

BILL ANALYSIS

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S.B. 682
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DIGEST AND PURPOSE

Under the current school finance system, public schools receive funding both from the state and from local school districts. However, statutes lack clarity regarding each entity's respective responsibilities in funding public education. S.B. 682 is the enabling legislation for S.J.R. 32, which requires the state to fund teacher salaries and benefits and to assist certain local districts in funding facilities.

As proposed, S.B. 682 repeals the current school finance system and other provisions in other codes which reference that system. S.B. 682 provides a minimum teacher salary based on the national average teacher salary while allowing each district to set the actual salary level based on teaching experience. The bill requires local districts to fund all other expenses and repeals the textbook allotment, while continuing the State Board of Education's responsibility to approve textbooks. S.B. 682 further requires that each school district hold an election in 2004 to adopt a property tax rate, to fund the district's maintenance and operations.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 2.26 (Section 31.003, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 42, Education Code, by adding Subchapters B and C, as follows:

SUBCHAPTER B. ENTITLEMENT FOR TEACHER SALARIES

Sec. 42.101. TEACHER SALARIES ALLOTMENT. (a) Provides that a district is entitled to an allotment for teacher salaries in an amount determined by multiplying \$49,500 by the number of classroom teachers employed by the district necessary to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance as required by Section 25.111. Provides that a greater amount for any school year may be provided by appropriation.

(b) Authorizes an allotment received by a school district under this section to be used only for salaries of classroom teachers.

Sec. 42.102. SPECIAL EDUCATION. Requires a district, for the salaries of special education teachers, to use a percentage of its allotment under Section 42.101 that is not less than the percentage of students in average daily attendance in the district who are eligible to participate in the district's special education program under Section 29.003.

SUBCHAPTER C. FINANCING THE PROGRAM

Sec. 42.151. FINANCING; GENERAL RULE. (a) Provides that the allotment for teacher salaries constitutes the total cost of the Foundation School Program, except that the legislature

may use available school funds and any other funds to pay the cost of teacher benefits, as determined by the legislature.

(b) Requires the program to be financed by certain state funds.

Sec. 42.152. DISTRIBUTION OF FOUNDATION SCHOOL FUND. (a) Requires the legislature to determine biennially:

(1) the amount of money necessary for teacher salaries under Subchapter B and any teacher benefits provided by the state; and

(2) the amount of money allocated to each school district from the available school fund.

(b) Provides that each school district is entitled, from the appropriation for the foundation school fund and any other funds, to the amount necessary to fund the district's teacher salaries allotment under Subchapter B and any teacher benefits provided by the state.

(c) Requires the commissioner of education (commissioner) to approve warrants to each school district equaling the amount of its entitlement. Requires warrants for all money expended according to this chapter to be approved and transmitted to treasurers or depositories of school districts in the same manner that warrants for available school fund payments are transmitted.

(d) Requires the commissioner, if for any year the total cost of the Foundation School Program, as determined under this chapter, exceeds the total amount appropriated for that year, to proportionally reduce the amount of the allotment prescribed by Section 42.101(a).

Sec. 42.153. RECOVERY OF OVERALLOCATED FUNDS. (a) Requires the Texas Education Agency (TEA) if a school district has received an overallocation of state funds, to, by withholding from subsequent allocations of state funds or by requesting and obtaining a refund, recover from the district an amount equal to the overallocation.

(b) Requires TEA if a district fails to comply with a request for a refund under Subsection (a), to certify to the comptroller of public accounts (comptroller) that the amount constitutes a debt for purposes of Section 403.055, Government Code. Requires TEA to provide to the comptroller the amount of the overallocation and any other information required by the comptroller. Authorizes the comptroller to certify the amount of the debt to the attorney general for collection.

(c) Requires any amounts recovered under this section to be deposited in the foundation school fund.

Sec. 42.154. FALSIFICATION OF RECORDS; REPORT. Requires TEA's director of school audits when, in the director's opinion, audits or reviews of accounting, teacher employment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, through which the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, to promptly and fully report the fact to the State Board of Education (SBOE), the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney.

SECTION 1.02. Amends Section 21.402, Education Code, by adding Subsection (g-1), to authorize a school district to supplement a teacher's base salary for standard of living conditions, additional

workload, and workplace conditions.

