



House Public Education Wednesday, April 08, 2009

The House Public Education Committee met on Tuesday April 7, 2009 to hear testimony on several bills, the majority of which focused on charter school and DAEP/JJAEP related issues. These topics elicited lively debate amongst committee members, particularly on the issue of removing the cap on the number of charters the state may issue for open-enrollment charter schools.

HB 3703 filed by **Rep. Jackson** was given significant attention by both witnesses and committee members as it calls for a cap removal and would allow the co-location of charter schools within traditional public schools. The bill has an identical companion in the Senate, **SB 1830**, filed by **Sen. Patrick**. **Rep. Keffer's** bill, **HB 2471**, which requires the SBOE to develop career and technical education curriculum to be implemented into the foundation curriculum, also drew a large amount of testimony. This testimony was primarily positive and came from representatives of the industrial sector.

Martín Peña registered for several bills on behalf of the **South Texas Association of Schools** including **Rep. Allen's HB 4435** which would require additional training for principals of schools rated academically unacceptable. He also registered against Rep. Jackson's charter school bill. The Texas School Alliance was represented by Lynn Moak and Amanda Brownson who registered on its behalf for several bills including **Rep. Branch's HB 4294**, which would include technology and electronic textbooks for selection by the SBOE to be included in foundation curriculum materials. All bills heard were left pending in committee.

HB 1364 Eissler

Relating to coverage of preexisting conditions by certain group health benefit coverage programs for active school employees.

Remarks: As filed: Adds to the state's insurance program, language that utilizes the Insurance Code's definitions for pre-existing conditions.

Testimony: **Rep. Eissler** laid out the scope and purpose of the bill. **Lindsay Gustafson** with the **Texas Classroom Teachers Association (TCTA)** was supportive of the bill and explained that it helps ensure that TRS will not opt out of the pre-existing HIPPA provisions.

Martín Peña was present and registered for the bill on behalf of the **South Texas Association of Schools (STAS)**.

The bill was left pending.

HB 1387 Davis, Yvonne

Relating to hearing requirements for the adoption of certain rules by a board of trustees of certain school districts.

Remarks: As filed: Before a school board may adopt rules necessary to govern the term, election and residency of members of the board, they must hold a public hearing at which registered voters may comment on the rule, publish notice of the public hearing and then hold an election in which the rule is approved by a majority of voters.

Testimony: **Rep. Davis** introduced the bill and explained its purpose. Public testimony began with **Ted Molina Rabb** who spoke on behalf of the **Texas-American Federation of Teachers (TX-AFT)** in favor of the bill. Mr. Rabb discussed the importance of ensuring that elected officials do not arbitrarily change their term limits without public input.

Portia Bosse with the **Texas State Teachers Association (TSTA)** was one of a few individuals registered in support of the bill and did not provide oral testimony.

The bill was left pending.

HB 1425 Lewis

Relating to the determination of the population of a county required to develop a juvenile justice alternative education program.

Remarks: As filed: This bill relates to whether a county must create a juvenile justice alternative education program based on the county's population size, with a population cap of 125,000. The population size must be determined through the 2000 federal census.

Testimony: **Rep. Lewis** introduced the bill and discussed its purpose. **Louis Serrano, Director of Juvenile Services for Ector County** in Odessa, served as a supportive witness for the bill. He discussed various reasons for his support of the bill primarily due to its potential cost reduction for the county. **Adolpho Saucedo, Director of Juvenile Services for Midland County**, also provided testimony and echoed Mr. Serrano's sentiments about the benefits of this bill. A Justice of the Peace for Midland County also spoke gave supportive testimony for the bill.

Rep. Hochberg offered the suggestion that Ector and Midland Counties might share a JJAEP, which the committee could help make possible through a change in statute. **Linda Brooke**, with the **Texas Juvenile Probation Commission**, served as a resource witness and confirmed that there are not currently limitations in statute that would prohibit the sharing of a JJAEP. **Rep. Dutton** asked the resource witness various questions about the method for creating MOUs between the counties to create a joint JJAEP. Ms. Brooke provided examples about previous partnerships and how they were created. In response to **Rep. Hochberg's** questions, **Ms. Brooke** explained the two funding streams that support state-wide JJAEPs, which come from the Foundation School Program and Title V funds.

Ted Molina Rabb, with **TX-AFT**, spoke in opposition to the bill due to a concern that it would allow some districts to expel students "to the street" and not ensure academic options for these students.

The bill was left pending.

HB 3041 Farias

Relating to a comprehensive schedule of public school reporting requirements.

Remarks: As filed: TEA shall develop and maintain a comprehensive schedule that addresses each reporting requirement generally applicable to a school district, including requirements imposed by an entity other than the agency, and that specifies the date by which a school district must comply with each requirement. The agency shall determine the appropriate format of the schedule and the manner in which the schedule is made readily accessible to school districts.

Testimony: **Rep. Farias** laid out the bill and explained its purpose which is to clarify reporting requirements for school districts.

There was no oral testimony for this bill but several individuals registered in favor including: **Ted Molina Rabb** with **TX-AFT**, **Julie Shields** with **TASB** and **Casey McReary** on behalf of **TASA**.

The bill was left pending.

HB 3841 Hilderbran

Relating to requiring joint elections for trustees of common school districts.

Remarks: As filed: As it existed on May 1, 1995, an election for trustees of a common school district shall be held on the same date as: (1) the election for the members of the governing body of a municipality located in the school district; or (2) the general election for state and county officers. Elections held on the same date as shall be held as a joint election. The voters of a joint election under this section shall be served by common polling places consistent with Section 271.003(b), Election Code. The board of trustees of a common school district changing an election date to comply with this section shall adjust the terms of office of its members to conform to the new election date.

Testimony: **Rep. Aycock** laid out this bill on behalf of **Rep. Hilderbran**. Testimony began by **Sarah Leon**, attorney for **Crocket County Consolidated Common school district**, spoke in support of the bill and discussed the importance of allowing joint elections for common school districts.

The bill was left pending.

HB 3916 Eissler

Relating to an alcohol awareness component of the health curriculum used in public schools.

Remarks: As filed: The SBOE shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning. The agency shall compile a list of alcohol awareness evidence-based programs from which a school district shall choose for use in the district's health curriculum.

Testimony: **Rep. Eissler** discussed the purpose of the bill and opened the floor to testimony.

No oral testimony was offered but several individuals registered in favor of the bill including **Martín Peña** on behalf of **STAS**.

The bill was left pending.

HB 4014 Weber

Relating to prohibiting school districts from requiring or coercing teachers to make charitable contributions.

Remarks: As filed: A school district board of trustees or school district employee may not directly or indirectly require or coerce any teacher to: (1) make a contribution to a charitable organization or in response to a fund-raiser; or (2) attend a meeting called for the purpose of soliciting charitable contributions. A school district board of trustees or school district employee may not directly or indirectly require or coerce any teacher to (1) making a contribution to a charitable organization or in response to a fund-raiser; or (2) attending a meeting called for the purpose of soliciting charitable contributions.

Testimony: **Rep. Weber** laid out the purpose of the bill and offered a committee substitute that now covers all school employees and not just teachers. **Rep. Patrick** expressed appreciation for the bill but was concerned that the work of the Parent Teacher Association might be considered coercion because of this bill. She goes on to request a clear definition for coercion and the addition of such clarity in the bill.

Lindsay Gustafson with **TCTA** was extremely supportive of the bill and explained that coercion may be considered times when teachers are publicly singled out for not having contributed to a fund. **Ted Molina-Rabb** with **TX-AFT** also offered support, particularly in regard to the inclusion of all school employees in the committee substitute.

Martín Peña registered in support for this bill on behalf of **STAS**.

The bill was left pending.

HB 4152 Rose

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: **Rep. Rose** introduced the bill and explained the teacher shortage this bill seeks to address. **Rep. Aycock** questioned whether a teacher, who has earned certification in another state but has not yet taught, would still be eligible under this bill. **Rep. Rose** responded that the bill does not require a certain amount of teaching time, only that they have received certification in another state.

Public testimony began with **Ray Glenn, Associate Commissioner** with **TEA**, who explained that currently, teachers that hold a standard certificate to teach in another state, the teacher must demonstrate their certification. These teachers are given one year after gaining employment in the state to fully comply with Texas certification standards by taking a certification exam. Mr. Glenn went on to explain that if a state has a comparable certification, then the teacher does not have to take the Texas exam. Currently, a teacher must only take an exam if their original state's exams does not compare to Texas. **Rep. Rose** was unable to stay for this portion of the hearing and **Rep. Hochberg** expressed concern that the bill might need revision based on Mr. Glenn's testimony. The committee will contact **Rep. Rose** with this issue.

