

## **BILL ANALYSIS**

Senate Research Center

H.B. 1842  
By: Aycock et al. (Kolkhorst)  
Education  
5/15/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties note that public schools that have underperformed for multiple years should have appropriate supports and interventions to improve school performance. H.B. 1842 attempts to strengthen state interventions and sanctions.

H.B. 1842 amends current law relating to public school accountability, including the intervention in and sanction of a public school that has received an academically unsuccessful performance rating for at least two consecutive school years.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 5 (Section 39.107, Education Code) and SECTION 6 (Section 39.1071, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 11, Education Code, by adding Section 11.0511, as follows:

Sec. 11.0511. STUDENT TRUSTEE FOR CERTAIN DISTRICTS. (a) Provides that this section applies only to a school district described by Section 11.065(a) (providing that Sections 11.052(g) and (h) and Sections 11.059(a) and (b) do not apply to the board of trustees of a school district under certain conditions) that includes a school under the campus turnaround plan.

(b) Authorizes the board of trustees of a school district (board), notwithstanding Section 11.051(b) (providing that a certain board of trustees consists of the number of members that the district had on September 1, 1995), to adopt a resolution establishing as a nonvoting member a student trustee position as provided by this section.

(c) Requires the board, for a student trustee position under this section, to adopt a policy that establishes:

- (1) the term of the student trustee position;
- (2) the procedures for selecting a student trustee, including the method for filling a vacancy; and
- (3) the procedures for removal of a student trustee.

(d) Provides that a student is eligible to serve as a student trustee if the student is enrolled in the student's junior or senior year of high school and is considered in good standing academically and under the district code of conduct.

(e) Requires the board to adopt a policy regarding student trustee:

(1) participation, other than voting, in board deliberations, subject to Subsection (f); and

(2) access to information, documents, and records, consistent with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(f) Prohibits a student trustee from participating in a closed session of a board meeting in which any issue related to a personnel matter is considered.

(g) Prohibits a student trustee from being entitled to receive compensation or reimbursement of the student trustee's expenses for services on the board.

(h) Authorizes a school district to grant to a student who fulfills the requirements of service of a student trustee not more than one academic course credit in a subject area determined appropriate by the district.

SECTION 2. (a) Amends Section 12.101(b-4), Education Code, as follows:

(b-4) Provides that approval of the commissioner of education (commissioner) under that section, notwithstanding Section 12.114 (Revision), is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection are satisfied, rather than if the requirements of this subsection, including the absence of commissioner disapproval under Subdivision (3), are satisfied. Authorizes a charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B (Assessment of Academic Skills), Chapter 39 (Public School System Accountability), or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years to establish one or more new campuses under an existing charter held by the charter holder if:

(1) and (2) Makes no change to these subdivisions; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder that the commissioner has determined that the charter holder does not satisfy the requirements of this section, rather than written notice to the charter holder of disapproval of a new campus under this section.

(b) Amends the heading to Section 12.116, to read as follows:

Sec. 12.116. PROCEDURE FOR REVOCATION, MODIFICATION OF GOVERNANCE, OR DENIAL OF RENEWAL.

(c) Amends Section 12.116, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the commissioner to adopt an informal procedure to be used for:

(1) revoking the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115 (Basis for Charter Revocation or Modification of Governance); and

(2) denying the renewal of a charter of an open-enrollment charter school as authorized by Section 12.1141(c) (requiring the commissioner to use the discretionary process under certain circumstances).

(a-1) Requires that the procedure adopted under Subsection (a) for the denial of renewal of a charter under Section 12.1141(c) or the revocation of a charter or

reconstitution of a governing body of a charter holder under Section 12.115(a) (requiring the commissioner to revoke the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder under certain circumstances) allow representatives of the charter holder to meet with the commissioner to discuss the commissioner's decision and allow the charter holder to submit additional information to the commissioner relating to the commissioner's decision. Requires the commissioner, in a final decision issued by the commissioner, to provide a written response to any information the charter holder submits under this subsection.

(d) Provides that this section applies beginning with the 2015-2016 school year.

SECTION 3. Amends Section 39.106, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a campus intervention team to:

(1)-(3) Makes no change to these subdivisions;

(4) conduct a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee established under Section 11.251 (Planning and Decision-Making Process), parents of students attending the campus, and community members residing in the district to review the campus performance rating and solicit input for the development of the targeted improvement plan;

(5) and (6) Makes nonsubstantive changes.

