

Aug. 1995

# RESEARCH ORGANIZATION

Texas House of Representatives

*session focus*

August 3, 1995

## New code governs public schools

The Texas system of public education was substantially revised when the 74th Legislature adopted a new education code contained in SB 1 by Sen. Bill Ratliff and Rep. Paul Sadler. SB 1 was signed by Gov. George W. Bush on May 30, 1995, and many of its provisions took effect immediately. This report summarizes key provisions of the new code.

### Mission and objectives (Chapter 4)

The code describes the public education system's mission as ensuring Texas children of access to quality education that enables them to achieve their potential and fully participate in the social, economic and educational opportunities of the state and nation.

The code's stated objectives, which school improvement plans developed by campus- and district-level committees also must address, include:

- encouraging parents to be full partners with educators in the education of their children,
- encouraging students to meet their full educational potential,
- reducing the number of dropouts,
- providing an appropriate curriculum,
- recruiting effective personnel,
- achieving high academic performance,
- providing a safe, disciplined school environment and
- improving learning through new technology.

In addition, students are to demonstrate exemplary performance in English, mathematics, science and social studies.

### Contents

Texas Education Agency	p. 2
Commissioner of education	p. 2
State Board of Education	p. 2
Education Service Centers	p. 2
Local school boards	p. 3
Localized decision-making	p. 4
Home-rule districts	p. 4
Charter schools	p. 5
Teacher employment	p. 6
Teacher contracts	p. 7
Contract hearing procedures	p. 7
Staff appraisal	p. 8
Teacher salary and duties	p. 9
Class size	p. 10
Prayer in schools	p. 10
Parental rights	p. 10
Curriculum, advancement	p. 11
Education programs	p. 12
Public school vouchers	p. 12
Textbooks	p. 12
No pass-no play	p. 12
Transportation	p. 13
Student discipline	p. 13
Accountability	p. 14
School finance	p. 14
Interim study	p. 16
Flags	p. 16
Uniforms	p. 16
Criminal history	p. 16



## **Texas Education Agency (Chapter 7)**

### **Powers and duties**

The Texas Education Agency (TEA), which includes the education commissioner and TEA staff, maintains most current functions, and is to engage in research to improve teaching and learning and assume some State Board of Education duties. Educational functions not specifically delegated to the TEA are reserved for school districts or open-enrollment charter schools.

### **Investment Capital Fund**

The TEA will administer the Investment Capital Fund, which is supported by an annual \$5 million transfer from the Compensatory Education Allotment and provides individual grants of up to \$50,000 yearly to assist schools. Recipient schools must have demonstrated a commitment to deregulating their campuses and restructuring educational practices through partnerships with school staff, parents, community and business leaders, nonprofit community-based organizations and the TEA. Grants will be made directly to eligible schools and may be used for the training and development of school staff, parents and community leaders to implement standards and practices to improve student achievement.

## **Commissioner of education (Chapter 7)**

The governor appoints the education commissioner, whose four-year term will coincide with the governor's. (The SBOE formerly appointed the commissioner, subject to the governor's approval.) The appointment or dismissal of the commissioner is subject to Senate consent.

### **Powers and duties**

The commissioner's duties include serving as educational leader of the state, serving as executive officer of the TEA, adopting a teacher appraisal process and hearing appeals brought by persons aggrieved by the state's school laws or school board actions that violate the school laws. The commissioner may also hear appeals of school board decisions on certain employee contracts.

## **Authority to grant waivers**

The commissioner is given broader authority to grant schools and districts waivers and exemptions from education regulations for up to three years. The commissioner may not grant waivers from criminal offense prohibitions and federal requirements or rules relating to essential knowledge or skills, public school accountability, extracurricular activities, health and safety, school district purchasing, class-size limits (except hardship cases), removal of disruptive students, at-risk programs, prekindergarten programs, educator rights and benefits, special education and bilingual education.

A school campus or district seeking a waiver must apply in writing to the commissioner at least 31 days before it intends to take an action requiring a waiver. The application must include a written plan approved by the district board concerning the achievement objectives sought, a description of the inhibition imposed by the regulation sought to be waived and the written comments of the campus- or district-level planning and decision making committee. If not rejected in 30 days the application is considered granted.

## **State Board of Education (Chapter 7)**

The new code maintains the elected 15-member State Board of Education. The governor will continue to appoint the SBOE chair from among the members.

SBOE powers and duties include developing and updating a long-range plan for public education, establishing curriculum and graduation requirements, creating "special purpose" school districts (e.g. military school districts), providing for school board member training, placing on probation or revoking a home-rule school district charter, granting open-enrollment charters, establishing criteria for certifying hearing examiners and adopting textbooks.

## **Education Service Centers (Chapter 8)**

School districts and campuses may purchase "core services" from any of the state's 20 regional Education Service Centers (ESCs), not just the one in their region. Core services include teacher and personnel training and assistance in complying with state laws and rules. ESC's will provide training and assistance formerly provided by TEA. ESCs are prohibited from regulating school districts.



The ESCs' local governing boards will continue to have seven members, and the commissioner will recommend to the SBOE a policy for the local selection, appointment and membership of the board. The commissioner will allocate funds to each ESC for the provision of its core services.

## Local boards and districts (Chapter 11)

### Membership and selection

Local boards of school trustees with three or five members may vote to increase their membership to seven. Boards may vote to elect trustees at large, from single-member districts or using a combination of the two methods. Districts electing trustees at-large may use cumulative voting. The terms of all school district boards of trustees must be either three or four years. School board members must wait at least a year after their terms end to accept employment with their school district.

### Powers and duties

Powers and duties not specifically delegated to the TEA or the SBOE are reserved to local school boards. The school board is charged with the governing and managing of the district's public schools. The board may levy and collect taxes, issue bonds and charge fees for items specifically identified in the new code, including fees for student uniforms, which boards are allowed to require.

### Training

The SBOE is to provide training for local school board trustees through Regional Education Service Centers. Registration must be open to any interested person, including current and prospective board members, and the state board may prescribe a registration fee. No minimum number of hours is set, but a trustee must complete any training required by the SBOE.