The next testimony was provided by a local special education teacher, **Lisa Gartner**, who provided anecdotes about her own experience of becoming certified out of state and the obstacles she faced in order to gain employment in Texas. She explained that this bill would have expedited her employment. **Monty Exter**, for **ATPE**, was supportive of the bill and explained the he has worked with the author to revise current language. **Alejandra Julia Martin** with **TSTA** echoed Mr. Exter's statements and discussed the importance of the bill in order to fill teacher shortages in certain subject areas. **Brooke Terry** with the **Texas Public Policy Foundation** (TPPF) expressed the Foundation's support because of its ability to help fill teacher shortage areas in various subjects.

Witnesses not wishing to testify but registering their support for the bill included **Julie Shields** with **TASB**, **David Duty** from **Texas Association of Community Schools** (TACS), and **Casey McReary** with **TASA**.

The bill was left pending.

HB 4193 Herrero

Relating to a joint election for trustees of an independent school board.

Remarks: As filed: An election for trustees of an independent school district shall be held on the same date as the election for the members of the governing body and adds language to include other city-wide elected board of a municipality located in the school district.

Testimony: **Rep. Herrero** introduced a committee substitute to change minor bill language. This bill was intended to specifically assist the Robstown ISD. **Rep. Hochberg** questioned if there is a way to create additional flexibility for the Robstown ISD without opening the entire election date issue up for debate through a change in statute. Rep. Herrero explained that Legislative Council is currently reviewing the bill to identify just such an option.

Testimony was provided by the Robstown ISD's school board president who asked for consideration of this bill in order to move school issues to the top of the ballot rather than the bottom, where they are normally found.

Additional support was offered by **Martín Peña** on behalf of **STAS**, **Julie Shields** with **TASB**, and **Casey McReary** from **TASA** who all registered for the bill but did not give oral testimony.

The bill was left pending.

HB 4302 Farrar

Relating to the confidentiality of criminal history record information and related information that is obtained by a school district and that relates to an employee of the district.

Remarks: As filed: Criminal history record information obtained by a school district that relates to an employee of the district is confidential and not subject to disclosure. A book, paper, letter, or document or any other form of media, including data held in computer memory, that is collected, assembled, or maintained by a school district and that either contains or was created from criminal history record information that relates to an employee of the district or that tends to confirm the existence or nonexistence of criminal history record information that relates to the employee is confidential and not subject to

disclosure, regardless of whether the medium contains other information, including information that would otherwise be subject to disclosure.

A school district may not confirm the existence or nonexistence of criminal history record information that relates to an employee of the district to any person that is not entitled to obtain the criminal history record information from the department or the Federal Bureau of Investigation, as applicable.

Testimony: **Rep. Farrar** introduced the bill and discussed its scope and purpose. **Martha Owens** with **TX-AFT** spoke in support of the bill. She explained that although the bill's content is narrow, its intent is extremely important. **Alejandra Julia Martin** with **TASA** was also supportive of the bill and echoed Ms. Owens' sentiments.

Rebecca Flores with **Houston ISD**, **Julie Shields** from **TASB** both registered in favor of the bill, along with many others, but did not provide oral testimony.

The bill was left pending.

HB 4435 Allen

Relating to the requirement for mandatory participation by certain principals in the School Leadership Pilot Program for Principals.

Remarks: As filed: Principals of schools rated as academically unacceptable are required to participate in the School Leadership Pilot Program. Language that exempted a principal newly assigned to an AU campus is deleted by the bill.

Testimony: **Rep. Allen** introduced a committee substitute which clarifies that the training applies to the principal present for the period of time that earned the campus an academically unacceptable rating, regardless of whether the principal is still employed at that particular campus. **Harley Eckhart**, with the **Texas Elementary Principals and Supervisors Association (TEPSA)**, was supportive of the bill and suggested that the bill not expire at the end of the current school year but extend into future school years. **Ellen Williams** with **Houston ISD** offered the district's support for the bill as it encourages the development of successful principals and offers remediation for those that have not demonstrated campus improvement.

Many individuals registered in favor of the bill but did not give oral testimony including **Amanda Brownson** on behalf of **TSA** and **Martín Peña** for **STAS**.

The bill was left pending.

HB 466 Paxton

Relating to procedures relating to placement of a public school student in a disciplinary alternative education program.

Remarks: As filed: This bill adds wording to the Education Code that states a student is entitled to due process and representation at their expulsion hearing. No later than the first school day after the conference on the student's expulsion, a student and his/her parent must receive a copy of the order placing the student in a disciplinary alternative education program and a notice of their right to appeal. A student's appeal

hearing must be held no later than the 15th business day after the original conference. At the appeals hearing, the student is entitled to due process and representation by an adult who can provide counsel to the student. This bill repeals the section of the Education Code that states that a student's parent is entitled to notice of an opportunity to participate in a proceeding before the board to represent their child if their disciplinary alternative education program is extended beyond 60 days or the end of the next grading period. This section also states that any decision made at this hearing cannot be appealed.

Testimony: **Rep. Paxton** introduced his bill and explained that he introduced a similar bill during the previous legislative session. **Dwight Harris** with **TX-AFT** spoke in opposition to the bill because of the proposed changes in the legal pre-conditions for the DAEP placement. **Mark Levin** was also present to speak in favor of the bill on behalf of **TPPF**.

Erica Terrazas with **Texas Appleaseed** and **Jessica Cassidy** from the **American Civil Liberties Union** both registered for the bill.

The bill was left pending.

HB 2471 Keffer

Relating to career and technical education in the public schools and high school graduation requirements.

Remarks: As filed: Modifies current graduation plans. Requires the SBOE to develop career and technical education curriculum to be implemented in the foundation curriculum. Changes the name of the minimum graduation plan to the standard graduation plan.

The recommended program is required to allow two options: a science and math option that requires four credits of each and an opportunities option that requires no more than three credits in math and science plus four credits in a combination of career and technical, English language arts, social studies, languages other than English, and fine arts. Allows districts to submit career and technical courses for approval by the SBOE for satisfying math and science requirements.

Requires the workforce commission to provide TEA with current and projected employment opportunities disaggregated by county and region. TEA shall provide the information to school districts for planning career and technical education and training programs. Repeals requirements that students be placed into the recommended program unless a parent or guardian and a school counselor or administrator agree that the child be permitted to select a different option.

Testimony: **Rep. Keffer** introduced the bill and explained the additional advantages this bill seeks to provide for students enrolled in CTE programs. He introduced a committee substitute that intends to emphasize relevance and rigor by increasing curriculum flexibility beyond the standard 4x4, especially in the fourth year of high school. **Rep. Patrick** questioned which stakeholders played a role in crafting the bill and Rep. Keffer explained that the following were integral in the process: Texas Association of Business, Texas Association of Manufacturing, local school districts, and Raise Your Hand Texas, among others.

Todd Staples, Texas **Commissioner for Agriculture**, was present to express his support for the bill. He explained the significant gross domestic product that comes from Texas but that growth has slowed. This bill would help ensure that students have the ability to enter the business and work force with adequate training once they leave high school. **Dr. Reese Blincoe**, **Superintendent of Brownwood ISD**, also gave

supportive testimony for both **TASA** and **Brownwood ISD**. Dr. Blincoe drew on Brownwood ISD's own positive experiences with CTE programs to express the importance of this legislation.

David Thompson, with **Raise Your Hand Texas**, was present to offer support for the bill. He spoke about the importance of rigor and relevance to retain students within the recommended high school program. **Brooke Terry**, with the **TPPF**, offered neutral testimony on the bill. She expressed concern that the bill may backtrack on the 4x4 curriculum and is willing to work with the bill's author to remedy that issue. **Drew Scheberle**, from the **Austin Chamber of Commerce**, was concerned that the bill would create two tracks for high school students and that the CTE program would not adequately prepare students for college.