ARTICLE 2. CONFORMING AMENDMENTS TO EDUCATION CODE

SECTION 2.01. Amends Section 7.055(c), Education Code, to require the budget the commissioner adopts under Subsection (b) for operating the Foundation School Program to be in accordance with legislative appropriations and provide funds for any other expense, rather than for the administration and operation of TEA and any other expense. Provides that the budget may not include any expense, rather than must designate any expense, of operating TEA or operating a program for which SBOE has responsibility, rather than that is paid from the Foundation School Program. Requires the budget to designate program expenses that may be paid out of state funds, rather than the foundation school fund, and any other, fees, federal funds, or funds earned under interagency contract.

SECTION 2.02. Amends Sections 8.051(a) and (d), Education Code, as follows:

(a) Deletes reference to Section 8.121.

(d) Deletes training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156 from the list of core services to be provided by regional education service centers.

SECTION 2.03. Amends Section 8.053, Education Code, to make a conforming change relating to the repeal of Section 8.052 (State Initiatives) by this Act.

SECTION 2.04. Amends Section 11.158(a), Education Code, to delete text prohibiting the board from charging a fee for transportation for which the school district receives funds under Section 42.155(d).

SECTION 2.05. Amends Section 12.013(b), Education Code, by deleting Subsection (b) (Q) relating to equalized wealth under Chapter 41.

SECTION 2.06. Amends Section 12.029(b), Education Code, to delete the exception provided by Chapter 41H.

SECTION 2.07. Amends Section 12.106(a), Education Code, to provide that a charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 as if the school were a school district. Deletes text regarding a tier one local share and text regarding determining funding for an open enrollment charter school.

SECTION 2.08. Amends Section 13.051(c), Education Code, to delete a reference to Chapter 403M, Government Code.

SECTION 2.09. Amends Section 13.231(b), Education Code, to redefine "taxable value" in this section.

SECTION 2.10. Amends Sections 13.282(a) and (b), Education Code, to make conforming changes.

SECTION 2.11. Amends Section 19.005(a), Education Code, to make conforming changes regarding money from the foundation school fund.

SECTION 2.12. Amends Section 19.007(c), Education Code, to make a conforming change regarding money from the foundation school fund.

SECTION 2.13. Amends Section 19.008(a), Education Code, to require the legislature, rather than the commissioner, to allocate funds to the district based on an amount, established in the General

Appropriations Act, for each contact hour between a teacher and a person eligible under Section 19.005, including associated administrative costs, for the best 180 of 210 school days in each year of the state fiscal biennium. Makes a conforming change.

SECTION 2.14. Amends Sections 21.402(a) and (c), Education Code, as follows:

(a) Requires a school district, except as provided by Subsection (d), (e), or (f), to pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience, prescribed by Subsection (c). Deletes a certain formula.

(c) Sets forth the minimum monthly salary under this section.

SECTION 2.15. Amends Section 21.410(h), Education Code, to delete text regarding a district to which Chapter 41 applies.

SECTION 2.16. Amends Section 21.411(h), Education Code, as added by Section 5, Chapter 834, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change.

SECTION 2.17. Amends Section 21.411(h), Education Code, as added by Section 1, Chapter 1301, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change.

SECTION 2.18. Amends Section 29.002, Education Code, to make a conforming change in the definition of "special services."

SECTION 2.19. Amends Section 29.008(b), Education Code, to delete text regarding the local share of the total contract cost for each student.

SECTION 2.20. Amends Section 29.060(f), Education Code, to authorize the legislature to appropriate money other than money from the foundation school fund for support of a program under Subsection (a) (bilingual preschool, summer school, and extended time programs).

SECTION 2.21. Amends Section 29.082(a), Education Code, to make a conforming change relating to the repeal of Section 42.152 by this Act.

SECTION 2.22. Amends Section 29.087(j), Education Code, to make a conforming change related to the repeal of Chapter 41 by this Act.

SECTION 2.23. Amends Sections 29.257(a) and (b), Education Code, as follows:

(a) Deletes reference to the foundation school fund.

(b) Provides that the community education development account is created as a dedicated account in the general revenue fund rather than foundation school fund.

