

BILL ANALYSIS

Senate Research Center

S.B. 8
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Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current Texas law imposes burdensome restrictions on school districts' decision-making power in ways that range from requirements regarding personnel matters to mandates concerning school operation and resource allocation. In addition, state law creates barriers for a school district, both to its sound operation and to its ability to implement necessary changes to improve educational quality and increase efficiency.

S.B. 8 returns control of personnel matters to school districts by pushing back the deadline for notice of contract renewal to the tenth day before the last instructional day and repealing the requirement that teachers receive at least the same salary as earned in 2010-2011. S.B. 8 also allows school districts to implement furloughs as long as funding levels are below 2010-2011 amounts. Additionally, school districts will no longer have to employ teachers who do not maintain their certifications and will no longer be forced to terminate continuing contracts on a "last in, first out" basis.

S.B. 8 returns control over operations to school districts by removing fitness gram mandates in grades when students are not enrolled in physical education courses.

As proposed, S.B. 8 amends current law relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

RULEMAKING AUTHORITY

The bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 21.0031, Education Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

- (a) Provides that an employee's probationary, continuing, or term contract under this chapter is void if the employee:
 - (1) does not hold a valid certificate or permit issued by the State Board for Educator Certification (SBEC);
 - (2) fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Subchapter B (Certification of Educators); or
 - (3) fails to comply with any requirement under Subchapter C (Criminal History Records), Chapter 22 (School District Employees and Volunteers), if the failure results in suspension or revocation of the employee's certificate under Section 22.0831(f)(2) (relating to certain sanctions for failure to comply with certain requirements).

Makes a nonsubstantive change.

(b) Provides that if a school district has knowledge that an employee's contract, rather than after an employee receives notice that the employee's contract, is void under Subsection (a):

(1) the district is authorized, except as provided by Subsection (b-1), to terminate the employee, suspend the employee with or without pay, or retain the employee for the remainder of the school year on an at-will employment basis in a position other than a position required to be held by an employee under a contract under Section 21.002 (Teacher Employment Contracts), rather than in a position other than classroom teacher, at the employee's existing rate of pay or at a reduced rate; and

(2) the employee is not entitled to the minimum salary prescribed by Section 21.402 (Minimum Salary Schedule for Certain Professional Staff).

(b-1) Prohibits a school district from terminating or suspending under Subsection (b) an employee whose contract is void under Subsection (a)(1) or (2) because the employee failed to renew or extend the employee's certificate or permit if the employee:

(1) requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and

(2) not later than the 10th day after the date the contract is void, takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

SECTION 2. Amends Section 21.103(a), Education Code, to require the board of trustees of a school district to give notice of its decision to terminate the employment of a teacher employed under a probationary contract to the teacher not later than the 10th day, rather than the 45th day, before the last day of instruction required under the contract.

SECTION 3. Amends Section 21.157, Education Code, to delete existing text authorizing a necessary reduction of certain personnel by a school district to be made in the reverse order of seniority in the specific teaching fields.

SECTION 4. Amends Section 21.206(a), Education Code, to require the board of trustees, not later than the 10th day, rather than the 45th day, before the last day of instruction in a school year, to notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract.

SECTION 5. Amends Subchapter I, Chapter 21, Education Code, by adding Section 21.4021, as follows:

Sec. 21.4021. FURLOUGHS. (a) Authorizes the board of trustees of a school district, notwithstanding Section 21.401 (Minimum Service Required), in accordance with district policy, to implement a furlough program and reduce the number of days of service otherwise required under Section 21.401 by not more than six days of service during a school year if the commissioner of education (commissioner) certifies in accordance with Section 42.009 that the district will be provided with less state and local funding for that year than was provided to the district for the 2010-2011 school year.

(b) Authorizes the board of trustees, notwithstanding Section 21.402, to reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced, provided that the furlough program is implemented in compliance with this section.

(c) Prohibits an educator from being furloughed on a day that is included in the number of days of instruction required under Section 25.081 (Operation of Schools).

(d) Prohibits an educator from using personal, sick, or any other paid leave while the educator is on a furlough.

(e) Provides that a furlough imposed under this section does not constitute a break in service for purposes of the Teacher Retirement System of Texas.

(f) Prohibits implementation of a furlough program from resulting in an increase in the number of required teacher workdays.

(g) Provides that if a board of trustees adopts a furlough program after the date by which a teacher is required to give notice of resignation under Section 21.105 (Resignations Under Probationary Contract), 21.160 (Resignation Under Continuing Contract), or 21.210 (Resignation Under Term Contract), as applicable, a teacher who subsequently resigns is not subject to sanctions imposed by SBEC as otherwise authorized by those sections.

(h) Provides that a decision by the board of trustees to implement a furlough program is final and may not be appealed, and does not create a cause of action or require collective bargaining.

SECTION 6. Amends Section 38.101(a), Education Code, to require a school district, except as provided by Subsection (b) (relating to assessments not being required for certain students with certain conditions), to annually assess the physical fitness of students enrolled in grade three or higher in a course that satisfies the curriculum requirements for physical education under Section 28.002(a)(2)(C) (relating to physical education being included in the required enrichment curriculum), rather than enrolled in grades 3 through 12.

SECTION 7. Amends Subchapter A, Chapter 42, Education Code, by adding Section 42.009, as follows:

Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Requires the commissioner, not later than July 1 of each year, to determine for each school district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010-2011 school year. Requires the commissioner, if the amount estimated to be provided is less, to certify the percentage decrease in funding to be provided to the district.

(b) Requires the commissioner, in making the determinations regarding funding levels required by Subsection (a), to:

(1) make adjustments as necessary to reflect changes in a school district's maintenance and operations tax rate;

(2) for a district required to take action under Chapter 41 (Equalized Wealth Level) to reduce its wealth per student to the equalized wealth level, base the determinations on the district's net funding levels after deducting any amounts required to be expended by the district to comply with Chapter 41; and

(3) determine a district's weighted average daily attendance in accordance with this chapter as it existed on January 1, 2011.

SECTION 8. Repealer: Section 21.402(d) (relating to the salary to which certain employees employed by a school district are entitled), Education Code.

SECTION 9. Effective date: upon passage or on the 91st day after the last day of the legislative session.