Andrew Urban, **Director** of the **Texas Institute for Educational Reform**, also offered supportive testimony for the bill. He provided suggestions to improve the bill which would require that optional math and science courses must be advanced and relevant in order to be applicable in the "real world." Mr. Urban also wanted to make sure that Algebra II and Physics would both be required under each program. **Linda Holcombe**, **Director** for the **Texas Industrial Vocational Association**, echoed the supportive statements of other witnesses. She gave several examples of the importance of this bill and the positive impacts it would make on students enrolled in CTE courses. **Hector Rivera** with the **Texas Chemical Council** (TCC) also spoke in support of the bill on behalf of the council. Mr. Rivera explained that TCC members have certification partnerships with community colleges across the state. He felt that this bill would create enough flexibility for students to seek out the programs that community colleges offer, in order for employers to have a larger workforce pool.

Virginia Strama, with the **Texas Oil and Gas Association**, also offered support for the bill due to its enhancement of CTE programs that will lead to a strengthened workforce for Texas employers. Additional supportive testimony was provided by **Dan Barrow** from an industrial construction group in San Antonio, **Mike Maroney** of the **Texas Association of Manufacturers** and by **Kimberly Bernard**, **Director of Education** for the **Association of Builders and Contractors for Southeast Texas**, and **David Lindsay** with the **National Quality Board**.

Dr. Raymund Paredes, **Commissioner** of the **Texas Higher Education Coordinating Board** (THECB), offered neutral testimony on the bill. He talked about the importance of providing strong academic curriculum that is exciting to students and that this type of curriculum will go further to retain students. Dr. Paredes made the point that THECB supports CTE programs as long as they rest on a strong academic foundation.

Several individuals registered their support for the bill but did not provide testimony and overwhelmingly represented the industrial sector. **Amanda Brownson**, with **Moak, Casey and Associates** registered in support of the bill on behalf of the **Texas School Alliance** along with **Rebecca Flores** with **Houston ISD**.

The bill was left pending.

HB 2541 Eissler

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

Remarks: As filed: Adds a section to the education code that states that a charter school is entitled to state funding only if the charter holder: 1. provides information for PEIMS; 2. submits to the commissioner appropriate fiscal and financial records; and 3. receives an unqualified opinion in the most recent independent auditor's report of the school's finances.

The commissioner shall suspend the funding of a charter holder that fails to comply. The commissioner shall revoke the charter of an open-enrollment charter school if the school is insolvent as a result of recovery of over-allocated state funds. If a campus of an open-enrollment charter school is considered academically unacceptable for two consecutive school years after the campus is reconstituted, the commissioner shall order closure of the campus.

This bill adds open-enrollment charter schools to the financial accountability rating system. A charter holder is initially eligible for IFA for a school year for a campus of an open-enrollment charter school for which the charter holder has been granted a charter if: the campus has for the two preceding school years been rated as recognized or exemplary; and the charter holder has satisfied generally accepted accounting standards of fiscal management as evidenced by an unqualified opinion in the most recent independent auditor's report. The campus remains eligible for an allotment unless the campus receives an accountability rating of academically acceptable or below, for three consecutive school years.

The amount of an allotment under this section is an amount established by the commissioner, not to exceed \$1,000 or a different amount provided by appropriation, for each student in ADA during the preceding school year at the open-enrollment charter school campus. These funds may be used to: 1. purchase real property on which to construct an instructional facility for the campus; 2. purchase, lease, construct, expand, or renovate instructional facilities for the campus; 3. pay debt service in connection with instructional facilities purchased or improved for the campus; or 4. maintain and operate instructional facilities for the campus.

If a charter holder is not initially eligible for IFA, they may be eligible if the campus: 1. has a current academic accountability rating of acceptable, recognized, or exemplary; 2. does not have an accreditation rating of accredited-warned or accredited-probation; 3. meets two or more additional academic requirements determined by the commissioner; 4. demonstrates the ability to finance a substantial portion of the cost of the instructional facility and the inability to fully pay the costs of the instructional facility, as determined by the commissioner; and 5. satisfies any other requirement required under commissioner rule.

Testimony: **Rep. Eissler** introduced the bill and explained that he will draft a substitute based on the testimony provided. **Ted Molina Rabb** with **TX-AFT** offered neutral testimony on the bill due to the facilities funding piece of the bill which Mr. Rabb explained may reduce fund availability to traditional public schools. **John Adams**, a **Dripping Springs ISD** school board member and on behalf of **TASA** and **TASB**, opposed the bill because of the concern that traditional public schools exceeding expectations would greatly benefit from additional funds this bill affords charter schools.

Rep. Olivo questioned the ownership of a building purchased jointly by the state and the charter school and **David Anderson** with **TEA** clarified that if the charter school purchased the building at 50% or more prior to 2001, then the facility would be considered owned by the charter school and not public property. The committee began a lengthy discussion about co-mingling of assets between charter and traditional public schools. They deliberated about best practice methods for providing funding assistance to charter schools without risking public assets. It was determined that the committee must research this issue more deeply.

Several individuals registered against this bill including **Martín Peña with STAS** and **Dr. Daniel King** from **Pharr-San-Juan ISD**.

The bill was left pending.

HB 2823 Patrick, Diane

Relating to eligible recipients of certain grants awarded by the commissioner of education.

Remarks: As filed: The commissioner cannot award a grant to an organization to provide a comprehensive educational program to students that serves as a substitute for a regular educational program provided by a school district or open-enrollment charter school. To meet the goals of the High School Completion and Success Initiative Council the commissioner of education of higher education may award grants to school districts, open-enrollment charter schools, institutions of higher education, regional education service centers, and nonprofit organizations that provide technical assistance, professional development, case-managed student services, and programs for the benefit of students enrolled in school districts or open-enrollment charter schools.

The commissioner may not award a grant to a nonprofit organization for services provided as a private school or to a private school.

Testimony: **Rep. Patrick** introduced the committee substitute which adds the language “or paid professionals” to eligible recipients for the grant awards.

Portia Bosse with **TSTA** gave supportive testimony for the bill particularly because it offers the committee an opportunity to clarify existing law about exactly which groups may benefit from state-issued grants.

Amanda Brownson registered for this bill on behalf of **TSA**. **Martín Peña** also registered in favor of the bill for **STAS**.

The bill was left pending.

HB 3173 Allen

Relating to the statewide plan for delivery of services to public school students with disabilities and resources for teachers of public school students with special health needs.

Remarks: As filed: TEA shall develop and implement a statewide plan with programmatic content that includes procedures designed to ensure that a school district provides to a teacher who instructs a student with a disability in a regular classroom setting: 1. Training in providing appropriate educational services to a student with a disability, including training in research-based best practices for meeting the academic and behavioral needs of a student with a disability assigned to the teacher's classroom; 2. Assistance from appropriately trained personnel, as determined by the district, in meeting the academic and behavioral needs of a student with a disability assigned to the teacher's classroom; 3. Relevant information in the student's individualized education program; 4. The opportunity to request staffing and intervention team meetings and meetings of the student's admission, review, and dismissal committee regarding a student with a disability assigned to the teacher's classroom; and 5. The opportunity to participate in staffing and intervention team meetings regarding a student with a disability assigned to the teacher's classroom. The plan must also ensure that a school district develops a process for responding to concerns regarding

implementation of the student's IEP by a teacher who instructs the student in a regular classroom setting and for notifying the student's parents of such response. IT shall also ensure that school health services for a student with a disability are performed by a qualified school nurse or other qualified and trained personnel. Finally it should ensure that, the teacher receives training and/or assistance from appropriately trained personnel, as determined by the school district, to perform necessary tasks that the teacher is required to perform related to the student's hygiene and care, including diapering needs. The agency, in coordination with HHS shall establish and maintain an Internet website to provide resources for teachers who teach students with special health needs.

Testimony: **Rep. Allen** outlined the background and purpose for the bill. **Bill Carpenter** with the **Texas Council of Administrators for Special Education** was extremely supportive of the bill due to the additional resources it would provide classroom teachers. **TCTA** also offered oral testimony in support of the bill because of the significant impact the bill will have on a teacher's ability to successfully implement the student's IEP.

A variety of individuals registered support for the bill without providing oral testimony including several parents with children enrolled in special education courses.

The bill was left pending.

HB 3220 Hancock

Relating to the applicability of certain laws to open-enrollment charter schools.

Remarks: As filed: Adds that an open-enrollment charter school is subject to liability under Section 101 of the Civil Practice and Remedies Code. This bill also adds that they are a local government and therefore must comply with Chapter 102 of the Civil Practice and Remedies Code on payment on a tort claim.

An open-enrollment charter school may extend workers' compensation benefits to employees of the school by becoming a self-insurer under Chapter 504, Labor Code.