SECTION 2.24. Amends Section 30.002(g), Education Code, to require the commissioner, in order to facilitate implementation of this section, to develop a system designed to distribute, rather than to develop a system to distribute from the foundation school fund, to school districts or regional education service centers a special supplemental allowance for each student with a visual impairment and for each student with a serious visual disability and another medically diagnosed disability of a significantly limiting nature who is receiving special education services through any approved program.

SECTION 2.25. Amends Sections 30.087(a) and (b), Education Code, as follows:

(a) Deletes the requirement that the cost of educating students who are deaf or hard of hearing

to be paid from the foundation school fund.

(b) Requires the commissioner from the amount appropriated for regional day school programs, to allocate funds to each program based on the number of full-time equivalent students served rather than the number of weighted full-time equivalent students served.

SECTION 2.26. Amends Section 31.003, Education Code, as follows:

Sec. 31.003. New heading: STATE BOARD OF EDUCATION RULES. Authorizes SBOE to adopt rules, consistent with this chapter, for the adoption of textbooks. Deletes text regarding the requisition, distribution, care, use, and disposal of textbooks.

SECTION 2.27. Amends Chapter 31A, Education Code, by adding Section 31.004, as follows:

Sec. 31.004. SCHOOL DISTRICT RULES. Requires each school district to adopt rules, consistent with this chapter, for the purchase, distribution, handling, and disposition of textbooks in the district, including rules related to electronic textbooks and bilingual and special education textbooks.

SECTION 2.28. Amends the heading to Chapter 31B, Education Code, to read as follows:

SUBCHAPTER B. STATE ADOPTION

SECTION 2.29. Amends Section 31.022(d), Education Code, to provide that at least 24 months before the beginning of the school year for which textbooks for a particular subject and grade level will be reviewed and adopted by SBOE, rather than purchased under the review and adoption cycle adopted by the SBOE, SBOE shall publish notice of the review and adoption cycle for those textbooks.

SECTION 2.30. Amends Section 31.024(b), Education Code, to remove a reference to the cycle adopted by SBOE under Section 31.022.

SECTION 2.31. Amends the heading to Section 31.101, Education Code, to read as follows:

Sec. 31.101. SELECTION OF TEXTBOOKS BY SCHOOL DISTRICTS.

SECTION 2.32. Amends Section 31.152(b), Education Code, to provide that a school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that could not be lawfully purchased by a school district under this chapter, rather than with funds from the state textbook fund.

SECTION 2.33. Amends Section 37.0061, Education Code, to delete text relating to a district having a wealth per student greater than the guaranteed level but less than the equalized wealth level, when computing funding for alternative education services in juvenile residential facilities.

SECTION 2.34. Amends Section 39.024(c), Education Code, to delete the requirement that the commissioner retain a portion of the total amount of funds allotted under Section 42.152(a) that the commissioner considers appropriate to finance the development and distribution of the study guides distributed to certain low-performing students and reduce each district's allotment proportionately.

SECTION 2.35. Amends Section 39.031(a), Education Code, to require the cost of preparing, administering, or grading the assessment instruments to be paid by each district. Deletes text referencing funds allotted under Section 42.152. Deletes text requiring each district to bear the cost in the same manner described for a reduction in allotments under Section 42.253.

SECTION 2.36. Amends Section 39.131(d), Education Code, to replace a reference to Section 42.258 with Section 42.153.

SECTION 2.37. Amends Section 42.201(d), Education Code, to require a district to remit, rather than the commissioner to deduct from the district's tier one allotments, an amount equal to the amount by which the district's administrative costs exceed the amount permitted by its administrative cost ratio, unless the commissioner has granted a waiver in response to the district's request. Deletes text requiring the commissioner to make a deduction under this subsection from the foundation school fund payments. Deletes text relating to a school district not receiving a tier one allotment.

SECTION 2.38. Amends Section 43.002, Education Code, to provide that of the amounts available for transfer from the general revenue fund to the available school fund for the months of January and February of each fiscal year, no more than the amount necessary to enable the comptroller to distribute from the available school fund an amount equal to 9-1/2 percent of the estimated annual available school fund apportionment to school districts having a wealth per student of less than one-half the statewide average wealth per student and 3-1/2 percent of the estimated annual available school fund apportionment to school districts having a wealth per student of at least one-half the statewide average wealth per student but not more than the statewide average wealth per student may be transferred from the general revenue fund to the available school fund. Deletes references to category 1 and category 2 school districts. Deletes reference to Section 42.259.

