



House Public Education Wednesday, May 06, 2009

The House Public Education Committee met late Tuesday night to take up several Senate Bills and **House Bill 1273** by **Representative Kolkhorst**. Both **Lynn Moak** and **Dan Casey** testified against **HB 1273** (relating to reporting of and an adjustment under the school finance system for benefits received by school districts or associated foundations or other entities in connection with agreements under the EDA) along with several Superintendents who's districts have benefitted from these agreements and **Kevin O'Hanlon**. **Amanda Brownson (TSA)** testified on **SB 1364** by **Senator Shapiro** which is relating to minimum public school attendance for class credit or a grade, and registered for **SB 300** by **Senator Patrick** which is relating to the elimination of certain mandates for school districts. While these bills were left pending, the committee began their meeting by voting out the following bills:

- **SB 759** by Williams – Relating to certain standards for group-administered achievement test used by school districts.
- **SB 955** by Shapiro – Relating to the state virtual school network.
- **SB 1125** by Zaffirini – Relating to transition and employment services for public school students enrolled in special education programs.
- **SB 817** by Shapleigh – Relating to funding of the Communities in Schools program.

HB 1273 Kolkhorst Relating to reporting of and an adjustment under the school finance system for benefits received by school districts or associated foundations or other entities in connection with agreements under the Economic Development Act.

Remarks: This bill amends Chapter 42 of the Education Code to apply Adjustments for Benefits Associated with Agreements under the Texas Economic Development Act (Chapter 313 Agreements). The provisions include:

- 1.) Directs the Commissioner of Education to reduce the amount of revenue due to a school district by an amount equal to the value of any "associated benefits" received during a school year by the district, a foundation, or any other entity created to benefit the school district or students in connection with a Chapter 313 Agreement.
- 2.) If the district is a Chapter 41 district, the Commissioner will increase the amount the district has to pay in recapture by an amount equal to the value of any associated benefits received during that school year by a district, foundation, or entity created to benefit the district or students in connection with a Chapter 313 agreement.

- 3.) A school district will report each associated benefit through PEIMS. As associated benefit is defined as a payments or other benefit in connection with an agreement between a property owner and school district under Chapter 313 of the Tax Code by or on behalf of the property owner to the district, foundation, or any entity created to benefit the districts or the district's students.
- 4.) A school district will identify each associated benefit in the district's adopted budget and in the district annual report on revenues and expenditures filed with TEA.
- 5.) The Commissioner in consultation with the Comptroller may adopt rules necessary to implement these provisions.

Effective date: September 1, 2009.

Testimony: Representative Kolkhorst asked the committee how many of them had heard about Chapter 313 agreements and only **Hochberg** and **Eissler** raised their hands. She then went into her explanation of Chapter 313 agreements. **Representative Kolkhorst** mentioned that she had some committee substitute language that would grandfather in the school district benefits for those districts that had already entered into an agreement. She acknowledged that Texas is the best place for wind farms and we do want to lure them to this state.

Lynn Moak (Moak, Casey and Associates) was the first to testify against the bill. He pointed out that every agreement has been the subject of a public hearing and nothing has been hidden and documentation is provided to the state. Mr. Moak emphasized that if the rules are changed, then there will be changes in results for the kids. He noted that the program has been successful and also emphasized that if you expect Chapter 313 to be a success in attracting business, then it is necessary to make it a win-win situation for those involved. **Representative Hochberg** inquired as to whether this income should be taken into account when it comes to equity because it is outside of tax revenue. Mr. Moak responded that the issue of abatements has not been addressed by the courts.

Dale Craymer (TTARA) testified against the bill stating that many of their members have these agreements. In his testimony, he emphasized that it is the state that benefits when this new property is attracted to the state. He pointed out that the one issue that has not been mentioned is that this abatement is temporary and when the contract is up it is really the state that gets the benefits.

Several individuals representing smaller districts who receive these benefits, including **David Ickert (TASB)**, testified against the bill, noting that there are no under the table deals and these agreements benefit their kids and districts. The claimed that without these agreements, they cannot offer certain programs and they often use the agreement to level the playing field with larger districts. If this bill passes, they will probably not be interested in entering into one of these agreements in the future.

Kevin O'Hanlon testified against the bill first pointing out that equity is measured one district at a time and according to West Orange Cove, you look at the capacity of the system to provide an adequate education. He also pointed out that the grant system through TEA has greater inequity than these agreements. If some districts have excess revenue and the lowest common denominator has enough, then you have equity. He also firmly emphasized that if the state pulls out of these agreements, businesses will lose trust in the state's ability to carry out its obligations.