Testimony: **Rep. Hancock** introduced the scope and purpose of the bill. **Rep. Patrick** questioned how this bill differs from current law in terms of the type of liability coverage this bill offers to which **Rep. Hancock** explained that the bill seeks to clarify current law in terms of liability coverage for charter schools but does not establish such coverage for the first time. As discussion continued, the committee questioned the level of change this bill provides. **David Anderson** with **TEA** was called on to provide resource testimony for the bill and verified that the bill extends the same types of immunity offered to traditional public schools to charter schools along with making them subject to the same liabilities as traditional public schools.

Thomas Fuller, an attorney from Arlington, provided the first public testimony and was supportive of the bill because it will treat charter schools as governmental entities that would be allowed to file interlocutory appeals. **Ted Molina Rabb** from **TX-AFT** stated the group's original opposition to the bill which now has been remedied based on conversations with **Rep. Hancock's** staff. Mr. Rabb explained that the group's original apprehension about the bill stemmed from the additional governmental authority the bill might confer to charter schools. However, based upon the committee's conversations the group may change position.

Denise Pierce, with the **Texas Charter Schools Association**, supported the bill because of the ways it will help ensure the proper immunity and liability for charter schools.

The bill was left pending.

HB 3467 Naishtat

Relating to the administration of certain locally required assessment instruments in public schools.

Remarks: As filed: Replaces the language "district required" with "locally required" in reference to the administration of assessment instruments in certain subject areas.

Testimony: **Rep. Naishtat** laid out the background and scope of the bill.

Amy Beneski spoke against the bill on behalf of both **TASA** and **TASB**. She discussed the stress felt by administrators and teachers regarding high stake testings. Ms. Beneski requested additional clarification in the language to differentiate between district required and locally required assessments. **Harley Eckhardt**, with **TESPA**, echoed Ms. Beneski's statements that periodic assessments will help educators gauge student's progress in order to adequately prepare for TAKS testing. **Ted Molina Rabb** with **TX-AFT** and **Ken Zarafas**, a middle school teacher, both voiced their support of the bill.

The bill was left pending.

HB 3703 Jackson, Jim

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

Remarks: As filed: Allows for unlimited new charter campuses under one charter, without the approval of the SBOE as long as it meets the following criteria: -75 percent or more of the campuses are rated as academically acceptable or higher; -None of the campuses under the charter have been rated as academically unacceptable for any two of the preceding three years; -The charter school provides written notice to the SBOE and the Commissioner about the establishment of a new campus. The bill also clarifies that a student may only be included in a dropout computation if the student attended the charter school for at least 85 days. A section is also included about the provision of additional funding for academically acceptable schools. To the extent that funds are available, every academically acceptable charter school shall receive not more than \$1,000 per student and not less than \$500. Funds may only be used for the operations and facilities of the charter school. An additional section is included regarding co-location agreements between school districts and charter schools. If a charter school leases a facility and enters into an agreement with a district, then the district's board may request student performance information from the charter school. The bill lays out a variety of rules regarding what should be included in these agreements. The bill also entitles a school district to a certain amount of funds if they enter into an agreement with a charter school. The district is entitled to receive the greater of: -The amount the charter school would receive under the "additional funding" section of this bill; -The amount the district is entitled to under chapters 41 and 42 for the additional charter students; The district's board will ultimately decide how to handle the funds portion of the agreement.

Testimony: **Rep. Jackson** introduced the bill and explained its various components.

David Dunn, **Executive Director** of the **Texas Charter Schools Association (TCSA)**, offered supportive testimony for the bill. He discussed the improvements that charter schools have made to better serve a

broad spectrum of students. Mr. Dunn explained that the bill attempts to provide more equitable funding for facilities for charter schools. **Rep. Hochberg** questioned Mr. Dunn regarding various elements of the bill including the co-location of schools and joint accountability. Rep. Hochberg continued this line of questioning and expressed specific concern with the bundled accountability component. Mr. Dunn explained some of the potential benefits of this partnership which include the potential for the two schools to learn from each other.

A charter school operator spoke in support of the bill and spoke specifically about the facilities funding and co-location issues. She provided anecdotes to illustrate the need for facility funding assistance for academically acceptable schools. This led to several comments by **Rep. Hochberg** about the comparable state funding that charters receive as compared to schools in his district and questioned whether significant public funding disparities truly do exist between charter and traditional public schools.

This testimony was followed by **Cheryl Washington** of **Shekinah Learning Institute, Inc.** who expressed her support for the bill. Ms. Washington spoke about the strength this bill would provide charter schools to better serve the increasing body of charter students.

Ted Molina Rabb with **TX-AFT** spoke in opposition to the bill based on research he referenced that shows that the majority of charter schools do not help their students make significant gains. Mr. Rabb's testimony continued for a significant length of time due to several statements and thoughts provided by committee members, particularly **Rep. Dutton** who disagreed with TX-AFT's position on this bill. **Brooke Terry**, with the **TPPF** was supportive of the bill. Ms. Terry discussed the importance of removing the cap in order to allow new schools to open rather than just allowing existing schools to create new campuses. She suggested the implementation of a higher cap rather than removing the cap entirely. **Criss Kludt** with **TEA** was called as a resource witness to answer accountability related issues regarding charter schools. She clarified that charter schools must meet rigorous standards just like traditional public schools. **David Anderson, TEA**, was then called on to explain that currently, three types of charters exist, one being university charters for which no charter limit exists. However, this bill is targeted towards open-enrollment charter schools. He also clarified the various methods for opening charters with the cap in place.

John Adams, school board member for **Dripping Springs ISD** and on behalf of **TASA** and **TASB**, spoke against the bill but stressed that the organizations are not against charter schools. He explained that they are proponents of smart growth for charter schools and therefore do not agree with removal of the cap, are concerned with lowered standards for charter schools, and disagree with the provision of facilities funding at a time when traditional schools are under funded for facilities. **Lindsay Gustafson**, on behalf of **TCTA**, stated the group's opposition to the bill due to a concern that charter schools are generally underperforming as compared to traditional public schools.

Alejandra Julia Martin with **TASA** also opposed the bill because to the varying levels of quality that exist within charter schools. **Mark Larson**, the **CEO** for **KIPP** in San Antonio, spoke next about a recently released RAND Corporation study that criticized charter schools but that also acknowledges Texas' overall lower performing student populations, as compared to other states. He used this information to highlight that charter schools are educating a larger group of at-risk students and therefore are faced with a greater challenge. They must achieve higher growth because many students start at such a low level. Additionally, Mr. Larson spoke about the importance of co-location between charter and traditional schools in order to learn from each other.

Martín Peña from **STAS** was present to register against the bill and did not give oral testimony.

The bill was left pending.

HB 3714 King, Susan

Relating to public school career and technology education program curriculum and funding and to development of a list of high-demand occupations for career and technology education students.

Remarks: As filed: Requires the SBOE to revise the essential knowledge and skills of any corresponding CTE curriculum if THECB revises the internet database for the statewide inventory of workforce education courses. The Texas Workforce Commission (TWC) shall develop a list of high demand, high wage jobs and this list must be approved by the Texas Workforce Investment Council and the Commissioner of education for approval. The list must be reviewed every four years. Repeals Section 29.190(b) of the Education Code which required the commissioner to adopt guidelines for determining financial need consistent with the definition of financial need adopted by the College Board and Education Testing Service.

Testimony: **Rep. King** introduced the bill and explained that the large fiscal note of approximately \$36 million has already been rolled into a portion of accountability programming on the senate side and therefore is not an unfunded mandate. She clarified that the bill will cost money but that the fiscal note attached is likely to be lower.

Robin Painovich, Executive Director of the **Career and Technology Association of Texas (CTAT)**, spoke in support of the bill due to the enhanced opportunities it would provide students enrolled in CTE courses.

The bill was left pending.

HB 4294 Branch

Relating to instructional materials and technological equipment in public schools.

Remarks: As filed: Adds instructional materials and electronic textbooks to the materials selected by the SBOE for the foundation curriculum and enrichment curriculum.

A school district or open-enrollment charter school that selects a textbook that is not on the conforming or nonconforming list is responsible for the portion of the cost of the textbook that is not paid by the state and the state shall pay to the district or school 100 percent of the limitation for materials for each subject and grade level, multiplied by the number of instructional materials and electronic textbooks the district or school needs for each subject and grade level.

