finance Bills**

**Lynn Moak:** Lynn Moak spoke in favor of all bills on behalf of the **Texas School Alliance** (TSA). In regards to **SB 2392** Mr. Moak was favorable towards the changes made in the committee substitute and stated that it achieves balance between equity improvement while increasing funds for all districts. However, he noted the importance of including a driver in the formula, as was previously included for many years. Mr. Moak referred to a one page statement of a constitutional provision that he distributed to the committee, which calls for an efficient and equitable system. He emphasized that the underlying driver for the bill should be based upon this constitutional provision. **Sen. West** asked for Mr. Moak's opinion about which three bills appear most feasible or if a combination of the three is an option. Mr. Moak responded that the commitment to equity seen in **SB 982** is positive but the fiscal note is problematic, and that **SB**

**2392** addresses many of the same issues but lacks a driver to create increased equity in the future, which is a significant concern. He ended his testimony by stating that TSA would like to see a melding of all three bills.

**Katherine Clark:** Ms. Clark spoke on behalf of the **Texas Association of School Boards (TASB)** in favor of the substitutes for all three bills. She explained the target revenue struggle and appreciated that **SB 982** and **SB 2392** represent a return to a funding formula. To highlight the importance of finance reform, Ms. Clark explained that the exponential growth occurring in Texas will cause education cost increases. She stated that **SB 982** and **SB 2382** both improve equity greatly and are particularly important at a time when the state is growing so quickly.

**Dan Casey:** Mr. Casey spoke on behalf of the **Fast Growth School Coalition** and was supportive of the substitutes for all three bills. He explained that the \$4800 basic allotment represents a high equity goal and noted the importance of having the interim select committee examine formulas and weights. However, he emphasized the importance of having the select committee also examine facilities funding for the improvement of that system.

**Sen. Ogden** asked all three to comment on whether the committee should consider whether funds outside of the Foundation School Program should be moved into these bills in order to improve the equity of the system. **Mr. Moak** explained that the \$2.2 billion in stimulus funds is a two year, one time shot and re-funding of these dollars should not be expected. He explained that it is best to increase the basic allotment (as is included in the **SB 2392** substitute) rather than splitting it into a bi-furcated system as a return to the traditional single basic allotment will be more effective. Mr. Moak clarified that it is not feasible to fold the federal stimulus money into the basic allotment.

**Bill Grusendorf:** Mr. Grusendorf offered testimony on behalf of the **Texas Association of Rural Schools (TARS)**. He was supportive of **SB 982** due to the equity it would provide and explained that although it has a great cost, the structure of the bill would return the state to a “student-centered, dynamic program.” In regards to **SB 2392**, Mr. Grusendorf expressed concern that a loss of the second tier may prohibit a certain level of flexibility for districts. He was also concerned with the bill’s imposition of a 6% limit.

**Wayne Pierce:** Dr. Pierce spoke on behalf of the **Equity Center** and gave supportive testimony for **SB 982** and **SB 2430** and neutral testimony on **SB 2392**. He explained that **SB 982** is a powerful bill that would make positive impacts on student achievement. Dr. Pierce expressed concerns that **SB 2392** has structural problems and that its tier one would amount to the compressed tax rate. **Sen. Van de Putte** asked Dr. Pierce what assumptions might have been made by LBB that caused a large fiscal note. He explained that it assumed districts would take advantage of all available pennies regardless of the influx of funds through this bill, which is an unlikely situation, therefore, he stated, the fiscal note is largely inflated. He also explained the LBB’s assumption that there will be no tax rate compression which also, he stated, would not occur. **Sen. Davis** questioned the Equity Center’s estimate for the bill which he described as being approximately \$2.6 or \$2.7 billion but emphasized that the bill language may be molded to any amount of available funds.

**Paul Colbert:** Mr. Colbert gave testimony on behalf of **El Paso ISD**. His position was favorable towards **SB 982** against **SB 2392**. However, he noted that the SB 2392 substitute was more palatable than the original bill. Mr. Colbert explained that it is necessary to include driver in a funding formula and **SB 982** seeks to tie yields to a value that will increase over time. He noted that a dynamic driver must be in place, which SB 982 achieves. SB 982 also reduces appraisal creep so that the burden is not shifted to property

owners. This bill also compresses to a common yield which seeks to achieve increased equity. **Sen. Shapiro** expressed her concern with the utilization of a driver, which is that it would potentially increase the state's share of education, and the current available funds do not allow for this.