## Texas public education at a glance

✓ The state's public school system serves 3.6 million elementary and secondary students. For fiscal 1996-97 the state has appropriated nearly \$21.4 billion for public education, an increase of 14 percent over the previous biennium. The state share of public education funding totaled about 44.2 percent in 1995-96. Local revenue provided about 47.5 percent of public school funding, and federal funds about 8.3 percent.

✓ The Texas Education Agency (TEA), under the management of the commissioner of education, accredits school districts, operates research and development programs, provides technical and curriculum assistance, monitors federal and state guideline compliance and distributes state and federal funds to school districts. In 1994-95 TEA employed approximately 1,100 staff members. The general appropriations act requires a 23 percent cut, to 900 or fewer staff members, by September 1996.

✓ Twenty regional education service centers established by TEA provide services and technical support to schools within their regions. These service centers are funded by the state and by fees paid by the school districts they serve.

✓ The state has 1,044 school districts, serving students in grades pre-kindergarten through 12. Almost 60 percent of the school districts have three or fewer campuses — typically one elementary school, one middle school and one high school. Texas has more than 6,300 public school campuses, and about 60 percent of them are elementary schools.

✓ School districts — except for state-administered districts such as those administered by the Texas Department of Mental Health and Mental Retardation — are governed by locally elected boards of trustees. A board selects a district superintendent to manage the district's day-to-day operations and implement the school board's policies.



## Detachment of a district

Voters may take steps to de-annex an area from a school district and create a separate district. Both districts must contain at least nine square miles and have at least 8,000 students. At least 25 percent of the registered voters in each district must vote in the election for the detachment to occur.

## Localized decision-making (Chapter 11)

### District-level

School districts must develop an annual district improvement plan to guide district and campus staff in the improvement of student performance for all student groups. The plan must include strategies for improving student academic performance and reducing the number of dropouts.

The district's annual improvement plan will be developed, evaluated and revised with the assistance of a district-level planning and decision-making committee, made up of parents, community representatives, business representatives and district professional staff members. The committee must meet at least once after the TEA's district performance report. School board policy will determine how to select parents to serve on the district-level committees and how to select community and business representatives, who are supposed to appropriately represent the community's diversity. The professional staff members on the decision-making committee — at least two-thirds of whom must be teachers — will be selected by their peers.

### Campus and site-based decisions

Schools are to maintain campus- and site-based decision-making committees to direct and support student improvement. These committees will have the same makeup as district-level decision-making committees, will be established under procedures prescribed by the school board and are to be involved in decisions in areas of planning, budgeting, curriculum, staffing patterns, staff development and school organization. Each campus-level committee must hold at least one annual public meeting after the TEA's annual rating of the campus.

## State responsibility

The commissioner will oversee the training and technical support of district- and campus-level decision making. The TEA will annually survey district- and campus-level decision-making committees to determine the involvement of various interests.

## Home-rule districts (Chapter 12)

Local voters may choose to operate their school district as a home-rule school district. Home-rule school districts are subject only to their charter requirements, federal law and court orders and the portions of the education code that specifically apply to them.

Home-rule school districts are not affected by state rules regarding minimum teacher salaries, teacher contracts, teacher records and reports, campus performance objectives, teacher appraisal, facility standards, length of school year and school day, textbook selection, military instruction, organizations and clubs and other matters not specifically required.

### Limits

A home-rule district may operate under a charter free of state education code rules except for those regarding criminal offenses, limitations on liability, educator certification, criminal history records, student admissions, school attendance, interdistrict and intercounty transfers of students, high school graduation requirements, special education requirements, bilingual education, prekindergarten programs, transportation safety provisions, computation and distribution of state aid, extracurricular activities (no pass-no play), health and safety, public school accountability, certain school finance and fiscal provisions and the Public Education Information Management System (PEIMS), which is a TEA-operated data collection system.

Home-rule school districts are not required to meet the requirements for a student-teacher ratio of 22:1 for grades kindergarten-4 except on campuses determined to be low-performing by the TEA.

### Creation of district

A home-rule charter commission must be appointed by a school board that receives a petition signed by at least 5 percent of the district's registered voters or if two-thirds of the board adopts a resolution to set up the commission. The board then has 30 days to appoint the commission.



The 15 members of the charter commission must be school district residents, a majority of whom must be parents of school-age children attending public school and 25 percent of whom must be classroom teachers selected by the district's professional staff. Commission membership must reflect the diversity of the community. The charter commission must complete a proposed charter by the first anniversary of the date of its appointment. The charter must be submitted to the education commissioner for legal review, and is considered accepted if the commissioner does not act within 30 days of receiving it.

A home-rule school district will be created if a majority of a school district's voters approve a home-rule charter in an election in which at least 25 percent of district voters participate. If the 25 percent minimum is not achieved, the school board must order another election on the proposed charter on the next uniform election date.

### **Charter content**

A home-rule district charter must include:

- a description of the educational programs to be offered;
- student performance requirements for continuation of the charter;
- reasons why the charter may be revoked or placed on probation;
- a description of the governing structure of the district and campuses;
- procedures for the health and safety of students and employees;
- a description of how the district will adopt an annual budget;
- a description of how the district will conduct an annual audit and participate in Public Education Information Management System (PEIMS), and
- any provision the charter commission considers necessary.

### **Amending, revoking a charter**

The SBOE may place on probation or revoke a home-rule charter if the SBOE decides the district violated the charter, did not satisfy generally accepted accounting standards of fiscal management or failed to comply with federal or state law or rule. Revocation and probation procedures must entitle the district and parents of district students to a hearing in the district. A home-rule district charter can be amended or rescinded through an election of the district's voters.

## **Charter schools (Chapter 12)**

Charter schools are independent public schools formed by individuals or organizations that operate according to a charter (contract) with a public agency, such as a local school board or the SBOE. Charter schools may operate free of most state and local regulations. The schools may be completely new or may be existing programs or campuses that have converted to charter status.