(a-1) Requires the campus intervention team to provide written notice of the public meeting required by Subsection (a)(4) to the parents of students attending the campus and post notice of the meeting on the Internet website of the campus. Requires that the notice include the date, time, and place of the meeting.

SECTION 4. Amends the heading to Section 39.107, Education Code, to read as follows:

Sec. 39.107. CAMPUS TURNAROUND PLAN, BOARD OF MANAGERS, ALTERNATIVE MANAGEMENT, AND CLOSURE.

SECTION 5. Amends Section 39.107, Education Code, by amending Subsections (a), (a-1), (b), (b-1), (b-2), (d), (e), (e-1), (e-2), (f), and (g) and adding Subsections (a-2), (b-3), (b-4), (b-5), (b-6), (b-7), (b-8), (b-9), (e-4), (e-5), (e-6), (g-1), and (g-2), as follows:

(a) Requires the commissioner, after a campus has been identified as unacceptable for two consecutive school years, to order the campus to prepare and submit a campus turnaround plan, rather than to order the reconstitution of the campus. Requires the commissioner to by rule establish procedures governing the time and manner in which the campus must submit the campus turnaround plan.

(a-1) Requires a campus intervention team to assist the campus in, rather than requires a campus intervention team, in reconstituting a campus, to assist the campus in:

(1) developing an updated targeted improvement plan, including a campus turnaround plan to be implemented by the campus;

(2) submitting the updated targeted improvement plan to the board of trustees of the school district for approval and presenting the plan in a public hearing as provided by Section 39.106(e-1) (providing that the board, after a targeted improvement plan or updated plan is submitted to the board of trustees of the school district, perform certain duties);

(3) obtaining approval of the updated plan from the commissioner; and

(a-2) Requires the district, in consultation with the campus intervention team, before a campus turnaround plan is prepared and submitted for approval to the board of trustees of the school district, to:

(1) provide notice to parents, the community, and stakeholders that the campus has received an academically unacceptable performance rating for two consecutive years and will be required to submit a campus turnaround plan; and

(2) request assistance from parents, the community, and stakeholders in developing the campus turnaround plan.

(b) Requires the school district, in consultation with the campus intervention team, to prepare the campus turnaround plan and allow parents, the community, and stakeholders an opportunity to review the plan before it is submitted for approval to the board of trustees of the school district. Requires that the plan include details on the method for restructuring, reforming, or reconstituting the campus. Requires that the campus turnaround plan, if the district determines that granting a district charter under Section 12.0522 (District Charter Authorization) is appropriate for the campus, provide information on the implementation of the district charter. Requires that the plan assist the campus in implementing procedures to satisfy all performance standards required under Section 39.054(e) (requiring that each annual performance review under this section include an analysis of certain student achievement indicators).

Deletes existing text requiring the campus intervention team to decide which educators may be retained at that campus. Deletes existing text prohibiting a principal who has been employed by the campus in that capacity during the full period described by Subsection (a) from being retained at that campus unless the campus intervention team determines that retention of the principal would be more beneficial to the student achievement and campus stability than removal.

(b-1) Requires that a campus turnaround plan include:

(1) a detailed description of the academic programs to be offered at the campus, including instructional methods, length of school day and school year, academic credit and promotion criteria, and programs to serve special student populations;

(2) the term of the charter, if a district charter is to be granted for the campus under Section 12.0522, which may not exceed five years;

(3) written comments from the campus-level committee established under Section 11.251, if applicable, parents, and teachers at the campus; and

(4) a detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources.

Deletes existing text authorizing a teacher of a subject assessed by an assessment instrument under Section 39.023 (Adoption and Administration of Instruments) to be retained only if the campus intervention team determines that a pattern exists of significant academic improvement by students taught by the teacher. Deletes existing text providing that an educator, if the educator is not retained, may be assigned to another position in the district.

(b-2) Provides that a school district may:

(1) request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan; or

- (2) partner with an institution of higher education to develop and implement a campus turnaround plan.

Deletes existing text requiring a campus intervention team, for each year that a campus is considered to have an unacceptable performance rating, to assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; submit the updated plan to the board of trustees of the school district and the parents of campus students; and assist in submitting the updated plan to the commissioner for approval.