The commissioner shall adopt a list of instructional materials and electronic textbooks that may be purchased by a school district and funded in the manner explained above. The commissioner shall adopt minimum criteria that instructional materials and electronic textbooks must meet to be included on the list adopted by the commissioner. Funds received from the state by school districts and open enrollment charter schools under this section may also be used to provide for the purchase by school districts of technological equipment needed to provide access to SBOE-approved textbooks.

Testimony: **Rep. Branch** introduced the bill and offered a committee substitute that allows for the purchase of laptops out of the textbook fund, and states that electronic textbooks would no longer have to

be approved by SBOE. He clarified that the bill is not a mandate but a method to provide adequate flexibility so districts may access appropriate tools to educate students. **Rep. Hochberg** discussed the House Appropriation's work with determining how best to move forward with the purchase of textbooks, including electronic textbooks. A lengthy discussion ensued regarding the high cost of textbooks and Rep. Hochberg offered his assistance to improve Rep. Branch's bill. **Rep. Branch** explained that the bill seeks to allow districts to make more precise, targeted textbook choices so that books do not ultimately sit in warehouses, unused.

Public testimony began with **Jerry Vaughn, Superintendent of Floydada ISD**, who spoke in support of the bill. He discussed the technologically advanced nature of his district where students grades 6-12 each have a laptop and are expected to utilize online resources. **Kari Rhame, Chief Technology Officer for Deerpark ISD**, was also supportive of the bill because modern students are already familiar with electronic information transmission and media. Supportive testimony was also offered by **Mark Smith, Superintendent for New Braunfels ISD**. He provided positive anecdotes from his own experience with the use of technology for student learning.

The technology director for **Brownwood IS** echoed previous statements supportive of the bill. **Nola Wellman, Superintendent of Eanes ISD**, and on behalf of **TASA** and **TASB** spoke in support of the bill and stated that it represents suggestions districts have been making. She re-stated the positive testimony of many other witnesses by demonstrating strong support for electronic textbooks. Ms. Wellman explained that, if given more flexibility with district textbook dollars, districts would be more likely to utilize the electronic textbook option.

Many individuals registered in support of the bill but did not provide public testimony, including **Lynn Moak** on behalf of **TSA** and **Martín Peña** for **STAS**.

The bill was left pending.

HB 2657 Hochberg

Relating to disciplinary action taken against certain public school students on the basis of serious and persistent misbehavior.

Remarks: Adds "serious and persistent misbehavior" to the circumstances that result in a student being removed from the classroom, campus, or placed in a DAEP.

Testimony: **Rep. Hochberg** spent significant time laying out the background and purpose of the bill.

Rebecca Lightsey, Executive Director for Texas Appleseed, offered supportive testimony for the bill. She explained the importance of creating a clear definition for serious and persistent misbehavior in order to ensure appropriate behavior modification interventions. **Lindsay Gustafson** with **TCTA** testified neutrally on this bill and expressed concern that a teacher would not have recourse with extremely defiant students. This elicited disagreement from **Rep. Hochberg** who explained that the bill does not eliminate a teacher's right to remove a student from the classroom.

Jeff Miller with **Advocacy Inc.** offered supportive testimony for the bill and discussed the importance of behavioral interventions for students exhibiting repeated, negative behavior. **Ted Molina Rabb** with **TX-**

AFT testified neutrally on the bill until a compromise can be reached about removal language in the bill to make it easier to remove a student to JJAEP if behavior obstructs other students' learning.

Martín Peña registered in favor of the bill for **STAS** along with **Dr. King** from **Pharr –San Juan ISD** and several others.

The bill was left pending.



Senate Education Wednesday, April 08, 2009

This meeting of the House Public Education Committee heard emotionally charged testimony on several bills that would allow students with autism and other special needs attend private institutions including **Senate Bill 183** by **Williams** which would allow school choice for students in special education. Bills by **Senator Shapiro, SB 1301** and **SB 2204**, were also heard which would allow students with autism to attend nongovernment entities that provide services for autistic individuals. **Lynn Moak** provided written testimony against each of these bills. They were all left pending.

The committee did vote out several bills including **SB 1490** by **Watson** which would move special education due process hearings from TEA to the State Office of Administrative Hearings, and **SB 1577** by **Shapiro** which would allow excused absences for students with autism to attend health care appointments. Also voted out of committee was **SB 2044** by **Williams** which relates to membership on planning and decision making committees in schools.

SB 183 Williams Relating to a school choice program for certain students with disabilities.

Remarks: Allows students who have been placed in special education to attend a public or private school of their choice using state funds in the amount that the student's resident district would receive if the student were attending that school.

Testimony: Registered for the bill was **Brook Terry (TPPF)** stating that 10 percent of public school students are in special education and they all deserve to have their needs met. She also discussed voucher programs in other states and studies that have been conducted in these areas. **Senator West** wanted to see the data and have it aggregated by ethnicity. **Bob Schoolfield (Let's Choose Schools)** highlighted a study of seating patterns in private schools claiming that students in these environments interact more with students of varying ethnicities. He also criticized the monopolizing economic structure of the public school system. He testified that school choice will give parents ownership and authority over their child's education and therefore parents will be more involved in their child's education.

Testifying against the bill was **Craig Tounget (Coalition for Public Schools)** who noted that this is a voucher bill because the parents make the decision to spend public education money in the private realm. **Senator West** inquired as to why there has not been a charter solution But Mr. Tounget was not sure and his group has never opposed charter schools. **Andra Self (TASA/TASB)** testified against the bill due to the lack of accountability, transparency and the inability of low income parents to cover the remaining cost of tuition and transportation. **Patti Quinzi (Texas AFT)** testified that their main concern is that this is a parent's choice with no agreement by the district or ruling of an impartial arbiter. This bill will subtract funding for public schools, parents will lose federal legal rights under IDEA, the quality for private services

are impaired, and state curriculum standards do not apply to private schools. **Kathy Miller (Texas Freedom Network)** stated that her organization opposes public school vouchers and she answered some questions Senator West had on voucher programs in other states, noting that these programs are one of the reasons they opposed vouchers. The program in Florida costs \$131 million in one year and it has been their experience through research that the private institutions are not reporting along the same accountability standards as public schools. The parent of a child with a disability testified against the bill because she was not sure what private institutions will take the severely disabled students and she worries about parents of low socio economic status and their ability to make up the costs not covered by the scholarship.

Lynn Moak provided written testimony against the bill. Registered against the bill were **Martin Pena (South Texas Association of Schools)**, **David Duty (Texas School Coalition)**, and various teacher organizations. Registered for the bill was the **Texas Association of Business**.

This bill was left pending.

SB 282 Nelson Relating to grant programs to provide nutrition education to children.

Remarks: Provides for a grant program in the Department of Agriculture that will award grants to public schools to develop best practices in nutrition education. Grants will be awarded to programs to operate nutrition programs for children in early childhood programs.

Testimony: Commissioner Todd Staples testified in favor of the bill stating that we will never win the war on childhood obesity unless we take action, we must have to good practices that take the lessons of the lunchroom to the classroom and to their living rooms. The fiscal note is high because they feel we need to shock the system and invest this money. As the administrator of the nation's largest public school meal program, **Commissioner Staples** claims we would use funds to implement best practices for the children and encourage innovation and creativity in educating students about nutrition. He stated that we need to put all of our resources on the front line.

Registered for the bill were **Amy Beneski (TASA)**, **Dominic Giarratani (TASB)**, **David Duty (Texas School Coalition)**.

This bill was left pending.

SB 867 Lucio Relating to summer nutrition programs provided for by school districts.

Remarks: A district in which 50 percent or more of the students are eligible to participate in the national free or reduced-priced lunch program shall provide or arrange for a summer nutrition program for at least 30 consecutive weekdays during the summer break. A district shall use a district facility unless the district provides documentation showing that the program will operate at an adequate alternate facility.

A school district may receive a waiver of this requirement only if: the board of trustees has authorized the district's request for a waiver; there are fewer than 100 children in the district currently eligible for the national free or reduced priced lunch program; transportation for students to participate is unavailable; or the district is undergoing renovation or construction of necessary facilities. A waiver is granted for a one-year period.

The Department of Agriculture and TEA must provide a report to the legislature for each biennium that includes each school district that has provided a summer nutrition program or has failed to provide a program and the costs, other than costs paid by federal funds, incurred by school districts and the state in complying with this section.