A local school board or home-rule school district may grant a charter to a group of parents and teachers who want to either create an educational program in an existing public school campus (program charter) or change an existing public school into a charter school (campus charter). The SBOE may grant up to 20 charters to create charter schools operating outside of a school district facility (open-enrollment charter school).

Program charters, campus charters and open-enrollment charter schools may operate under charters free of state education rules except for those rules regarding criminal offenses, the Public Education Information Management System (PEIMS), criminal history records, high school graduation, special education requirements, bilingual education, prekindergarten programs, extracurricular activities (no pass-no play), health and safety and public school accountability.

### **Program charters, campus charters**

A school board or home-rule school district may grant a campus or program charter if the board is presented with a petition signed by parents of a majority of students and a majority of classroom teachers at that campus. A school board that grants a charter may approve changes brought in a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program.

Campus and program charters may be granted immunity from liability similar to the immunity granted school districts and district employees.

Campus and program charters must include:

- a description of the education program;
- student performance requirements for continuation of the charter;
- reasons why the charter could be placed on probation or revoked;
- prohibitions against discrimination in admission on the basis of national origin, ethnicity, race, religion or disability;



- a description of the program's governing structure;
- health and safety procedures for students and employees;
- a description of how the program will conduct an annual audit and participate in the Public Education Information Management Service (PEIMS).

Students will be admitted to charter programs and campus charters first on the basis of geographic and residency considerations. Secondary consideration may be given to a student's age, grade level or academic credentials in general or in a specific area, as necessary for the type of program offered.

### Open-enrollment charter school

The SBOE may grant a charter for an open-enrollment charter school upon receipt of a application from an "eligible entity," which includes governmental entities, public or private colleges or universities and certain tax-exempt organizations. Open-enrollment charter schools may be housed by a commercial or nonprofit entity or a school district, including a home-rule school district.

Open-enrollment charter schools may serve students who reside inside or outside the district where the facility is located. However, students' geographic location and place of residence may be considered in giving priority in admission.

Open-enrollment charter schools are part of the public school system, and their funding is derived by a transfer of local and state funds that would have been spent on the student in the student's assigned school district.

Open-enrollment charters may be changed only with SBOE approval and must:

- describe the educational program to be offered, which must include the required curriculum;
- specify the period for which the charter is valid;
- provide that the charter is contingent on acceptable student performance and assessment and on compliance with any accountability provisions specified by the charter;
- establish the level of student performance that is considered acceptable;
- specify any basis on which the charter may be placed on probation or revoked or renewal of the charter denied;
- prohibit discrimination in admission policy on the basis of gender, national origin, ethnicity, religion, disability, academic or athletic ability, although the charter may exclude a student with a documented history of criminal offenses, juvenile court adjudication or

discipline problems;

- specify the grade levels offered;
- describe the governing structure;
- specify professional employee qualifications;
- describe adoption of its annual budget process;
- describe how the program will conduct an annual audit and participate in the Public Education Information Management Service (PEIMS);
- describe the facilities to be used;
- describe the geographic area served by its programs;
- specify any type of enrollment criteria to be used.

### Probation, revocation, nonrenewal

Continued operation of each type of charter will be contingent on satisfactory student performance.

The school board may place on probation, revoke or deny renewal to a program or campus charter if the board decides the program or campus violated its charter, did not satisfy generally accepted accounting standards of fiscal management or failed to comply with applicable state laws or rules. The SBOE may modify, place on probation, revoke or deny renewal to an open-enrollment school charter for the same reasons.

## Teacher employment (Chapter 21)

### Recruitment program

TEA must develop a teacher recruitment program that includes a technology program for high school and college presentations. The commissioner will identify the need for teachers in specific subject areas and will encourage members of under-represented groups to enter the teaching profession.

### State Board for Educator Certification

A new State Board for Educator Certification (SBEC) will regulate and oversee all aspects of teacher certification. The 15-member board will include five citizens, four teachers, two administrators, one counselor and a nonvoting dean of a Texas college of education, all appointed by the governor. They will serve staggered six-year terms. The commissioners of education and higher education each will appoint a nonvoting member. The chair will be a citizen member elected by the board.

The SBEC will make rules, which the SBOE, by a two-thirds vote, may reject but not modify. The rules will concern regulation of educators, the specification of



classes of educator certificates, the period for which each class of certificate is valid and the requirements of issuance or renewal of an educator certificate. The SBEC will also provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, and will provide for the adoption, amendment and enforcement of an educator's code of ethics, continuing education requirements and certification of persons performing appraisals. The SBEC may charge a fee to all educators for certification and the continuation of certification.

The SBEC will meet at least once in each quarter of the calendar year and may employ an executive director and approve an operating budget. The TEA will continue to provide certification until the SBEC proposes rules, which must be done by November 1, 1997. Current alternative certification programs will continue. The SBEC will sunset on September 1, 2003.

### **District teaching permits**

School districts may issue teaching permits to persons who lack TEA certification if the education commissioner does not disapprove within 30 days of notice. Recipients of teaching permits must have at least a bachelor's degree, unless they are to teach only vocational courses. Such permits are not transferable to other districts and may be revoked for cause.

### **Teacher contracts (Chapter 21)**

Classroom teachers, principals, librarians, school nurses and counselors must be employed under either a probationary, term or continuing contract. Probationary contracts are for terms up to one year. Term contracts are for terms of one to five years. Continuing contracts continue until the teacher is discharged or resigns.

#### **Probationary contracts**

First-time teachers are granted probationary contracts, which can be renewed for two additional one-year periods, and must precede a term or continuing contract. An individual employed as an educator for five of the last eight years is only subject to a one-year probationary period. A school board's decision not to extend a probationary contract is final and not appealable.

#### **Continuing contracts**

Continuing contracts extend until the person resigns, retires, is released from employment because of a

necessary personnel reduction, is returned to probationary status, is discharged for a reason stated in the contract or is suspended or discharged for good cause. "Good cause" is defined as the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated Texas school districts. If personnel cuts require the termination of a teacher employed under a continuing contract, the terminations will be made in the reverse order of seniority in each teaching field.