Laurie Cromwell (Foundation Innovation) testified against the bill, pointing out that education foundations are formed to assist local school district and they are governed by a board of directors to assist school districts. **J.J. Baskin (Education Capital)** testified on the bill noting that they and are conducting a study on education foundations. He wanted the committee to be careful to not discourage philanthropy and private contributions.

Dan Casey (MCA) shared with the committee responses from some district who were unable to attend the hearing, and noted that the initial projects were smaller but they were on the cutting edge of a huge industry. He also pointed out to the committee that a majority of the districts were not Chapter 41 schools.

Paul Sadler (Wind Coalition) testified against the bill stating that the real question is how to fix the situation and discussing equity is a waste of time in relation to this issue. The issue is that we have a successful business incentive, jobs are being lost and the world is looking toward renewable energies. We need to fashion a solution relating to the school district benefits and this bill is not the answer. He emphasized that someone must be in charge to carry a bill. **Representative Eissler** asked what he suggested as a solution. Sadler responded that with wind energy, in the rural classification, you double the qualified investment and put in place some kind of cap (percent of savings etc), but you don't want to do an overall cap for the school district, because that limits other companies coming in later and they cannot stack their savings.

Luis Figueroa (MALDEF) testified for the bill because of its equity implications. He claimed that these agreements widen the gap in revenue per WADA between school districts. **Representative Darby** asked if he was suggesting that the state pull out of these agreements and he responded that the state could and doing this would close a tax loophole. **Dick Levine (CPPP)** also testified for the bill claiming that there are severe equity implications. **Representative Patrick** asked if it is inequitable that districts have different sized foundation programs and he responded that the bill will only effect payments made from these agreements, and other payments into foundations are not affected. **Representative Shelton** noted that he is not familiar with many of the towns that have received these deals and he would suspect that their economies are not diverse and their windfalls are very short lived. He asked Mr. Levine if he was thinking about the fact that there is not a lot in these communities in terms of long term tax base and he responded that the basis of these agreements should be to do it because it is better for the community.

Registered against the bill were **Shell Oil, TAB, Dow Chemical, David Duty (Texas School Coalition),** and **Amy Beneski (TASA).**

SB 33 Zaffirini Relating to school district requirements regarding parental notification and documentation in connection with disciplinary alternative education programs.

Remarks: A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The notice must include information regarding all methods available for completing the coursework and state that the methods are available at no cost to the student. A school principal or other appropriate administrator shall prepare and maintain documentation regarding each conference held because of existing statutory requirements related to removing students from class by a teacher. The documentation must indicate the date the conference was held, identify each person who attended the conference by name and profession and each person who failed to attend the conference after being requested to attend, including the reason for the failure to attend, if known, and state the outcome of the conference.

Testimony: Representative Farias laid out this bill and testimony for the bill was provided by **Erica Terrazas (Texas Appleseed)**. She testified that this bill allows for more parental involvement and will provide more accurate documentation to help ensure that parents and students stay informed and thus ensure more success for these students in mainstream schools. Registered for the bill were various teachers organizations.

SB 283 Nelson Relating to the membership and activities of local school health advisory councils.

Remarks: The board of trustees shall appoint members to the local school health advisory council on which a majority of members must be persons who are parents of students enrolled in the district and are not employed by the district, one of who shall serve as chair or co-chair of the council. The original bill allowed for the council to appoint both a chair and co-chair from these members.

Additional appointments can be made from the following groups: public schools teachers, public school administrators, district students, health care professionals, the business community, law enforcement, senior citizens, the clergy, and nonprofit health organizations. Additionally, the advisory council shall meet at least four times annually and submit an annual written report to the board of trustees that includes recommendations for district health curriculum and an explanation of the council's activities. Reporting requirements must be fulfilled by April 1, 2010.

Testimony: Representative Shelton laid out this bill and several individuals registered for the bill including **Julie Shields (TASB)**, and **Amy Beneski (TASA)**.

SB 300 Patrick, Dan Relating to eliminating certain mandates on school districts.

Remarks: Maintains the current law of a hard cap on the 22:1 ration. This differs from the original bill which allowed for campus wide averaging. The commissioner may except a district, through the submission of a waiver, from this limit if it creates an undue hardship on the district. The waiver, if granted, would for the entire school year. A district may not apply for an exception later than October 1 or the 30th day after the first day the district exceeds the limit.