**General testimony: Dr. Greg Gibson**, superintendent of **Crowley ISD**, offered support for both **SB 982** and **SB 2430**. He represented fast growth school districts with target revenues frozen at low property values. Dr. Gibson explained that the current target revenue system has been incredibly detrimental for his district and many similar districts. These sentiments were echoed by several superintendents who primarily offered testimony in support of **SB 982** due to the structural changes it would put in place to increase equity and offer relief for districts affected by target revenue. These superintendents, among many others, included **Michael R. Payne** of **Carlisle ISD**, **Paul Trull** with **Paris ISD**, and **Mike King** of **West Rusk CISD** who was supportive of **SB 982** and in opposition to **SB 2392**.

**Dr. Pat Forgione**, superintendent of **Austin ISD**, expressed his appreciation to **Sen. Shapiro** for introducing the bill but offered neutral testimony on **SB 2392**. Dr. Forgione explained districts' need for discretion with an additional two cents rather than specifically for the 5<sup>th</sup> and 6<sup>th</sup> cents as many have already accessed those two pennies and need to seek elections for additional pennies. He recommended that bill language change in order to provide for general discretion on the two additional pennies. **George Torres**, deputy superintendent of business and financial services for **Northside ISD** spoke in favor of **SB 982** due to the equity it will create and because it helps address the state's diverse needs.

Several associations also provided testimony regarding these bills. **Patti Quinzi** with the **Texas-American Federation of Teachers (TX-AFT)** spoke in favor of both **SB 2430** and **SB 982**. She was particularly supportive of **SB 982** as it would restore equity to the school finance system. **Lonnie Hollingsworth** with **TCTA** was supportive of **HB 982** for the structural elements it contains, and specifically because it will move back towards a more equitable system. Mr. Hollingsworth also spoke at length about methods to increase teacher salaries.

**Josh Sanderson** with the **Association of Texas Professional Educators** echoed previous statements in support of **SB 982**, spoke neutrally on **SB 2392**, and registered for **SB 2430**. **Bill Clark** of **Haltom City** provided the only oral testimony specifically for **SB 2430**. He discussed the importance of transparency for voters in terms of bond elections and expressed appreciation for the transparency this bill would create.

**Don Rogers**, Director of the **Texas Rural Education Association** also offered support for **SB 982** and re-stated much of what the previous witnesses said in terms of the equity this bill would provide for all districts. Finally, **Jody Richardson** from the **Community Re-development Coalition** in the Houston area discussed the changes that must be made to the general school finance system and spoke in broad support of the bills.

There were several witnesses not wishing to testify who registered their support for the bills including **Martin Pena** for **SB 982** on behalf of the **South Texas Association of Schools** and **Leslie James** from **Fort Worth ISD**, in favor of both **SB 2430** and **SB 982**.

*All three bills were left pending in committee.*

## **SB 548 Zaffirini**

Relating to public school accountability for bilingual education and English as a second language and other special language programs.

**Remarks:** As filed: This bill creates an extensive system of reviewing effectiveness of districts' and charters' delivery of Bilingual Education / English as a Second Language (BE/ESL) programs, using AEIS, PBMAS and other prescribed indicator measures. Agency staff conducting desk audits or monitoring visits must be fully BE/ESL certified. Districts identified as non-compliant must be notified within 30 days, and immediately upon receipt of such notice, districts must take corrective actions and establish goals. Failure to meet goals within a year triggers a required program audit, and the Agency must take corrective actions after two consecutive years of missing annual improvement goals. The bill also requires TEA to disaggregate AEIS data for students identified as limited English proficient, and imposes substantial additional reporting requirements on districts, in PEIMS but not personally identifiable, when students transfer out of BE/ESL programs.

**Testimony:** **Sen. Shapiro** laid out the bill on behalf of **Sen. Zaffirini** and introduced a committee substitute. The substitute clarifies various pieces of language to reduce the amount of reporting required by very small programs, per TEA recommendations.