(b-3) Requires that the updated targeted improvement plan submitted to the board of trustees of a school district under Subsection (a-1) include all plans and details that are required to execute the campus turnaround plan without any additional action or approval by the board of trustees.

(b-4) Requires that a campus turnaround plan developed under this section take effect not later than the school year following the third consecutive school year that the campus has received an academically unacceptable performance rating.

(b-5) Authorizes the school district, in consultation with the campus intervention team, following approval of a campus turnaround plan by the commissioner, to take any actions needed to prepare for the implementation of the plan.

(b-6) Authorizes the board of trustees, if a campus for which a campus turnaround plan has been ordered under Subsection (a) receives an academically acceptable performance rating for the school year following the order, to:

- (1) implement the campus turnaround plan;
- (2) implement a modified version of the campus turnaround plan; or
- (3) withdraw the campus turnaround plan.

(b-7) Authorizes a school district required to implement a campus turnaround plan to modify or withdraw the plan if the campus receives an academically acceptable performance rating for two consecutive school years following the implementation of the plan.

(b-8) Provides that Section 12.0522(b) (authorizing a district charter to be granted under this section only to one or more certain campuses) does not apply to a district charter approved by the commissioner under this section. Provides that a district charter approved under this section may be renewed or continue in effect after the campus is no longer subject to an order under Subsection (a).

(b-9) Requires the commissioner to adopt rules governing the procedures for an open-enrollment charter school campus that is subject to an order issued under Subsection (a). Requires that an open-enrollment charter school revise the school's charter in accordance with Section 12.114 in the campus turnaround plan. Provides that nothing in this section may be construed to modify any provision of Subchapter D (Open-Enrollment Charter School), Chapter 12, relating to the expiration, nonrenewal, revocation, or modification of the governance of an open-enrollment charter school. Requires the governing board of the open-enrollment charter school to perform the duties of a board of trustees of a school district under this section.

(d) Authorizes the commissioner to approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all student performance standards required under Section 39.054(e) not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. Requires the commissioner, if the commissioner does not make this determination, to order:

- (1) appointment of a board of managers to govern the district as provided by Section 39.112(b) (providing that the powers of the board of trustees of the district are suspended for the period of the appointment and requiring the commissioner to appoint a district superintendent);
- (2) alternative management of the campus under this section; or
- (3) closure of the campus.

Deletes existing text authorizing the commissioner, if the commissioner determines that the campus is not fully implementing the updated targeted improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan, to order repurposing of the campus under this section; alternative management of the campus under this section; or closure of the campus.

(e) Requires the commissioner, subject to Subsection (e-2), if a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan under Subsection (a), to order:

- (1) appointment of a board of managers to govern the district as provided by Section 39.112(b); or
- (2) closure of the campus.

Deletes existing text requiring the commissioner, subject to Subsection (e-1) or (e-2), if a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted under Subsection (a), to repurposing of the campus under this section; alternative management of the campus under this section; or closure of the campus.

(e-1) Provides that that campus, if the commissioner orders the closure of a campus under this section, may be repurposed to serve students at that campus location only if the commissioner finds that the repurposed campus offers a distinctly different academic program and serves a majority of grade levels at the repurposed campus not served at the original campus and approves a new campus identification number for the campus. Provides that the majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year. Requires any student assigned to a campus that has been closed be allowed to transfer to any other campus in the district that serves that student's grade level and on request must be provided transportation to the other campus. Authorizes the commissioner to grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll. Deletes existing text authorizing the commissioner to waive the requirement to enter an order under Subsection (e) for not more than one school year if the commissioner determines that, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year.

(e-2) Deletes a reference to Subsection (e)(3).

(e-4) Provides that a board of managers appointed by the commissioner under this section is required to take appropriate actions to resolve the conditions that caused a campus to be subject to an order under Subsection (a), including amending the district's budget, reassigning staff, or relocating academic programs.

(e-5) Authorizes the commissioner to authorize payment of a board of managers appointed under this section from agency funds.

(e-6) Authorizes the commissioner to at any time replace a member of a board of managers appointed under this section.

(f) Authorizes the commissioner, notwithstanding Section 39.112(e), to remove a board of managers appointed to govern a district under this section only if the campus that was the basis for the appointment of the board of managers receives an academically acceptable performance rating for two consecutive school years.