A teacher may protest discharge or suspension of the teacher's continuing contract through a hearing before an independent hearings examiner.

#### **Term contracts**

Teachers on term contracts for one to five years may be discharged at any time for good cause, as determined by the board, or because of a financial exigency that requires a reduction in personnel. The school board's failure to give notice within 45 days will constitute an election to employ the teacher for the following school year. Superintendents are hired under term contracts.

A teacher may protest a school board's discharge or suspension of the teacher's term contract before the end of the contract period through a hearing before an independent hearings examiner.

### **Contract hearing procedures (Chapter 21)**

#### **Hearing examiners**

Hearing examiners will be made available upon request by teachers in contract disputes with a school board if the school board notifies a teacher that it intends to suspend the teacher without pay, terminate a probationary or term contract before the end of the contract period or terminate a continuing contract.

Such a hearing examiner must be licensed to practice law in Texas and may not serve as or be a part of a law firm that serves as an agent or representative of either a school district, a teacher in any dispute with a school district, or an organization of school employees, school administrators or school boards.

The commissioner will set hourly rates of compensation for a hearing examiner and set maximum compensation for a hearing. The commissioner will certify hearing examiners and maintain a list of certified



examiners, to be assigned at random. Either party in a dispute may reject the assigned hearing examiner for cause or may mutually agree to select a lawyer who is not certified as a hearing examiner.

A hearing examiner will perform duties necessary to conduct hearing procedures, including issuing subpoenas at the request of either party, administering oaths and ruling on motions.

## **Hearings**

Hearings are to be private unless a teacher requests a public hearing in writing. However, a hearing examiner may determine that a private hearing is necessary to maintain decorum or protect the privacy of a child witness.

A teacher has the right to be represented at a hearing by a person of the teacher's choice and to hear the evidence on which the charges are based, cross-examine each adverse witness and present evidence. Hearings will be conducted in the same manner as a non-jury trial in a district court. The district has the burden of proof by a preponderance of evidence.

Within 45 days after the date on which the commissioner receives a written request for a hearing, the hearing examiner is to complete the hearing and make a written recommendation to the school board that includes findings of fact and conclusions of law and may include a proposal for granting relief to the teacher. A hearing examiner who fails to timely issue a recommendation may not be assigned by the commissioner to another hearing for up to a year.

The school district bears the cost of the services of the hearing examiner, of the certified shorthand reporter at the hearing and of the production of any original hearing transcript. Each party shall bear its respective costs, including the costs of discovery, if any, and attorney's fees.

## **Examiner's recommendations**

The school board or its subcommittee must consider the hearing examiner's recommendation by the 20th day after its receipt and must allow each party to present an oral argument to the board or subcommittee. Within 10 days after consideration of the hearing examiner's recommendation, the board will announce its acceptance, rejection or modification of the recommendation. The board may reject or change a finding of fact made by the hearing examiner only after

reviewing the record of the proceedings before the hearing examiner and only if the finding of fact is not supported by substantial evidence.

## **Appeals to the commissioner**

Within 20 days after the board announces its decision, a teacher may appeal by filing a petition for review with the commissioner. A school district's response must be filed within 20 days after the date of the petition for review. The commissioner will review records of the hearing examiner's hearing and of oral arguments before the board, and must consider the appeal solely on the basis of the local record of evidence, but may receive both oral and written arguments.

The commissioner may overrule only a decision found to be arbitrary, capricious, unlawful or not supported by substantial evidence. The decision of the board is affirmed after 30 days without a contrary ruling by the commissioner.

If a board action is reversed, the district may have to reinstate the teacher with back pay and employment benefits or pay the teacher one year's salary from the date on which the teacher would have been reinstated.

## **Appeals in court**

Either party may appeal the commissioner's decision to a district court in the county where the district is located or if agreed by all parties, a district court in Travis County. The court may not reverse the decision of the commissioner unless the decision was not supported by substantial evidence, unless the commissioner's conclusions of law were erroneous or unless the court finds that a procedural irregularity led to an erroneous decision.

## **Staff appraisal (Chapter 21)**

School districts may use the commissioner's recommended teacher appraisal process or their own appraisal process developed by the district- and campus-level committees and approved by the school board. Appraisal criteria must include an evaluation of the teacher's implementation of discipline management procedures and the performance of the teacher's students. Teachers will be appraised at least once a year, will not have to be told when they will be appraised and will have the right to review and rebut the appraisal and request a second appraisal. Teachers



of extracurricular subjects will be appraised only on their classroom teaching performance. A document evaluating the performance of a teacher or an administrator is confidential.

Administrators will be evaluated annually using either a process and criteria developed by the commissioner or developed by the district in consultation with the district- and campus-level committees and adopted by the school board. School district funds may not be used to pay an administrator who has not been appraised in the preceding 15 months. A principal's appraisal must include consideration of the school's performance on the academic excellence indicators and the campus performance objectives.

The commissioner may award performance incentives to principals identified through the evaluation as high-performing. Principals ranked in the top quarter may receive awards of up to \$5,000; those in the second quarter, \$2,500. In addition, seven high-performing principals will be appointed by the governor to advise the commissioner on developing the system for evaluating principals.

## Teacher salary and duties (Chapter 21)

### Salary increase

The state-imposed minimum 10-month salary for classroom teachers and full-time librarians in 1996 will rise from \$17,000 to \$18,500 for first-year teachers and from \$28,400 to \$32,080 for teachers with 20 years experience. In 1997 the state minimum may increase to \$19,950 for first-year teachers and to \$35,510 for teachers with 20 years experience, according to preliminary estimates of funding formulas. The salary increases are based on a 20-step salary schedule. The minimum salary required at each step will automatically adjust and increase as state spending per student increases.