This bill repeals the Summer Food Service Program and replaces it with the Summer Nutrition Programs.

Testimony: The committee substitute removes the requirement that food be served on consecutive days. **Celia Hagert (Center for Public Policy Priorities)** testified that this is an extension of the federal school food program and it is 100 percent federally funded. This bill strengthens an existing law that makes sure qualifying schools take advantage of the federal program. Registered for the bill were **Martin Pena (South Texas Association of Schools)** and various teacher organizations.

This bill was left pending.

SB 892 Nelson Relating to inclusion in a public school campus improvement plans of an evaluation of the campus coordinated health program.

Remarks: The bill expands the required components of campus improvement plans to include an evaluation of the coordinated health program using fitness assessment data, academic performance data, attendance, economic status, and use/success of methods to ensure student participation in at least 135 minutes of moderate to vigorous physical activity each week, and any other indicator recommended by the school's health advisory council.

Testimony: Registered for the bill were **Amy Beneski (TASA)**, and **Dominic Giarratani (TASB)**.

This bill was left pending.

SB 1125 Zaffirini Relating to transition and employment services for public school students enrolled in special education programs.

Remarks: Requires that transition planning for students enrolled in special education programs occur no later than age 14. The bill also requires that each school district or "shared services arrangement" designate an employee as the transition and employment services specialist for students enrolled in special education programs. The agency shall develop a performance-based monitoring system regarding the success of students enrolled in special education programs as they transition to life outside of the public school system. The agency shall create a transition and employment manual for students enrolled in special education programs, that include a variety of information regarding employments, benefits, and resources. Each student and student's parent or guardian shall receive a copy of this manual.

Testimony: **Senator Zaffirini** noted that the committee substitute will require that the provided employee will be a transition specialist which will lower the fiscal note. The substitute also changes the performance based monitoring system to monitor the preparation for transition, also lowering the fiscal note. Finally, districts will provide a summary rather than the entire manual to each student and parent.

Jeff Miller of Advocacy Inc testified for the bill stating that it will help parents and students work together to implement federal mandate and it will dedicate a point person in the district so parents have someone to talk to and ask questions. Mr. Miller also testified that by lowering the age to 14 allows for IEPs to be

designed to appropriately help our students to be successful. **Laura Buckner**, a former special education teacher testified that this bill will ensure that students have the support of a knowledgeable transition specialist, and they will know what to expect when they make their transition. The parent of a child in special education noted that many of these students are not prepared for the real world while others with mild disabilities are not prepared for post secondary education, this bill will help them. Registered for the bill were **Amy Beneski (TASA)**, **Martin Pena (South Texas Association of Schools)**, **Dominic Giarratani (TASB)**, **Rona Statman (ARC of Texas)**, and various teacher organizations.

This bill was left pending.

SB 1301 Shapiro Relating to the accessibility of services for certain students with autism or autism spectrum disorder.

Remarks: A student who is eligible to participate in a public school district's special education program, who has been diagnosed with autism and has an IEP, may attend any public school in their district or another district, or a nongovernment entity that provides education to students with autism. If a student attends a qualifying school, that school is entitled to an annual amount of funding that is equal to the amount of funding to which the school district in which the student resides would be entitled under Chapter 42 for the student. The agency shall directly distribute the funding to the qualifying school.

Testimony: **Andra Self (TASB/TASA)** testified against the bill because it places low and middle income students at a disadvantage, does not provide transportation, and these students are less likely to be able to afford the extra tuition of have alternative methods of transportation. She referenced a **Moak Casey & Associates** study that found that it costs \$256 million in local revenue to cover the cost of special education services and the voucher will not cover these costs. **Lynn Moak (TSA)** provided written testimony against the bill. Registered against the bill were **Martin Pena (South Texas Association of Schools)**, **David Duty (Texas Community Schools)**, and **Craig Tounget (Coalition for Public Schools)**.

This bill was left pending.

SB 1489 Watson Relating to optional dispute resolution methods for school districts and parents seeking or receiving special education services.

Remarks: Adds a section to the education code that provides for optional dispute resolution methods for school districts and parents seeking special education services. A school district shall make available and provide information to parents regarding optional dispute resolution methods that may be used when a dispute arises between the district and a parent of a student with a disability regarding identification of the student as a student entitled to special education services, evaluation or educational placement of the student, or the provision of a free appropriate public education to the student.

TEA shall develop an individualized education program facilitation process as a method of alternative dispute resolution. The agency shall develop a statewide network of impartial facilitators to be made available on request to school districts and parents that choose to use the facilitation process developed under this section. Facilitators must be provided at no cost to a school district or parent.

Testimony: When laying out his bill, **Senator Watson** noted that there will be no cost to districts. **Chris Borreca (TCASE)** testified on the bill stating that their organization is in support of facilitation, but the use of facilitation in this bill must be under mutual agreement and they do not want to prevent a school from

doing facilitation if they need it. **Jeff Miller** of **Advocacy Inc.** noted that there will be benefits to having a neutral third party in the system. Several parents and former educators also testified. Registered for the bill were various teacher organizations, **Amy Beneski (TASA)**, **Dominic Giarratani (TASB)**, and **David Duty (Texas Community Schools)**.

This bill was left pending.

SB 1490 Watson Relating to requirements for the conduct of Texas Education Agency special education due process hearings.

Remarks: TEA and the State Office of Administrative Hearings shall enter an interagency contract to conduct the agency's special education due process hearings.

Testimony: Testimony was heard from parents who had been through special education due process hearings. These parents experienced their students being denied proper special education services. They testified that it is currently a very unfair system. **Jeff Miller** of **Advocacy Inc.** testified that it is imperative that we have a due process system that works. Parents need to know that if all else fails there is a system that will help them to get the right thing done for their child. This is a step in the right direction and as long as districts have the resources to hire attorneys it will be an unfair system.

Chris Borreca (TCASE) testified against the bill because they have some areas of concern. Nearly 80 percent of cases are settled and the current system seems to work well because the rule of law is applied. If the intent is to save resources, then TCASE is not aware of any financial savings of transferring the services. **Senator Shapiro** at this point stated that she has heard from many sources that the process is not fair. She asked how they would make the transition and **Mr. Borreca** stated that knowing that qualified individuals are involved and knowing what the process is in training hearing officers would be a step in the right direction.

This was voted out of committee with favorable recommendation to the full Senate.

SB 1577 Shapiro Relating to excused absences from public school attendance for a student diagnosed with autism spectrum disorder to attend a health care appointment.

Remarks: An excused absence includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Testimony: **Dr. Joyce Mach** testified that children with autism need exposure to treatment as often as possible. Parents testified for the bill and provided stories of attempting to get their child out of school for autism treatments. **Rona Statman** with the **ARC of Texas** testified for the bill pointing out that this occurs for other students with disabilities and students with autism should also have this opportunity. She noted that the services need to be supplemented by parents and being away from school is necessary. Registered for the bill were **Amy Beneski (TASA)**, **Martin Pena (South Texas Association of Schools)**, teacher organizations, **Dominic Giarratani (TASB)**, and **David Duty (TACS)**.

Sent to the full Senate and Local and Uncontested calendar.

SB 1601 Watson Relating to sanctions for public schools designated academically unacceptable.

Remarks: If the commissioner appoints a monitor, conservator, management team, or board of managers to a district to oversee implementation of a campus improvement plan for a school that has been identified as academically unacceptable for two consecutive years, the technical assistance team or campus intervention team assigned to the school shall work with and under the direction of the appointed monitor, et al. The monitor, conservator, management team, or board of managers may recommend to the commissioner that all or part of the services of a technical assistance team or campus intervention team are no longer needed at a campus. Allows the commissioner to pursue repurposing (rather than alternative management) of a campus or closure of a campus that has been found academically unacceptable for two consecutive years following reconstitution. A district ordered to repurpose a campus shall submit a plan to the commissioner for approval. The plan must include a description of a rigorous and relevant academic program for the campus. The plan may include various instructional models. The commissioner may not approve the repurposing of a campus unless:

1. At least 50 percent of the students enrolled at the campus in the school year immediately preceding the repurposing of the campus are provided with the opportunity to enroll at another school, which may include another school on the same campus;
2. The principal is not retained at the campus; and
3. At least 75 percent of the teachers employed at the campus in the school year immediately preceding the repurposing of the campus are not retained at the campus, unless an exception is granted. If an educator is not retained, the educator may be assigned to another position in the district.