Deletes existing text requiring the school district, if the commissioner orders repurposing of a campus, to develop a comprehensive plan for repurposing the campus and submit the plan to the board of trustees for approval, using the procedures described by Section 39.106(e-1), and to the commissioner for approval. Deletes existing text requiring that the plan include a description of a rigorous and relevant academic program for the campus. Deletes existing text authorizing the plan to include various instructional models.

Deletes existing text prohibiting the commission from approving the repurposing of a campus unless certain conditions apply as set forth.

(g) Authorizes the commissioner, following the removal of a board of managers under Subsection (f), or at the request of a managing entity appointed under Subsection (d) to oversee the implementation of alternative management, to appoint a conservator for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan.

(g-1) Requires the school district, if the commissioner orders alternative management of a campus under Subsection (d)(2), to execute a contract with a managing entity for a term not to exceed five years. Requires that the terms of the contract be approved by the commissioner. Requires the commissioner, if a campus receives an academically unacceptable performance rating for two consecutive school years after the managing entity assumes management of the campus, to cancel the contract with the managing entity.

(g-2) Requires the board of trustees of the school district, subject to Subsection (e), at the end of the contract term with a managing entity or the cancellation of a contract with a managing entity under Subsection (g-1), to resume management of the campus.

SECTION 6. Amends Subchapter E, Chapter 39, Education Code, by adding Section 39.1071, as follows:

Sec. 39.1071. TRANSITIONAL INTERVENTIONS AND SANCTIONS. (a) Authorizes the commissioner, for a campus that received an academically unacceptable performance rating for the 2013-2014, 2014-2015, and 2015-2016 school years, to apply the interventions and sanctions authorized by this chapter as this chapter existed on January 1, 2015, to the campus.

(b) Requires the commissioner, if a campus described under Subsection (a) receives an academically unacceptable performance rating for the 2016-2017 and 2017-2018 school years, to apply the interventions and sanctions authorized by Section 39.107(e) to the campus.

(c) Requires the commissioner, for a campus that received an academically acceptable performance rating for the 2013-2014 school year and an academically unacceptable performance rating for the 2014-2015 and 2015-2016 school years, to apply the interventions and sanctions authorized by Section 39.107(a) to the campus.

(d) Requires the commissioner, if a campus described under Subsection (c) receives an academically unacceptable performance rating for the 2016-2017,

2017-2018, and 2018-2019 school years, to apply the interventions and sanctions authorized by Section 39.107(e) to the campus.

(e) Authorizes the commissioner to adopt rules as necessary to implement this section.

(f) Provides that this section expires September 1, 2020.

SECTION 7. Amends Section 39.112(e), Education Code, as follows:

(e) Requires a board of managers to, during the period of the appointment, order the election of members of the board of trustees of the district in accordance with applicable provisions of law. Provides that the board of trustees does not assume any powers or duties after the election until the appointment of the board of managers expires. Requires the commissioner, not later than the second anniversary of the date the board of managers of a district was appointed, to notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire, which may not be later than the 180th day after the date of the notice. Provides that the board of trustees, on the expiration of the appointment of the board of managers, rather than on qualification of members for office, assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation. Deletes existing text requiring the board of managers, at the direction of the commissioner but not later than the second anniversary of the date the board of managers of a district was appointed, to order an election of members of the district board of trustees. Deletes existing text requiring that the election be held on a uniform election date on which an election of district trustees may be held under Section 41.001 (Uniform Election Dates), Election Code, that is at least 180 days after the date the election was ordered.

SECTION 8. Amends Section 39.114, Education Code, to provide that an employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter, or a member of a board of managers appointed by the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

SECTION 9. Repealer: Section 39.106(f) (authorizing the commissioner to order the reconstitution of a certain campus under certain circumstances), Education Code.

SECTION 10. Requires the Legislative Budget Board (LBB), not later than December 1, 2018, to publish a report evaluating the implementation of Section 39.107, Education Code, as amended by this Act, including an analysis of whether the changes in law made by this Act result in improvements to school performance and student performance. Authorizes the LBB to contract with another entity for the purpose of producing the evaluation required by this section.

SECTION 11. Provides that this Act applies to the academic performance ratings issued to public school campuses beginning with the 2015-2016 school year.

SECTION 12. Effective date: upon passage or September 1, 2015.