SECTION 2.39. Amends Sections 45.0031(b) and (c), Education Code, to make conforming and nonsubstantives changes.

SECTION 2.40. Amends Section 46.003(a), Education Code, to make conforming changes to the definitions of "BTR" and "DPV."

SECTION 2.41. Amends Section 46.006(g), Education Code, to make a conforming change relating to the repeal of Chapter 403M, Government Code, and Section 42.2521, Education Code by this Act.

SECTION 2.42. Amends Sections 46.009(b) and (e), Education Code, as follows:

(b) Replaces reference to Section 42.253(h) with 42.152(d).

(e) Replaces reference to Section 42.258 with Section 42.153.

SECTION 2.43. Amends Section 46.032(a), Education Code, to make conforming changes relating to the repeal of Chapter 403M, Government Code, and Section 42.2521, Education Code, by this Act.

SECTION 2.44. Amends Section 56.208(b), Education Code, to require the commissioner to reduce the total annual amount of foundation school fund payments made to a school district by an amount equal to the amount of state tuition credits under this subchapter applied by institutions of higher education on behalf of eligible persons who graduated from the district that has not been used to compute a previous reduction under this subsection. Deletes reference to Section 42.252 from the formula.

SECTION 2.45. Amends Section 87.208, Education Code, to provide that if the board of regents of The Texas A&M University System administers a program that is substantially similar to the Seaborne Conservation Corps as it was administered by the board during the 1998-1999 school year, the program is entitled, for each student enrolled, to an allotment, rather than allotments, from the Foundation School Program under Chapter 42 as if the program were a school district. Deletes an exception.

SECTION 2.46. Amends Section 96.707(k), Education Code, to make a conforming change and

delete an exception.

SECTION 2.47. Amends Section 105.301(e), Education Code, to make a conforming change and delete an exception.

ARTICLE 3. CONFORMING AMENDMENTS TO OTHER CODES

SECTION 3.01. Amends Section 317.005(f), Government Code, to make conforming changes relating to budget execution by the governor and the Legislative Budget Board regarding the foundation school program.

SECTION 3.02. Amends Section 403.093(d), Government Code, to delete text requiring the comptroller to make the transfers in installments as necessary to comply with Section 42.259, Education Code. Deletes text requiring an installment to be made not earlier than two days before the date an installment to school districts is required by Section 42.259, Education Code, and prohibiting an installment from exceeding the amount necessary for that payment.

SECTION 3.03. Amends Sections 825.405(b) and (h), Government Code, as follows:

(b) Provides that for purposes of this section, the statutory minimum salary is the salary provided by Section 21.402 or the former Sections 16.056 and 16.058, Education Code. Deletes text relating to a specific multiplier.

(h) Deletes reference to Section 403.302.

SECTION 3.04. Amends Section 2175.304(c), Government Code, to provide that if more than one public school or school district seeks to acquire the same property on substantially the same terms, the system, institution, or agency shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a relatively low taxable wealth per student, as determined by the commissioner. Deletes text relating to the district being entitled to an allotment of state funds under Chapter 42F, Education Code.

SECTION 3.05. Amends Section 5.10(a), Tax Code, to delete text requiring the comptroller to apply appropriate standard statistical analysis techniques to data collected as part of the annual study of school district taxable values required by Section 403.302, Government Code.

SECTION 3.06. Amends Section 5.101(a), Tax Code, to make conforming change related to the repeal of Chapter 403M, Government Code, by this Act.

SECTION 3.07. Amends Section 5.16(a), Tax Code, to make conforming change related to the repeal of Chapter 403M, Government Code by this Act.

SECTION 3.08. Amends Section 6.02(b), Tax Code, to make a conforming change related to the repeal of Chapter 41, Education Code, by this Act.

SECTION 3.09. Amends Section 21.01, Tax Code, to make a conforming change related to the repeal of Chapter 41, Education Code, by this Act.

SECTION 3.10. Amends Section 21.02(a), Tax Code, to provide that except as provided by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if certain conditions are met. Deletes the exception to Subsection (b).