Removes all language from the education code that allows for a management entity of a campus.

Testimony: **Eric Hartmann (Texas AFT)** testified that some of the required percentages need to be revisited. **Dr. Pat Forgione (Austin ISD)** testified in favor of the bill stating that it is the embodiment of the hard and important lessons learned in Austin with Johnston high school. This bill will address conflicts in leadership, timing, in the community, and the unproductive consequences of closure. He emphasized that the attendance area must be kept intact so they do not tear apart a community. **Susan Moffett** testified that this bill provides a practical program for repurposing. She recommended that those that are currently under closure should be reevaluated under the new system.

Registered for the bill were **Amy Beneski (TASA)**, **Dominic Giarratani (TASB)**, **David Duty (Texas Community Schools)**, **ATPE**, and **Maria Whitsett (TSA)**.

This bill was left pending.

SB 1726 West Relating to best practices for public school student dropout prevention and recovery.

Remarks: By using the online clearinghouse of best practices information, TEA shall establish a dropout prevention assistance center to:

1. Identify successful or promising school district, campus, or open-enrollment charter school dropout prevention and recovery programs;
2. Collect and analyze performance data regarding such programs;
3. Identify strategies or components common to such programs;

4. Disseminate to school districts, open-enrollment charter schools, and regional ESCs information concerning these programs through conferences, publications, toolkits, and posting to the online clearinghouse;
5. Work in conjunction with regional ESCs to create needs assessments for districts and open-enrollment charter schools that are interested in determining which best practices for dropout prevention or recovery would be most appropriate for the district or charter school;
6. Identify programs that educators or other employees of a school district, open-enrollment charter school, and regional ESC could visit and establish procedures for such learning visits; and
7. Develop or collect and provide information for districts and open-enrollment charter schools interested in implementing a specific best practice for dropout prevention or recovery, including research concerning the efficacy of the practice and costs associated with and other resources needed for implementing the practice.

Testimony: Registered for the bill were various teacher organizations, **Amy Beneski (TASA)**, **Martin Pena (South Texas Association of Schools)** , **Dominic Giarratani (TASB)**, and **David Duty**.

This bill was left pending.

SB 1727 West Relating to rules adopted and reporting required under the school district college credit program.

Remarks: Allows the commissioners of TEA and THECB to adopt rules necessary concerning the duties of a school district or higher education institution in relation to the school district college credit program.

Testimony : *This bill was left pending.*

SB 2033 Nelson Relating to adoption of a school district grading policy.

Remarks: A school district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment, and may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work.

Testimony: **Holly Eaton (TCTA)** testified for the bill because the current practice undermines the teaching profession and our schools. **Senator Shapiro** asked who benefits from the current policy and she responded that there is a correlation between failing grades and dropouts. **Leslie James** with **Fort Worth ISD** testified that there is nothing free in life and the reason his district put a policy like this in place is because it is a safety net for students, especially during transition periods and students need an opportunity to bounce back from mistakes. Registered for the bill were various teacher organizations.

This bill was left pending.

SB 2044 Williams Relating to membership on the district-level and campus-level planning and decision-making committees in public schools.

Remarks: Education boards, when establishing a district and campus level planning and decision making committee must include at least one representative with the primary responsibility for educating students with disabilities.

Testimony: Jana Lilly (TCASE) testified for the bill. Registered for the bill were **Amy Beneski (TASA), Dominic Giarratani (TASB), Texas PTA, the ARC of Texas, Advocacy Inc.,** and various teacher organizations.

The committee substitute was referred to Local and Uncontested Calendars

SB 2083 Shapiro Relating to surveys concerning school district and open-enrollment charter school special education programs and grants to district, campuses, and open-enrollment charter schools that perform well on the surveys and other indicators.

Remarks: TEA shall develop an Internet-based data collection platform that each school district and open-enrollment charter school shall use to conduct surveys concerning each student participating in the district's or school's special education program, each student who has participated in the district's or school's special education program and has graduated from a district or school high school, and each student who has withdrawn from the district's or school's special education program.

The agency shall develop questions and structure the survey so that it may be completed in fifteen minutes or less. The survey shall be designed to include information regarding:

1. Whether the survey participant believes the student is progressing academically in order to live independently and working competitively;
2. Whether the student has an appropriate understanding of their educational rights afforded them under federal law;
3. If the survey participant is satisfied with the admission, review, and dismissal committee meetings and conflict resolution;
4. Disaggregated information regarding the student's type of disability, including the student's age and grade level.

TEA shall develop a statewide Internet-based information system **that** is posted on the internet that provides current and historical survey results for each school district, campus, and open-enrollment charter school that are disaggregated by students' type of disability and by students' preschool or grade-level range or age. The information system must rank districts, campuses, and schools among, as determined by the agency, peer institutions in this state and, if practicable, nationally,

TEA shall develop and each school district or open-enrollment charter school shall provide to the parent of each student participating in the district's or school's special education program, before each a special education report card.

To the extent funds are available, the agency shall award grants to school districts, campuses, and open-enrollment charter schools with high rankings under the information system. The total amount of grant awards may not exceed \$2 million per year.

Testimony: Senator Shapiro stated that she wants to begin a dialogue on this and welcomes suggestions to make this work. **Patti Quinzi (Texas AFT)** testified that her organization like that they are asking for input, but the ranking system may not fully describe the entire situation. **Holly Eaton (TCTA)** registered in support of the bill noting that teachers are a key constituency in this arena and all special education teachers want to be asked these questions and they have good information. A parent representing **the ARC**

of Texas testified that parents feel “land locked” and live in fear of moving because they do not know the quality of special education their children will receive in another district. This information will help parents to make the best decisions for their students.

Paula Long (TCASE) opposed the bill as written suggesting that they consider providing a grant to an entity that can construct a survey to collect the data.

Registered for the bill were teacher organizations, **Advocacy, Inc,** and **the ARC of Texas.**

This bill was left pending.

SB 2087 Davis, Wendy Relating to sanctions available for certain academically unacceptable campuses.

Remarks: The bill limits the Commissioner's authority to advance sanctions against campuses until after a CIT has completed its needs assessment, made recommendations, *and* any necessary financial or other resources needed to implement the plan have been received at the campus. Further, the campus is given two full years to implement the improvement plan, which functionally adds at least one year before the campus can be ordered to reconstitute. In general, the bill gives the Commissioner increased discretion by making reconstitution an option rather than a requirement after at least two consecutive school years of academically unacceptable ratings. The bill clarifies current law by indicating that principals are to be removed if they have been leading a campus for the full two-year period of academically unacceptable ratings. Following reconstitution and two years of implementing a revised improvement plan, if student performance improves in the targeted area(s), then the Commissioner is barred from imposing any additional sanctions on a campus. Conversely, if the school is either not fully implementing the revised improvement plan or if students fail to demonstrate improvement in the identified area(s), then the Commissioner may pursue alternative management for the school. The bill also prohibits changing a school's name as a function of reconstitution or implementation of any other accountability-related sanction. The bill repeals 39.1324 (e) and (f). Subsection (e) requires a progress review for Year 4 AU schools with possible orders of alternative management or closure, which would be inconsistent with the earlier provisions in the bill; and the repeal of Subsection (f) eliminates mandatory orders of alternative management or closure for campuses rated Year 5 AU.

Testimony: Senator Patrick voiced his concern with the bill and its implications for the state because it takes a lot for a school to get sanctioned and he wondered what would happen if a school is given another two years.

Testifying for the bill were representatives of Polytechnic High School in Fort Worth. **Gary Broadway** (Principal) testified that they address the needs of every child, and it is necessary to create an environment and a physical building where students want to come and learn and teachers want to come and teach. Student scores have double digit improvement figures. **Conneka Neal** (Assistant Principal) claimed that students are participating more in tutoring programs (today 110 students attend where as a year ago none attended), and the students are showing more hope. At this point, **Senator Shapiro** noted that while these changes are good, the 2008 test scores for the school were unacceptable for the fourth year in a row, and while they are increasing, it is minimal. She made the point that we must do legislation for all schools and not just one campus.

Senator West asked if there was any longitudinal data available on students at schools that were reconstituted. **Laura Taylor** of TEA responded that at this time they do not have any longitudinal data, but it is being gathered and will be provided later. **Leslie James (Fort Worth ISD)** testified that Fort Worth is invested in finding the best faculty possible to turn the school around and to do this the offer incentive pay, and they also need some time to turn around a campus. **Eric Hartman (Texas AFT)** testified that we need to look at what is going on behind the numbers, we need a comprehensive overhaul of the system, and parents and teachers need a strong voice and we have to guarantee for schools the resources they need.