**Luis Figueroa** with the **Mexican American Legal Defense and Educational Fund (MALDEF)** gave the first testimony for the bill. He explained MALDEF's support for the bill as it will help address the issue of underreporting of LEP students. **Albert Cortez**, with the **Intercultural Development Research Association (IDRA)**, provided neutral testimony on the bill and explained the litigation that led to the creation of this bill in order to reveal underreporting. While he is pleased with the committee substitute, he explained that IDRA would like to see additional changes which he did not clarify.

Many individuals registered in favor of the bill but did not provide oral testimony including **Martin Pena** with the **South Texas Association of Schools (STAS)**.

*The bill was left pending.*

## **SB 568 Lucio**

Relating to the employment of certified counselors by school districts.

**Remarks:** As filed: Lowers the limit on number of students required in which a school district must employ a counselor from 500 to 350. This bill also adds a section to the education code that allows the commissioner to provide additional funds to be used to employ certified counselors.

**Testimony:** **Rep. Lucio** introduced a committee substitute which requires that a district inform a parent if their child's school does not employ a full time counselor on the campus for more than 30 consecutive days.

Public testimony began with **Mary Libby**, representing the Texas Counseling Association, and spoke about the importance of this bill and ensuring a counselor for all campuses. **Judith Balch** and **John Shirley** both offered supportive testimony on behalf of the **Houston Counseling Association**. Both individuals spoke about the role of counselors in schools in identifying mental health issues that may arise for students along with providing general guidance. Committee members made comments to signify their agreement about the importance of this legislation.

Witnesses not wishing to testify but registered in favor of the bill included **Martin Pena** with the STAS, **Holly Eaton** with the **Texas State Teachers Association (TSTA)**, and **Jennifer Canaday** with the **Association of Texas Professional Educators (ATPE)**.

*The bill was passed out of committee to the full Senate with a favorable recommendation.*

## **SB 2152 Patrick, Dan**

Relating to an exception to the wealth per student limitation for certain school districts.

**Remarks:** As filed: A school district is not required to satisfy any wealth per student limitation under Chapter 41 and is not required to take any action under Chapter 41 to achieve the equalized wealth level if the district is located at least partially in a county with a population of 1.5 million or more and: (1) 20 percent or more of the students in prekindergarten through fifth grade in the district are classified as students of limited English proficiency;(2)50 percent or more of the total students in the district are economically disadvantaged and have family incomes below the federal poverty level; (3) 65 percent or more of the students in prekindergarten through fifth grade in the district are economically disadvantaged, as determined by the commissioner; (4) the district has a student mobility rate of 25

3 percent or higher, as determined by the commissioner; and (5) 75 percent or more of the total students in the district are minority students, as determined by the commissioner.

A school district that establishes eligibility for the exception is entitled to the exception for a period of four consecutive school years. After that period, the district remains eligible for the exception until the student population of the district results in district percentages regarding at least two of the criteria that are more than five percentage points below the percentages. The commissioner shall adopt rules as necessary to administer.

**Testimony: Sen. Patrick** introduced a committee substitute that clarifies the criteria for identifying the student populations this bill addresses. He explained that this bill seeks to allow Ch. 41 districts with large populations of economically disadvantaged students to retain additional dollars in their districts. **Lisa Dawn Fischer** with **TEA**, explained that no fiscal note is attached because the districts affected currently do not have a tax effort but if they choose to hold rollback elections, then their additional pennies gained through the election would not be subject to recapture.

Public testimony began with **H.D. Chambers**, superintendent of **Stafford ISD**, who spoke because of the weighting system that has been problematic for the district. He explained that this bill seeks to address the problem of defining student wealth by property wealth. Mr. Chambers noted that the bill is focused primarily on districts where local wealth is due to commercial wealth, and in many cases, the student populations are actually dropping in many of these areas. The districts end up losing state funds due to increased property wealth which is all due to commercial property, and not at all tied to the wealth level of students. **Sen. Davis** acknowledged her understanding of the magnitude of this problem but stated that offering this assistance for Ch. 41 schools in this situation is not equitable for Ch. 42 schools that do not have local property wealth that may provide local resources for the district. She went on to state that the true problem is with the weighting system and it therefore must be examined and reformed.