Although the career ladder stipend will be phased out, a teacher or librarian employed by the same district who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary received for the 1994-1995 school year. Gross salary includes the teacher or librarian's career ladder supplement as defined in prior law as well as the teacher's previous salary before the new code's provisions took effect. A teacher or librarian employed by the same district who received a career ladder supplement on August 31, 1993, is credited with one

additional step on the new minimum salary schedule if the teacher is at level two on the career ladder and two additional steps if at level 3.

A school district is not required to increase the annual salary of a teacher whose salary equals or exceeds the new minimum. If a school district's cost of implementing the new schedule exceeds the amount received through the state's basic allotment, the state will reimburse that added cost to the district.

### Minimum teacher service

Teachers must serve 10 months, which will mean 183 days in the 1995-96 school year and 185 days in the 1996-97 school year. A teacher contract's minimum required length will be tied to increases in the teacher minimum salary schedule: for every three days' worth of pay added to the minimum salary schedule, teachers will be required to work one additional day. 180 of the service days will be for instruction while the remaining days may be used for staff development and teacher preparation.

### Teacher preparation and lunch periods

Classroom teachers will have 450 minutes in each two-week period for instructional preparation, including parent-teacher conferences, evaluating students' work and planning. Planning and preparation must be allotted at

State Minimum Pay Scale

Years experience credited	1995-96	1996-97 est.*
0	\$18,500	\$19,950
1	\$19,340	\$20,490
2	\$20,180	\$21,030
3	\$21,020	\$21,570
4	\$22,160	\$22,710
5	\$23,300	\$23,840
6	\$24,400	\$24,980
7	\$24,980	\$26,040
8	\$26,060	\$27,040
9	\$27,110	\$27,980
10	\$28,130	\$28,870
11	\$29,130	\$29,720
12	\$29,540	\$30,520
13	\$29,920	\$31,270
14	\$30,290	\$31,980
15	\$30,630	\$32,650
16	\$30,950	\$33,290
17	\$31,260	\$33,890
18	\$31,550	\$34,460
19	\$31,820	\$35,000
20+	\$32,080	\$35,510

\* formula factors should change minimums



least 45 minutes per day. Teachers and full-time librarians will have at least a 30-minute duty free lunch period and may not be required to supervise students during lunch more than one day in a school week, even in cases of personnel shortages, extreme economic conditions or unforeseen circumstances.

## Staff development

Staff development, which is offered to enhance teaching skills and student achievement, must be conducted in accordance with the commissioner's standards and include technology training and training in conflict resolution and discipline strategies. Staff development must be campus-based and developed and approved by the campus-level planning and decision making committee. A school district may use districtwide staff development developed and approved through the district-level planning and decision-making committee.

## Class size (Chapter 25)

A school district will continue to be required to maintain an average ratio of at least one certified teacher for each 20 students in average daily attendance. An independent school district may not enroll more than 22 students per teacher in classes from kindergarten through fourth grade.

The commissioner may grant a semester-long exemption from the 22:1 limit upon finding that the limit works an undue hardship on a district. In addition, home-rule school districts will be exempt from class size requirements except for campuses that are determined by the TEA to be low-performing.

The new code retains prior class size rules but allows a school district to choose any 12-week period to be exempt from class size requirements if the district population includes migrant workers. Other school districts are exempt from the requirement during the last 12 weeks of the school year.

## Prayer in schools (Chapter 25)

The new code gives public schools students "an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school." No one may require, encourage or coerce a student to

engage in or refrain from such prayer or meditation during any school activity. A school district may provide for a period of silence at the beginning of the first class of each school day, during which a student may reflect or meditate.

## Parental rights (Chapter 26)

Parents are granted certain rights in order to encourage parental participation in schools. A parent includes a person standing in parental relation, unless the parent-child relationship has been terminated or a court has eliminated possession of or access to the child.

A school board, administrator, educator or other person may not limit parental rights, unless otherwise provided by law. Each board must adopt procedures for considering complaints that a parent's right has been denied. The new code further requires school boards to cooperate in establishing at least one parent-teacher organization at each school.

Parents will have the right to:

- petition the school board to consider or reconsider an assignment or transfer of their child to a particular school;
- request assignment of a child to a particular class and teacher;
- request the addition of a specific academic class in keeping with the essential elements;
- request that their child be permitted to attend class for credit above the child's grade level unless the board expects that the student cannot perform satisfactorily;
- request that their child be permitted to graduate early from high school and participate in graduation ceremonies, if the child completes each course required for graduation.

The board's decision on class and teacher assignments and early graduation will be final and without appeal.

## Parental access to materials and records

Parents are entitled to review all teaching materials, textbooks, teaching aids and all school records — test scores, reports, evaluations, etc. — concerning their child. Parents will be entitled to review all tests, including any state assessment test, after they are administered. Parents may be charged a fee for copies of materials they request.

## Activities requiring parental consent

A school district employee must receive a parent's written consent to conduct a psychological examination,



test or treatment except when the district is investigating child abuse. A parent's written consent is also required to authorize the making of a videotape or voice recording of a child except when the videotape or recording is used only for purposes related to safety, regular classroom instruction or a cocurricular or extracurricular activity.

### **Exempting a child from instruction**

Parents are entitled to remove their child temporarily from a class or school activity that conflicts with the parent's religious or moral beliefs, but their child may not be exempted from having to satisfy the grade-level and graduation requirements of the district and the TEA. Parents are not entitled to remove their children from a class or other school activity to avoid a test or to prevent their children from taking a subject for an entire semester.

### **Access to board meetings**

A parent is entitled to complete access to any school board meeting, except for a closed meeting. A school board must hold its meetings within the boundaries of the district except as required by law or except to hold a joint meeting with another district.

## **Curriculum and advancement (Chapter 28)**

### **Required curriculum**

School districts must have a required curriculum for kindergarten through grade 12 that consists of a foundation curriculum that includes English language arts, mathematics, science and social studies and an enrichment curriculum that includes languages, and may include American Sign Language, health, physical education, fine arts, economics and career and technology education.