While the original bill repealed school bus evacuation trainings entirely, the committee substitute allows for a limited version of such trainings. Each school district shall conduct school bus evacuation drills at least once each school year but they may be conducted by video, and the video may be produced by students.

A school district that is rated as recognized or exemplary (formerly just exemplary) is exempt from certain requirement and prohibition under this code, including class-size limits if campus submits written plan showing steps will not be harmful to academic achievement.

This bill also establishes the Long-range energy plan to reduce consumption of electric energy. The board of a district shall establish a long-range energy plan to reduce the district's annual electric consumption by five percent, starting with the 2008 fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan. A district is encouraged to purchase energy saving light bulbs.

The bill repeals the provision that requires the board of trustees of a school district to establish a goal to reduce the annual electric consumption by five percent each year for six years. The board of trustees of a school district may enter into an energy savings performance contract in accordance with this section.

The floor amendment adds in the language allowing students to produce the bus evacuation video. The amendment also adds a section to clarify the types of strategies that must be included for the district's energy efficiency plan.

Testimony: This bill was laid out by **Representative Shelton. Kate Robertson (Environmental Defense Fund)** testified for the bill and supported the energy efficiency portion of the bill while **Ted Molina-Raab (Texas AFT)** testified on the bill suggesting that the evacuation training be done on a bus. Registered for the bill were **Jackie Lane (TASB), Amanda Brownson (TSA), and Amy Beneski (TASA).**

SB 451 Van de Putte Relating to staff development requirements in public schools.

Remarks: As part of existing staff development requirements, mandates research-based training in the instruction of students with disabilities for educators who work primarily outside the area of special education. A school district is required to provide the training to an educator who works primarily outside the area of special education only on the recommendation of the admission, review, and dismissal committee for a student receiving instruction from the educator (this varies from the original bill that states the teacher will be required if they do not possess the knowledge and skills necessary to implement the IEP of the student).

Testimony: Representative Patrick laid out this bill and **Rona Statman (ARC of Texas)** testified that most students receiving special education are in the regular education classroom for a part of their day and most regular education teachers do not get the proper training. She noted that any training they get will benefit all students in the classroom. **Jeff Miller (Advocacy Inc)** also testified for the bill saying that one of the biggest problems in education across the state is a lack of training for teachers and this bill will help to train teachers. Registered for the bill were **Jackie Lane (TASB), and Bill Carpenter (TCASE).**

SB 587 Shapiro Relating to the eligibility of school districts for state assistance with payment of existing debt.

Remarks: Rolls forward the Existing Debt Allotment (EDA).

Testimony: This bill was laid out by **Rep Eissler. Paul Colbert (El Paso ISD)** testified in favor of this bill stating that it could be improved by adopting provisions that they have put in to HB 3546, making the roll forward a permanent feature. The roll forward can be made permanent without any additional costs since we roll it forward every two years anyway. Registered for the bill were **Casey McCreary (TASA), Bill Carpenter (TCASE), Dan Casey (Fast Growth School Coalition), and Jackie Lane (TASB).**

SB 817 Shapleigh Relating to funding of the Communities in Schools program.

Remarks: From the total funds appropriated to the compensatory education allotment, TEA shall withhold an amount not less than \$30 million per year for pre-k through high school for the Communities In Schools Program. This bill does not make an appropriation and takes effect only if a specific appropriation for the implementation is provided.

Testimony: Representative Crownover laid out this bill. Testimony was heard from **Dr. Peter Winchel (Community Schools of Texas)** who emphasized the importance of CIS and the assistance they have given to students throughout the state, noting that that is the best program to prevent dropouts. A student

also testified to her experience in joining CIS. Registered for the bill were various teacher groups, **Jackie Lane (TASB)**, **Rebecca Flores (HISD)**, and **Andrew Urban (TAB)**. After the closing **Representative Allen** claimed that CIS is the best public program out there.

SB 891 Nelson Relating to the public school physical education curriculum.

Remarks: Requires physical education curriculum to be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. Each school district shall establish objectives and goals to accomplish through the physical education curriculum. SBOE shall ensure that the curriculum:

1. Emphasizes a lifetime of regular physical activity;
2. Is consistent with national physical education standards;
3. Requires that at least 50 percent of a PE class be used for physical activity;
4. Offers an opportunity to choose among many types of physical activity;
5. Offers both cooperative and competitive games;
6. Meets the needs of students of all physical ability levels, including students who have a disability, chronic health problem, or other special need that prevents the student from participating in regular PE;
7. Takes into account the affect that gender and cultural differences might have on the degree of student interest or on the types of physical activity in which a student is interested;
8. Teaches self-management and movement skills;
9. Teaches cooperation, fair play, and responsible participation in physical activity;
10. Promotes participation in physical activity outside of school; and
11. Allows PE classes to be an enjoyable experience for students.