**Ken McGraw** with the **Texas Association of Community Schools** spoke in opposition of the bill due to the public policy problems that “carving out niches” may create for the entire system. Rather than

addressing specific issues, Mr. McGraw requested that the weighting system be re-examined for all school districts. **Bill Grusendorf** with the **Texas Association of Rural Schools** also spoke about the importance of re-examining the weight system and spoke in opposition of the bill as he represents many Ch. 42 districts.

Witnesses not wishing to testify included **Martin Pena** with **STAS** and registered against the bill, and **Rebecca Flores** of **Houston ISD**, registering in favor of the bill.

*The bill was left pending.*

## **SB 2178 Shapleigh**

Relating to the establishment by the commissioner of education of a computer lending pilot program for public schools.

**Remarks:** As filed: Establishes the computer lending pilot program to provide computers to participating public schools that make computers available for use by members of the local community. A public school is eligible to participate in the pilot program if 50 percent or more of the students enrolled in the school are educationally disadvantaged and the school operates or agrees to operate a computer lending program that allows students, parents and other area residents to borrow a computer, includes an option for students, parents and residents to work toward owning a computer initially borrowed under the lending program, provides computer training, and operates outside of regular school hours until at least 7pm.

**Testimony:** **Sen. Shapleigh** laid out the background and purpose of the bill. **Sen. Shapiro** questioned whether the bill intends to focus on individuals involved in schools rather than all community members, which Sen. Shapleigh verified that it does. In order to tighten up the language and specify the bill's focus, an amendment will be introduced on the floor to clarify that the bill is primarily focused on students and their parents rather than all community members.

Witnesses not wishing to testify on the bill but registered in favor included **Holly Eaton** with the **Texas Classroom Teachers Association (ICTA)** and **Jennifer Canaday** with Association of **Texas Professional Educators (ATPE)**.

*The bill was passed out of committee with a favorable recommendation to the local and uncontested calendar.*

## **SB 2206 Van de Putte**

Relating to certification of an educator in Texas who is certified in another state or country.

**Remarks:** As filed: The board shall (not may) issue a certificate to an educator who applies for a certificate and hold a certificate or credential issues by another state or country to teach math, science, special education, or any other subject area the commissioner determines has a shortage area.

**Testimony:** **Sen. Van de Putte** explained the bill's background and introduced a committee substitute that will help expedite the process of providing a teacher with a Texas certification.

Public testimony began with **Brook Terry** from the **Texas Public Policy Foundation** who gave supportive testimony for the bill. She discussed the negative effects of having teachers teach in out of field subject areas and noted that this bill would help to reduce shortage areas by filling gaps with teachers coming in from other states.

Individuals registered for the bill included **Julie Shields** for **TASB** and Casey McCreary with TASA.

*The bill was passed out of committee and sent to the full senate with a favorable recommendation.*

### **SB 2270 Gallegos**

Relating to consideration of mitigating factors in determining appropriate disciplinary action to be taken against a public school student.

**Remarks:** As filed: Requires consideration of self defense, lack of intent, disciplinary history, and disability history when removing a student to a DAEP.

**Testimony:** **Rep. Gallegos** introduced the bill and public testimony was quickly opened.

**Erica Terrazas** with **Texas Appleseed**, spoke in favor of the bill and the importance of reforming the grounds for which students are referred to DAEP's. **Frank Harmeyer**, a teacher that has worked in DAEPs for many years, was supportive of the bill and drew from his personal experience to illustrate his support.

**Fred Hink** with **Texas Zero Tolerance** also was in favor of the bill on behalf of his organization and explained the bill will reduce the number of inappropriate DEAP referrals. **Rona Statman** with the **ARC of Texas** was also supportive and explained that students with disabilities are overrepresented at DAEPs, and that the bill will positively impact this problem.

**Jeff Miller** with **Advocacy, Inc.** echoed the supportive statements made by Ms. Statman as the group also focuses on issues affecting person with disabilities. **Pattie Quinze** with **Texas – American Federation of Teachers** (TX-AFT) gave neutral testimony on the bill. She offered suggestions to improve the bill including improved training for teachers and administrators. **Lonnie Hollingsworth** with **Texas Classroom Teachers Association** (TCTA) was generally supportive of the bill but suggested that the discretionary removals continue to be supported.

Several individuals registered for the bill including **Katherine Zackel** with **Texans Care for Children**.