The SBOE will designate subjects for a well-balanced curriculum in districts that do not offer kindergarten through grade 12; consult with local parents, teachers and business representatives to identify the essential knowledge and skills for each foundation and enrichment subject; foster continuation of teaching U.S. and Texas history and the free enterprise system and adopt rules necessary for implementing the curriculum prescribed in the new code, without specifying rules for teacher methodology except for courses in which the SBOE requires laboratory instruction.

School districts may draw on state curriculum frameworks as necessary and offer courses in addition to those in the required curriculum. Districts are encouraged to exceed state standards.

### **Human sexuality instruction**

Human sexuality classes must stress abstinence, condoms may not be distributed and classes may separate students according to sex for instructional purposes. School districts are required to establish a local health education advisory council, a majority of whose members must be parents, to recommend the appropriate grade levels, methods and hours of instruction for sex education. School boards will be required to consult with the health education advisory council before it selects materials to be used in a human sexuality course.

A school district must notify parents of the basic content of a sexuality course and of their right to remove their child from any part of the course. Sexuality course materials will be made available for reasonable public inspection.

### **Student advancement and graduation**

A student is to be promoted based only on academic achievement or demonstrated proficiency. Parents are to be given written notice every 12 weeks of their child's performance in each class or subject with a parent-teacher conference to be provided if the child's performance is unsatisfactory. Districts are to develop examinations to determine whether a student may advance a grade level in primary school or gain additional credit in secondary school.

Districts may issue a certificate of course-work completion to a student who finishes required course work but fails state-required exit-level testing. Such a student would not receive a diploma, but could participate in a graduation ceremony.

### **Advance placement incentives**

The new code creates the Texas Advance Placement Incentive Program, which would give monetary awards to students, teachers and schools for their success in advanced placement or international baccalaureate programs. Such awards would be subject to availability of funds collected from donations, grants and legislative appropriations.



## **Education programs (Chapter 29)**

School districts may apply for funding for an extended-year program adding up to 30 instructional days for at-risk students in kindergarten through eighth grade. Class size will be limited to 16 students. Students attending at least 90 percent of an extended program will be promoted to the next grade level unless the parent requests otherwise. Districts must provide transportation to students required to attend this program.

Districts may require a student whose grade in a subject is lower than 70 to attend tutorials, but the district is not required to provide transportation to the tutorial.

The new code maintains programs for bilingual, special language, gifted and talented, kindergarten, prekindergarten, vocational, adult and community education. It also maintains the Texas School for the Blind and Visually Impaired, Texas School for the Deaf and the Regional Day Schools for the Deaf.

## **Public school vouchers (Chapter 29)**

The code establishes the Public Education Grant Program, allowing a student attending a low-performing school to transfer to another public school in the student's district or any other district chosen by the student's parent. A low-performing school is one that in the past three years either has been identified as such by the commissioner or has had 50 percent or more of its students performing unsatisfactorily on a state assessment test.

Receiving schools may accept or reject a student's application. The student's home district will count the departing student in its average daily attendance for school finance purposes. The student's public education grant will be the total state and local funding per student for the home district. Home districts will provide transportation to and from the school the student would otherwise attend. The student then becomes responsible for transportation to the receiving school.

## **Textbooks (Chapter 31)**

The SBOE must review and adopt traditional textbooks and electronic textbooks such as computer software and on-line services. Textbooks covering subjects in the foundation curriculum — English language arts, mathematics, science and social studies — will be reviewed by the SBOE at least every six years. The SBOE will review textbooks covering the enrichment curriculum — languages, health, physical education, fine arts, economics, career and technology education and technology applications — when the SBOE considers appropriate.

### **Textbook lists**

The SBOE will place the textbooks it adopts on either a "conforming list" that includes texts that meet all essential knowledge and skills of the subject and grade level as determined by the SBOE or a "nonconforming list" that includes texts that contain at least half of the essential knowledge and skills. To receive state textbook funds, districts must choose from either list for foundation curriculum courses. Enrichment-course textbooks need not be on either list, but districts that choose unlisted books will receive only 70 percent of textbook costs from the state.

### **Technology allotment fund**

The state will provide \$30 per student to pay for electronic textbooks and technological equipment or for training instructors in how to use education technology.

## **No pass-no play (Chapter 33)**

The prior no pass-no play policy that required suspension of most students from extracurricular activities for six weeks for failing any course is replaced by required suspension for three weeks for failing an academic course. A review will take place every three weeks until a student's academic course grades are above passing. Students may practice and rehearse, but not compete or perform. Advance placement and honors students are exempted from the no pass-no play policy.



## Transportation (Chapter 34)

The state's current transportation funding formula continues, but the state requirement that school vehicles use alternative fuels is eliminated. School districts are no longer required to submit bus routes to the TEA or to purchase or sell buses through the state. All buses, whether district-owned or contracted, must comply with safety standards, including rules forbidding students from standing while a school bus is in motion. Appropriate passenger cars may be used for transporting less than 10 pupils to or from school or school-related activities.

## Student discipline (Subtitle G)

### Student code of conduct

Each district must establish a student code of conduct with the advice of its district-level committee and jointly, as appropriate, with the county juvenile board. The code of conduct must specify the circumstances under which a student may be removed from a classroom campus or alternative education program. A teacher with knowledge that a student has violated the code of conduct must file a written report with the school principal or other appropriate administrator documenting the violation. The principal must send a copy to the student's parent within 24 hours.

### Removal of student by teacher

A teacher may remove from class a student who has been documented as repeatedly interfering with the teacher's ability to teach or other students' ability to learn or exhibits unruly, disruptive or abusive behavior. A teacher may also remove a student if the student commits an offense for which he should be suspended or expelled.

A principal may place a student into another classroom, into in-school suspension or into an Alternative Education Program (AEP). Once removed a student may be returned to a teacher's classroom only if the teacher consents or if the teacher's refusal is overridden by a three-member placement review committee composed of two teachers elected by the faculty and one member of the professional staff chosen by the principal.

No later than three class days after the day on which a student is removed from class, the school principal must schedule a hearing among the principal or the

principal's designee, a parent or guardian of the student, the teacher removing the student and the student. The student may not be returned to the regular classroom before the hearing.