The committee substitute no longer requires PE classes to have student/teacher ratios comparable to the ratios in other areas of the curriculum. Rather, each school district shall establish specific objectives and goals the district intends to accomplish through the curriculum including student/teacher ratios that are small enough to enable the district to carry out the requirements of the PE curriculum and ensure the safety of students participating.

Testimony: Registered for the bill were various teacher organizations.

SB 987 Shapiro Relating to the age at which transition planning begins for a public school student receiving special education services.

Remarks: Requires that transition planning begins for a student enrolled in special education programs no later than when the student reaches 14 years of age.

Testimony: Registered for the bill were **Amanda Brownson (TSA)**, **Rebecca Flores (HISD)**, **Jackie Lane (TASB)**, and **Casey McCreary (TASA)**.

SB 1219 Averitt Relating to a parenting and paternity awareness component of the health curriculum used in public high schools.

Remarks: This bill allows a teacher to modify the suggested sequence and pace of the SBOE's parenting and paternity awareness program at the discretion of the district.

The committee substitute removes the requirement that the SBOE developed parenting and paternity awareness program for district high-schools shall be included in the curriculum for any full-year high school course that meets a requirement for health education credit. It also removes the portion that states that at the discretion of a district, the program or part of the program may be included in the curriculum for a high school course lasting less than a full year that meets a requirement for health education credit.

Testimony: There was no oral testimony for this bill.

SB 1255 Shapiro Relating to additional guarantees for certain bonds issued by school districts.

Remarks: If school district PSF Bond Guarantee is rejected due to limitation issues, then schools can receive backing from Foundation School Program under what is known as the "Intercept Credit Enhancement Program."

Testimony: Representative Hochberg laid out the committee substitute of this bill and **David Anderson (TEA)** testified on the bill, explaining how this bill would work. He testified that the goal is for a school district to attain a top bond rating to save on interest payments.

Registered for the bill were **Dan Casey (Fast Growth School Coalition)**, **Amy Beneski (TASA)** and **Julie Shields (TASB)**.

SB 1364 Shapiro Relating to minimum public school attendance for class credit or a grade.

Remarks: Extends the attendance requirement for class credit to receiving a grade. A student in any grade level from K-12 may not be given credit or a grade for a class unless the student is in attendance for at least 90 percent of the days offered.

Requires districts to adopt policies strictly limiting the removal of students from class for remedial tutoring or test preparation. A district may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than 10 percent of the school days on which the class is offered.

Testimony: Robert Floyd testified for the bill while **Amanda Brownson (TSA)** testified on the bill. She pointed out that some districts expressed concern that it would not leave enough flexibility and they have worked on a compromise with music education professionals and they would like to involve the parents in the decision. Registered for the bill were various teacher organizations.

SB 1576 Shapiro Relating to an algebra instruction grant program.

Remarks: Establishes the algebra instruction grant program from which grants are awarded to school districts to implement algebra instruction programs. The commissioner may not use more than \$50 million for this program. The substitute changes the grade levels at which teachers become eligible to make eligibility for teachers of grades 5-8. A floor amendment was added to the bill that states the bill does not make an appropriation and that the bill will only take effect if a specific appropriation for the implementation of the act is provided in a general appropriations act of the 81st Legislature.

Testimony: Registered for the bill were various teacher organizations, and **Amy Beneski (TASA)**.

SB 635 Seliger Relating to certain requirements for school bus emergency evacuation training.

Remarks: Requires school bus emergency evacuation training to occur at least once a school year. The bill now states that the training may be conducted through the use of video and allows the video to be produced by students. (Previously, students and teachers were required to view a video on evacuation procedures.)

Testimony: This bill was laid out by **Representative Harless** and she clarified that even if the district doesn't have a bus they have to do the training but they can do it by video and do not have to rent buses. **Ted Molina-Raab (Texas AFT)** testified neutrally on the bill emphasizing that school bus drivers agree that once a year makes sense but for those schools that transfer students by bus, it is important to do it on the bus and not by video. **David Ickert (TASB)** testified on the bill because these trainings are difficult to coordinate. He recommend they authorize and encourage rather than require that these trainings occur. Registered for the bill were **Amy Beneski (TASA)** and several teacher orgs.