SECTION 3.11. Amends Section 26.08(i), Tax Code, to provide that for purposes of this section, the rollback tax rate of a school district is computed according to the following formula:

ROLLBACK TAX RATE = (EFFECTIVE MAINTENANCE AND OPERATIONS RATE x 1.06) +

CURRENT DEBT RATE. Deletes existing text relating to the formula.

SECTION 3.12. Amends Section 313.022(b), Tax Code, to delete a reference to Chapter 403M, Government Code, which is repealed by this Act.

SECTION 3.13. Amends Section 313.052, Tax Code, to delete a reference to Chapter 403M, Government Code, which is repealed by this Act.

SECTION 3.14. Amends Section 5(a), Article 3.50-7, Insurance Code, to require each school district and each regional education service center to participate in the program. Deletes an effective date of September 1, 2002, for the requirement and deletes text limiting the participation to districts with 500 or fewer employees.

SECTION 3.15. Amends Section 9(a), Article 3.50-7, Insurance Code, to require the state to pay the entire cost of group health coverage under this article at the catastrophic care coverage level for employees of participating entities. Deletes text requiring the state to assist employees of participating school districts and charter schools in the purchase of group health coverage under this article by providing for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by the General Appropriations Act. Deletes text requiring the state contribution to be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by Sections 42.2514 and 42.260, Education Code.

ARTICLE 4. REPEALERS

SECTION 4.01. Repeals the following provisions of the Education Code:

- (1) Sections 7.021(b)(5), 7.024, 7.055(b)(14) and (34), 8.052, 8.121-8.124, 13.054(f) and (g), 19.007(b), 21.402(b), 22.004(b)-(i), 29.014(d), 29.086(e), 29.203(b), (c), and (g), 29.256(c), 30.003(f), 30.087(c), 30.102(c), 31.002(4), 31.021, 31.025, 31.026, 31.028, 31.029, 31.101(b)-(d), 31.1011-31.106, 31.151(d), 34.002(c), 34.008(b), 42.001, 42.002, 42.007, and 46.009(f);
- (2) Section 33.001, as amended by Chapters 1223 and 1487, Acts of the 77th Legislature, Regular Session, 2001;
- (3) Sections 46.012 and 46.036, as added by Chapter 1156, Acts of the 77th Legislature, Regular Session, 2001;
- (4) Chapter 31E;
- (5) Chapter 41; and
- (6) Subchapters B, C, E, F, and H, Chapter 42, as added by Chapter 260, Acts of the 74th Legislature, Regular Session, 1995.

SECTION 4.02. Repeals the following provisions of the Government Code: Sections 322.008(b) and 825.405(i) and Chapter 403M.

SECTION 4.03. Repeals the following sections of the Tax Code: 6.02(g), 6.03(m), 21.02(b) and (c), 25.25(k), and 26.08(j), (k), and (l).

SECTION 4.04. Repeals the following provisions of the Insurance Code:

- (1) Sections 5(b)-(i) and 9(b)-(e), Article 3.50-7; and
- (2) Articles 3.50-8 and 3.50-9.

SECTION 4.05. Repeals Section 39.901, Utilities Code.

ARTICLE 5. TRANSITION PROVISIONS AND EFFECTIVE DATE

SECTION 5.01. Provides that the investment capital fund created under Section 7.024, Education Code, is abolished, and requires the comptroller to transfer any balance in the fund on the effective date of this Act to the foundation school fund.

SECTION 5.02. Provides that the state textbook fund created under Section 31.021, Education Code, is abolished, and requires the comptroller to transfer any balance in the fund on the effective date of this Act to the foundation school fund.

SECTION 5.03. Requires each school district, on February 7, 2004, or May 1, 2004, to hold an election to adopt an ad valorem tax for maintenance and operations at a rate that provides sufficient local funding for the district, as determined by the district. Provides that a tax rate adopted by a district before January 1, 2004, is void on or after that date.

SECTION 5.04. Provides that this Act applies beginning with the 2004-2005 school year.

SECTION 5.05. Effective date: January 1, 2004, but only if the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, relating to a public school finance system based on state provision of teacher salaries and benefits and assistance for maintenance and construction of school facilities is approved by the voters. Provides that if that amendment is not approved by the voters, this Act has no effect.