### Alternative education programs

School districts must establish alternative education programs, either on or off regular campuses, that must separate AEP students from others. AEP placements will result from engaging in a felony, assault, terrorist threat, public lewdness, indecent exposure, selling, giving or delivering a controlled substance, conduct relating to abusable glue or aerosol paint or retaliation against any school employee. AEPs are to focus on English language arts, math, science, history and self-discipline and provide for supervision and counseling.

Juvenile boards in counties with a population greater than 125,000 must establish a juvenile justice AEP, which must be approved by the Texas Juvenile Probation Commission. School districts in these counties may remove or expel a student to this type of AEP, which would have the same curriculum as a regular AEP.

Each school district board will meet regularly with its county juvenile board to discuss supervision and rehabilitative services appropriate for expelled students and students assigned to AEPs.

If a student's placement in an AEP is to extend beyond the end of the next grading period, the student's parent or guardian is entitled to participate in a proceeding before the school board. However, any decision by the board will be final and may not be appealed. A student placed in an alternative program is to be provided a review at least every 120 days.

### AEP funding

A school district will allocate to an AEP the same expenditure per student attending the AEP that it would have allocated if the student had remained in a regular education program. Districts may jointly provide an AEP. State and local per pupil funding will be transferred by a school district to the juvenile board if the district sends a student to a juvenile justice AEP.

### Suspension and expulsion

A principal or school administrator in charge of discipline may suspend for up to three days a student who engages in any type of conduct for which the student might have been placed in an Alternative Education Program.



Expulsion will result if a student, at school or at a school related activity, engages in assault, possession of firearms or weapons, arson, murder, criminal attempt to commit murder, indecency with a child or aggravated kidnapping, or any of these activities in retaliation against a school employee. A student may be expelled for continued discipline problems after placement in an AEP.

A superintendent may modify the length of an expulsion. The district or other local education agency may provide educational services to the expelled student in an AEP.

### **School-community guidance centers**

School districts will continue to be allowed to develop school-community guidance centers to coordinate efforts of district personnel, local police, probation officers and parents to locate and assist children with problems that interfere with their education.

## **Accountability (Chapter 39)**

The new code will require the SBOE to establish a statewide program to test students in grades 3-8 in reading and math every year and to test fourth and eighth graders in writing. Social studies and science tests will be added at an appropriate grade level determined by the SBOE.

High school students must pass state exit-level tests in math and English language arts, including writing, to graduate. In addition, the code requires end-of-course assessments in English II, Biology I and U.S. history by the 1998-99 school year. A student who performs satisfactorily on both the English and algebra assessments and either the biology or history exam will be exempted from the exit-level tests in English language arts and math.

Students will have multiple opportunities to re-take the exit-level tests while they are in high school. Districts must provide an intensive program of instruction for students not passing any of the state assessment tests. In addition, TEA must distribute test study guides and release the assessment test questions and answers used to calculate student scores after the last test administration each year.

Certain students with physical or mental impairments will be exempt from taking the state assessment tests. The commissioner will propose to the Legislature an

assessment system for evaluating the progress of these students by December 1996. By the 1998-1999 school year the performance of exempted students must be included in the district and campus report cards and in the Academic Excellence Indicator System (AEIS), which is a set of indicators of the quality of learning on a campus used to determine campus accreditation.

Each school year the TEA will prepare and distribute to school districts a report card for each district campus, including the academic excellence indicators, student-teacher ratios and administrative and instructional costs per student. In addition, each board of trustees will publish annually a report describing the educational performance of the school district and each campus in the district, and the board will hold a public hearing to discuss the report. The school board's performance reports will be used as a primary tool to evaluate all levels of the state's public school system.

The SBOE may recognize, financially reward and exempt from certain requirements districts and campuses rated as exemplary and impose sanctions and corrective procedures for districts and campuses that fail to meet state accreditation standards.

## **School finance (Subtitle I)**

The new code maintains the state's current school finance system, which provides funding to the state's public education system through a combination of locally imposed property taxes and state general revenue. State revenue is distributed to local districts according to formulas that take into account such factors as enrollment, property wealth per student and local tax effort. The Available School Fund (ASF), made up of earnings from the state's education trust fund, the Permanent School Fund (PSF), provides \$367 per student and is distributed on a per capita basis to school districts regardless of district property wealth.

In addition to ASF funds, the state will continue to distribute funds to school districts based on each district's property wealth. As under previous law, the state funds are distributed through the two-tiered Foundation School Program. In Tier 1 a school district is guaranteed a basic allotment of \$2,387 for each student in average daily attendance. (The previous basic allotment was \$2,300.) The \$2,387 is subject to adjustments for districts with special characteristics, i.e. sparsity of students. The new code creates a new mid-sized district adjustment for school districts with between 1,600 and 5,000 students. The amount of the adjustment will increase by increments



each year until the 2000-2001 school year. To be eligible for state aid, a school district must raise its local share (local fund assignment) of Tier 1 funding, defined as the amount produced when the district levies an effective tax rate of \$0.86 per \$100 property value in the district for the prior tax year. The state makes up any difference so each district gets at least \$2,387 per student.

Tier 2 sets up a guaranteed yield program for districts that raise taxes above their local share of funding in Tier 1. For every penny raised above the required tax rate in Tier 1, the state will guarantee a yield of \$21 per *weighted* student — up from \$20.55. (Student weighting reflects special needs of a student or district.) The guaranteed yield program helps districts with property wealth less than \$210,000 per weighted student that would be unable to raise \$21 per penny of tax effort. The state's yield guarantee applies only to the first \$0.64 of tax effort per \$100 valuation that the district imposes in addition to the \$0.86 tax rate required in Tier 1. This means no Tier 2 equalization is provided for tax rates over \$1.50, the statewide cap on maintenance and operations taxes. In districts with wealth in excess of \$210,000 per weighted student, a penny of tax effort raises more than \$21 per student, resulting in "enrichment" funding that is not equalized by the state.