*The bill was passed out of committee and sent to the full senate with a favorable recommendation.*

### **SB 2323 Carona**

Relating to the functions of the Texas School Safety Center and safety at public educational institutions.

**Remarks:** As filed: Includes an institution of higher education as an institution that shall adopt and implement a multi-hazard emergency operations plan. Plans and rules can be made by the commissioners of public or higher education. The bill also creates a school safety planning committee to be established by each school district for every campus. The committee shall participate in developing and updating emergency operation plans, provide the district with any campus-level information required in connection with a security audit, and review each report to be submitted by the district to the Texas Safety Center. A section is also created to establish a registry of persons providing school safety consulting services in the state. This section provides various measures to follow for the maintenance of such a list. The bill also



details how an institution of higher education must collaborate with the division of emergency management and the governor's office to develop various emergency safety plans. Finally, the bill lays out a new section to require a school safety progress report. The bill repeals section 37.210 of the Education Code which required school safety centers to sponsor essay contests for public school students.

**Testimony:** **Rep. Carona** introduced a substitute which changes the bill's auditing requirement to every three years, from every two years, and removes any unfunded mandates that were originally incorporated in the bill. Rep. Carona explained that the bill was created due to a state audit demonstrating the need for increased safety and security measures.

There was no oral testimony for this bill but **Holly Eaton** with the **TSTA**, **Julie Shields** with the **TASB**, and **Casey McCreary** with the **TASA** all registered for the bill.

*The bill was passed out of committee and sent to the full Senate with a favorable recommendation.*

## Pending Bills

### **SB 3 Shapiro**

Relating to public school accountability, curriculum, and promotion requirements.

**Remarks:** As filed: Please visit [www.moakcasey.com](http://www.moakcasey.com) for more information.

**Comments:** **Sen. Shapiro** offered several revisions to the substitute and amendments were introduced by committee members addressing matters such as changes to dropout calculations, implementation timelines, and examination requirements for graduation. A more specific analysis of these amendments with updated changes to the bill will soon be available at [www.moakcasey.com](http://www.moakcasey.com).

**Sen. Davis** questioned **Criss Cloudt** with **TEA** at length about the manner in which performance standards are set for testing to ensure appropriate levels of rigor. Sen. Davis expressed concern that the committee was moving quickly through the bill without an appropriate understanding of the research used to determine rigor levels

The committee also spent significant time discussing several exclusions made in the determination of the dropout calculation. After this discussion **Sen. West** withdrew his amendment and rolled it into **Sen. Davis'** in order to remove the word "immigrant" from the language that defines the procedure to determine dropout numbers.

Overall, the committee struggled with creating an accountability bill that balances the system with an appropriate amount of rigor.

**Action:** *The bill was passed out of committee and sent to the full Senate with a favorable recommendation.*

### **SB 382 Van de Putte**

Relating to a competitive grant program to fund promotion of early literacy programs in certain communities in this state.

**Remarks:** As Filed: This bill creates the Competitive Grant Program to Promote Early Literacy. The program will be established at the University of Texas Health Science Center at Houston and will award grants for the implementation of literacy programs or expansion of existing programs. Awarded funds must be used to cover the costs of implementing or expanding and operating the literacy program.

**Action:** *The committee substitute was passed out of committee and sent to the full senate with a favorable recommendation.*

### **SB 1830 Patrick, Dan**

Relating to the establishment, operation, and funding of open- enrollment charter schools.

**Remarks:** As filed: A charter holder may establish one or more new open-enrollment charter school campuses under a charter without applying for authorization from the State Board of Education if:(1) 75 percent or more of the open-enrollment charter school campuses operating under the charter are rated as academically acceptable or higher(2) either no campus operating under the charter has been rated as academically unacceptable for any two of the three preceding school years or such a campus has been closed.

**Comments: Rep. Patrick** explained that the committee substitute does not eliminate the charter cap but creates a moving cap of 20 new charters each year. 20% of these new charters must be devoted to educating students with special needs. Additionally, Renewal of a charter may occur without SBOE approval if a charter has 90% or more campuses with an acceptable rating. The bill also eliminates facilities funding and removes bundling of accountability data when co-location occurs between a charter school and a traditional public school.

**Action:** *The committee substitute was passed out of committee and sent to the full senate with a favorable recommendation.*