

SUBJECT: Employment limitations for educators who fail to obtain certification

COMMITTEE: Public Education — committee substitute recommended

VOTE: 6 ayes — Grusendorf, Branch, Eissler, Griggs, Hochberg, Madden

0 nays

3 absent — Oliveira, Dawson, Dutton

WITNESSES: For — Sandi Borden, Texas Elementary Principals and Supervisors Association; Jack Campbell, Texas Association of Business; Cheryl Mehl, Texas Association of School Boards, Council of School Attorneys, and Texas Association of Professional Administrators; Karen Soehnge, Texas Association of School Administrators.

Against — (*On original version:*) Ted Melina Raab, Texas Federation of Teachers

On — Mary Charley, State Board for Educator Certification

BACKGROUND: Under Education Code, Sec. 21.003, a person may not be employed as a teacher, teacher intern, or teacher trainee by a school district unless the person holds an appropriate certificate or permit. The State Board of Educator Certification (SBEC) allows teachers without full Texas certification to teach for up to three years under one of several types of temporary teaching permits. Under SBEC rules, probationary teachers who do not complete certification requirements within this period may not be employed to teach under contract.

Under Education Code, sec. 21.206, school districts are required to notify in writing each teacher whose contract is about to expire whether the contract will be renewed. Section 21.207 entitles a teacher who has been notified of a contract non-renewal to a hearing before the board of trustees where the teacher can hear evidence supporting the non-renewal, cross-examine adverse witnesses, and present evidence. The board's decision can be appealed to the Commissioner of Education, who can rule against the board if the decision is

found to be arbitrary, capricious, unlawful, or not supported by substantial evidence.

DIGEST:

CSHB 1022 would amend sec. 21.003 of the Education Code to address the failure of an educator to obtain certification. An employee's probationary, continuing, or term contract with the school district would be void if the employee did not hold a teaching certificate or permit or failed to fulfill the requirements necessary to extend a temporary or emergency certificate or permit. On the date that the contract became void, the school district could either terminate or suspend the employee with or without pay or retain the employee for the remainder of the school year in a position other than a classroom teacher at the same or a reduced pay rate. The employee would not be entitled to minimum teacher salaries set by statute.

A school district's decision about whether to terminate, suspend or retain the employee in another job would not be subject to appeal. These employees also would not be entitled to contract renewal notice and appeal requirements for teachers.

CSHB 1022 would take effect September 1, 2003, and would apply only to contracts entered between a school district and an educator after that date.

**SUPPORTERS
SAY:**

CSHB 1022 would codify state and federal contract law and establish in statute that probationary teachers who failed to complete certification requirements could not continue to teach. The bill would make Texas law consistent with current SBEC certification rules and with new federal No Child Left Behind legislation regarding teacher certification. It also would help ensure that all teachers, including those who entered the profession through non-traditional routes, had proven that they have the basic skills and knowledge to educate Texas students.

School districts would have clear authority to terminate contracts for uncertified teachers without going through the time and expense of hearings when the teacher's contract was not renewed. A teacher who does not in good faith work towards full certification should not be entitled to the same protections in law that are intended for certified teachers.

SBEC rules currently prohibit school districts from employing teachers who have not completed their certification within a specified time. The bill would not worsen the problem rural districts face in filling their classrooms with appropriately certified teachers.

CSHB 1022 would not affect certified teachers who teach subjects outside of their field. Districts facing teacher shortages still would have the flexibility to allow certified teachers to teach subjects outside of their fields, if necessary.

**OPPONENTS
SAY:**

CSHB 1022 would reduce the flexibility of school districts facing severe teacher shortages to continue to employ teachers who had not met the deadline for completing certification. A small rural district might not have other certified teachers available to fill in when new teachers, perhaps for reasons outside of their control, were unable to complete certification requirements. Though teacher certification is important, there may be extenuating circumstances in some cases that would justify keeping an uncertified teacher in the classroom.

NOTES:

The committee substitute deleted language from the bill as introduced that would have allowed a school district to retain an uncertified teachers in the classroom on an at-will basis at the existing or reduced rate of pay. The original version of the bill applied only to teachers with temporary or emergency teaching permits who failed to obtain certification; the committee substitute would apply to any teacher who did not hold a certificate or permit, including those teaching on a temporary permit. The committee substitute added provisions specifying that teachers who did not complete certification requirements would not be entitled to contract renewal notice and appeal rights.