To reduce the gap between what property-rich districts and property-poor districts may spend on their students, the new code continues 1993 provisions capping local property wealth per student that a

property-rich district may tax. School districts with total taxable property wealth exceeding \$280,000 per student must share their excess revenue with property-poor districts or face detachment of part of their taxable property or consolidation with a poorer school district. Options for sharing wealth are:

- Option 1: consolidation with another district;
- Option 2: detachment of territory;
- Option 3: purchase of average daily attendance credit;
- Option 4: contracting for the education of nonresident students; or
- Option 5: tax base consolidation with another district.

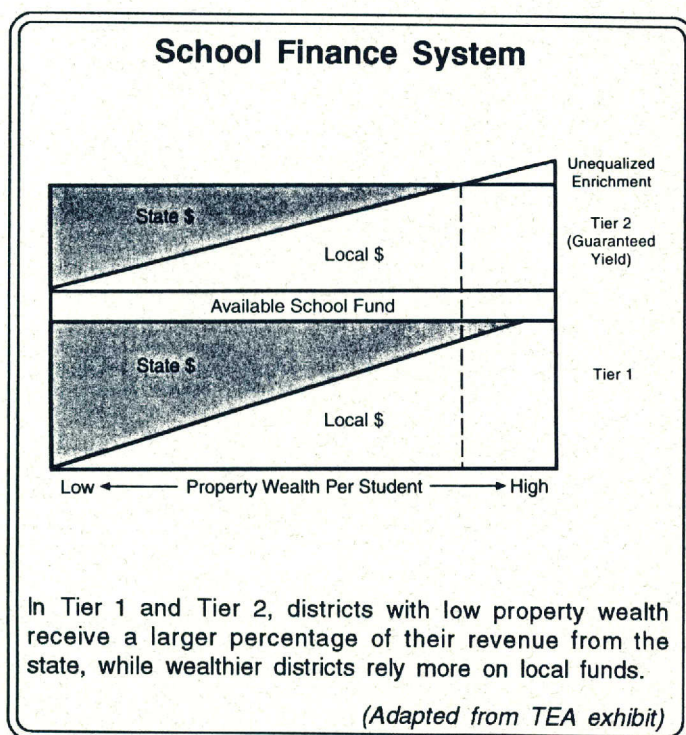
The new code extends through the 1997-1998 school year the existing "hold-harmless" provision that allows property-rich school districts to maintain 1992-1993 revenue per weighted student if they share their wealth by purchasing attendance credits from the state (Option 3) or detaching property (Option 2). Out of 1,044 school districts, 96 last year were required to share local property tax wealth with lower-wealth districts, and most chose Option 4, using a contract to fund education in a poorer district.

### School district property taxes

The new code allows a local school district to set a local property tax rate of up to \$1.50 to pay district maintenance and operation costs. The tax rate for servicing old debt remains unlimited. Before issuing bonds for *new* debt, defined as debt authorized by April 1, 1991, or issued after September 1, 1992, a district must demonstrate to the attorney general that the new debt will not require more than a \$0.50 tax rate. After the attorney general's initial approval, the school board may adopt a tax rate of more than \$0.50 for new debt if property values decline. Voter approval of debt is required.

### Tax rollback election

A school district may set a tax rate that will generate the same amount of total revenue per weighted student as in the prior year. That rate, plus 8 cents (formerly 6 cents) becomes the district's rollback rate. If a district exceeds the rollback rate, this triggers an election in which voters may roll back the rate. After such an election, the new rate must be no higher than 8 cents over the district's effective maintenance and operations rate plus the district's current year debt rate multiplied by the district's enrollment adjustment, which is the current projected fall enrollment divided by the preceding year's fall enrollment.





## Facilities

The new code adds provisions for distribution of state assistance for instructional facilities to low-property-wealth districts and high-growth districts. To qualify for state assistance a district must have a property wealth level below approximately \$276,000 per student in average daily attendance and a total effective tax rate of at least \$1.30 or an effective debt service tax rate of at least \$0.20. The maximum district project cost is limited to \$500,000 or \$266 per student, whichever is greater. Districts with fewer than approximately 1,900 students are eligible for additional facilities assistance.

School districts must submit proposals to the commissioner for funding. A district is entitled to state assistance for only one project each state fiscal biennium. Two or more districts may submit a proposal for a joint project at a single location. The ceiling amount of assistance is increased for joint projects.

The Legislature appropriated \$170 million for the 1996-1997 biennium for assistance to instructional facilities, in the general appropriations act. If all funds appropriated for the program are not expended, the balance would go to the Foundation School Program. However, if the total amount granted in the program exceeds the total program appropriation, then districts that would receive the least state assistance, as a percentage of the total program cost, would be dropped

from the program sequentially, until the amount to be granted under the program was equal to or less than the amount appropriated.

## Interim study

The Legislative Budget Board is to complete a study by November 1, 1996, of all funding allotments and adjustments to improve the efficient distribution of state funds to public schools.

## Other

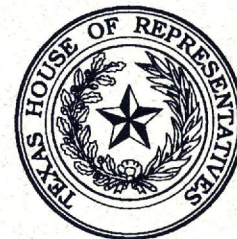
**Flags.** Schools are required to fly both the U.S. and Texas flags on all regular school days.

**School uniforms.** A school board may require students to wear school uniforms. The board must designate a source of funding for students who cannot afford the required uniforms.

**Criminal history information.** School districts, charter schools, private schools and regional education service centers are authorized to obtain all criminal history information on their employees or volunteers.

—By Kevin Heyburn

House Research Organization  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910  
(512) 463-0752  
FAX (512) 463-1962



Steering Committee: Henry Cuellar, Chairman • Carolyn Park, Vice Chairman

Tom Craddick  
Renato Cuellar  
Dianne White Delisi

Robert Duncan  
Harold Dutton

Roberto Gutierrez  
Peggy Hamric  
John Hirschi

Robert Junell  
Mike Krusee

Al Price  
Leticia Van de Putte  
Steve Wolens