

SUBJECT: Requiring approval for severance payments made to certain superintendents

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Cheri Siegelin, Texas Association of Taxpayers; Robert Norris)

Against — (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance)

On — (*Registered, but did not testify*: Hannah LaPorte, IDEA Public Schools; Pablo Barrera, Texas Charter School Association; Eric Marin, Heather Mauze, Chris Jones, and Mike Meyer, Texas Education Agency; Heather Smith)

BACKGROUND: Education Code sec. 11.201 defines "severance payment" as the amount paid to a superintendent on early termination of the superintendent's contract that exceeds the amount earned by the superintendent under the superintendent's contract as of the date of termination.

The board of trustees of a school district is required to report to the commissioner of education the terms of the severance payment made to a superintendent. The commissioner is required to reduce the district's Foundation School Program funds in an amount equal to the sum of the severance payment that exceeds one year of the superintendent's salary and benefits.

Concerns have been raised that school districts can make severance

payments to a superintendent to buy out the remainder of a superintendent's contract, resulting in reduced Foundation School Program funds available to educate students.

DIGEST:

CSHB 769 would require the board of trustees of a school district to receive approval from the commissioner of education for any severance payment it planned to make to a superintendent if the superintendent:

- was terminated because of malfeasance, defined in the bill as an act that was an element of a criminal offense under state or federal law, was unethical, or was a breach of fiduciary duty;
- resigned to avoid being terminated based on malfeasance; or
- was terminated or resigned in lieu of termination while under investigation for malfeasance.

The board of trustees' request for approval of a severance payment would have to include the school district fund from which the severance payment would be paid, provided that Foundation School Program funds could not be used, and the manner in which the funds would be used if the district did not make the severance payment.

The commissioner could not approve the request for a severance payment to a superintendent if less than 51 percent of the superintendent's contract was completed.

The bill would take effect September 1, 2019.

NOTES:

The bill's author plans to offer a floor amendment that would prohibit a school board from making a severance payment if the superintendent's contract was terminated for good cause, not renewed for cause, or if the superintendent resigned in lieu of termination or nonrenewal for cause.