Sandy Kress (TAB) testified on the bill stating that they like the idea of repurposing and are willing to look at an additional year so long as there is a transition after the third year. The problem with the bill is it is unclear what the trigger is with the intervention team and who says that these actions have been completed.

Registered for the bill were **Amy Beneski (TASA)**, **Maria Whitsett (TSA)**, **Robbie Collins (Dallas ISD)** and **Dominic Giarratani (TASB)**.

This bill was left pending.

SB 2204 Shapiro Relating to the enhancement of services for certain students with autism or autism spectrum disorder and training and support for educators who serve students with autism.

Remarks: Establishes the autism interdisciplinary enhancement program. A student is eligible for the program if they are eligible to receive public school services in a school district's special education program, if the student has been diagnosed with autism and is considered to be at high risk for residential treatment or institutionalization, and an individualized educational program has been developed for the student.

The provider is entitled to an annual amount of funding that is equal to the amount of funding to which the school district in which the student resides would be entitled to under Chapter 42. A student's program funding may not be financed by money appropriated from the available school fund.

To participate in the program, a qualifying community provider must:

1. Be approved as a nonpublic community provider by the commissioner;
2. Not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;
3. Comply with all health and safety laws applicable to nongovernmental schools; and
4. Hold a valid occupancy permit if required by the municipality in which the community provider is located.

For each student enrolled in the program, an autism interdisciplinary enhancement team must be established. The team shall meet on a regular basis to develop an individual service plan for the student, monitor the progress of the student, including review of the student's assessments and progress reports, and set goals for the student, including specific time lines for the potential transition of the student back into the public school system.

The autism interdisciplinary enhancement program is subject to the Texas Sunset Act as if the program were a state agency. Unless continued in existence as provided by that chapter, the program is abolished and this subchapter expires September 1, 2019.

Testimony: Invited testimony from parents highlighted that parents want their kids in public schools but they do not want them on the road to institutions; and when a kid is transitioned back into public school they want qualified teachers. They noted that this bill keeps the team of parents, students and administrators together. A representative of the **Texana Center** noted that they like the interdisciplinary team and plan that is included in the bill, noting that the differences between a child who has had treatment from the correct professional from a child who has not are dramatic. Students can successfully be transitioned back into public education but they need quality services at the schools. Several parents of students with autism testified that this is not about animosity toward the public school system but it is about giving a bright future to students and this is a mixture between public schools and private institutions.

Gail Wayman, the owner of a for profit business to help students with disabilities, testified that this bill has nothing to do with vouchers, noting that the process may not even be for a full year but the student may just need help for a shorter period of time. **Senator Davis** inquired about the process of determining if a student qualifies for institutionalization.

Craig Tounget (Coalition for Public Schools) testified against the bill claiming that it is a voucher bill because parents are making the decision to take public funds from the school system and they worry about the people left behind and the funds they will not have access to. At this point **Senator Shapiro** stated that every parent has the right to provide for their children, and she understands the argument against taking public dollars to private schools, but, she claimed, “we have to look at something through another set of eyes” and realize that there are exceptions to the rule. **Mr. Tounget** responded that there has to be a way where the state makes the decision and not the parent alone. **Senator Patrick** believed that this bill is just doing the right thing for the child and told Mr. Tounget and all who take his position that “you all are just wrong on this issue.” **Senator Davis** then stated that she does not believe in vouchers and will never support vouchers but acknowledged that this is a unique situation. She asked if Mr. Tounget had looked at the component of the bill that requires a particular diagnosis and inquired as to whether he could determine if there is a way to do this. She requested that he provide language that would address his concern and also allow for a solution. **Senator Shapiro** asked if a more specific definition of high risk would address his concerns and he replied that they don’t disagree on who should be eligible but rather on who is going to make the choice.

Carla Graham (Texas PTA) mother of two autistic children with a master’s in Education testified against the bill claiming that it is a health issue, not just an education issue. She suggested looking at health insurance companies to pay for this and not the school system. She noted that she takes her child to the doctor for the diagnosis and the health care system should provide this resource.

Registered against the bill were **Holly Eaton (TCTA)** , **Martin Pena (South Texas Association of Schools)**, **Texas Freedom Network** and various teacher organizations.

Rona Staten (the ARC of Texas) recommended that they expand the bill to include other students who are at risk for institutionalization. **Jeff Miller (Advocacy Inc)** testified on the bill stating that his organization wants to make the bill work and have other children can benefit also.

Andra Self (TASA/TASB) testified against the bill because it is a voucher bill and allows a parent to direct state funding to a private provider, it allows public funding of children not in public school, and has potential to create a dual system to be funded by public funds. She also testified that this bill does not call for funding of extra responsibilities and time away for personnel. **Lynn Moak (TSA)** submitted written testimony against the bill.

Registered for the bill was **Brook Terry (TPPF)**.

This bill was left pending.

SB 2308 Gallegos Relating to the use of discretionary funds raised by public school campuses.

Remarks: Campus discretionary funds (money raised at a public school campus through vending machines or other sources specifically associated with the campus) may be used only to directly benefit the general welfare and educational development and morale of students enrolled at the campus. Professional development activities are not considered to directly benefit the general welfare and educational development and morale of students.

Testimony: *This bill was left pending.*



Legislative Update Wednesday, April 08, 2009

House Bill 1 (Appropriations)

The House will begin taking-up the House Committee Substitute for Senate Bill 1 (Appropriations) on Friday, April 17th and will likely meet through Sunday, April 19th. The House will debate the rules for the appropriations bill and the supplemental appropriations bill on Thursday, April 9th on the House floor.

The rule as currently drafted would require all amendments to be turned into the House clerk by Tuesday, April 14th by 8:00 p.m. The rule also states any amendment that adds or increases an item of appropriation in the bill is not in order unless the amendment contains an equal or greater reduction in one or more items of appropriation in the bill from the fund or funds against which the appropriation is to be certified, unless it is correcting a technical error.

In addition, there was additional discussion today on the House floor on several issues pertaining to the bill and the proposed rules; including a question by Rep. Sylvester Turner related to an estimated **\$813 million that remains unallocated**.

Rep. Turner believed that amendments should be allowed to appropriate funds (the \$813 million) that have not been allocated without having to reduce another item in the bill. Chairman Jim Pitts stated that this type of rule has been in place for many sessions, and that if the rule did not exist there would be no point to continue the session after the budget passed because there would be no remaining funding for the bills currently moving through the process. Rep. Jim Dunning was concerned that leaving funding outside of the bill could lead to issues pertaining to the FMAP Medicaid stimulus provisions that freed-up \$4 billion in General Revenue. The rules under this program do not allow for any cash reserves.

We will have more details on this issue in the days ahead.

Rep. Dunning's Federal Stimulus Committee

Rep. Dunning held a short meeting today to ask Commissioner Scott and Commissioner Hawkins for updates related to the federal stimulus funds.

Commissioner Scott gave a brief overview of the provision in the stimulus bill that allows for no-interest loans for new school construction. He stated Texas will be receiving \$538 million statewide for this program, and Texas would have about 18 districts that qualified.

Commissioner Scott also commented that Title I and IDEA funds should begin flowing to districts next month, and that TEA is currently working on the state stabilization fund application that would begin the process of flowing another large portion of the stimulus funds to the state shortly.

Commissioner Scott then addressed HB 1 (appropriations bill) at Rep. Dunnam's request. He stated that public education will receive a "staggering amount" in new funding: \$6.3 billion in stimulus funding, \$1.5 billion for new enrollment growth, and \$1.866 billion contained in the rider for school finance reform.

Rep. Dunnam questioned the commissioner on what the "net increase" in funds was for public education and why textbooks were funded the way they were in the bill. Commissioner Scott answered that TEA was not aware at this time of the net increase for public education or why that particular method of finance was used for textbooks.

Rep. Dunnam commented that the appropriations bill as filed used \$83 billion in General Revenue and the bill as it was voted out of committee used \$79.6 billion in General Revenue. He suggested his staff will be preparing a report that will show the net increase or decrease in General Revenue for each agency compared to the bill as it was originally filed.

We are currently working on a side-by-side of the Senate and House appropriations bill and will forward that to you as soon as it is complete.