

## CHAPTER 520

S.B. No. 617

## AN ACT

relating to transfer of the functions of the Legislative Education Board to the Legislative Budget Board and certain legislative committees.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (a), Section 11.24, Education Code, is amended to read as follows:

(a) In addition to performing its duties under the constitution, the State Board of Education shall take actions necessary to implement legislative policy for the public school system of the state. The board shall include in the record of its meetings the legislative authority for each action taken by the board. The board shall consider any comments submitted by *a standing committee of the senate or house of representatives with primary jurisdiction over the public school system* [~~the Legislative Education Board~~] on a proposed rule before voting on final adoption of the rule. If the board is unsure of the legislative intent of any legislative enactment, the board may request a joint meeting with *either or both of those committees* [~~the Legislative Education Board~~] to discuss the intent.

SECTION 2. Subsections (c), (e), and (h), Section 11.27, Education Code, are amended to read as follows:

(c) Innovative program applications shall initially be selected on a competitive, peer review basis by the program advisory committee established under Section 11.271 of this code, with final approval by the State Board of Education and, if the program requires the expenditure of state funds, the Legislative Budget [Education] Board.

(e) The approval by the State Board of Education of an application under this section that requires the expenditure of state funds is ineffective unless the Legislative Budget [Education] Board approves the expenditure of state funds for the program under the authority of Article XVI, Section 69, of the Texas Constitution.

(h) The Central Education Agency shall evaluate each program's effectiveness and shall report its findings to the Legislative Budget [Education] Board and to the State Board of Education not later than December 1 preceding each regular session of the legislature.

SECTION 3. Subsections (d) and (i), Section 11.271, Education Code, are amended to read as follows:

(d) Each fiscal year, the board, after deducting the cost of administration not to exceed an amount set by appropriation, shall make disbursements from the public education development fund to the Educational Economic Policy Center in a total amount approved by the Legislative Budget [Education] Board. The board shall disburse the remainder of the fund to eligible school campuses.

(i) The Educational Economic Policy Committee shall appoint a program advisory committee, composed of experts in policy research and disciplines that represent the center's purposes, to make recommendations to the State Board of Education and the Legislative Budget [Education] Board on the use of the public education development fund.

SECTION 4. Subsection (c), Section 11.272, Education Code, is amended to read as follows:

(c) The Central Education Agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 11.273 of this code and report annually on the effect of deregulation on student achievement to the State Board of Education, [the Legislative Education Board,] the governor, the lieutenant governor, the speaker of the house of representatives, and the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [legislature]. The report must include a list of the exemptions utilized and a review of the effectiveness of the waivers and exemptions programs.

SECTION 5. Subsection (a), Section 11.29, Education Code, is amended to read as follows:

(a) The commissioner of education shall adopt annually a budget for operating the Foundation School Program, the Central Education Agency, and other programs for which the State Board of Education has responsibility. The budget shall be in accordance with the amounts appropriated by the general appropriations act and shall provide funds for the administration and operation of the Central Education Agency and any other necessary expense. Before adopting the budget, the commissioner shall:

(1) submit the budget to the State Board of Education and the Legislative Budget [Education] Board for review and comment; and

(2) after receiving the comments of those boards, present the budget to the governor and the Legislative Budget Board.

SECTION 6. Subsection (e), Section 14.044, Education Code, is amended to read as follows:

(e) The governing board shall:

(1) employ an executive director for the center;

(2) adopt rules, subject to the approval of the State Board of Education, for administration, operation, and management of the center; and

(3) report annually on the operation, projects, and fiscal affairs of the center to the governor's office, the Legislative *Budget* [Education] Board, and the State Board of Education.

SECTION 7. Subsection (c), Section 16.007, Education Code, is amended to read as follows:

(c) The Central Education Agency shall report annually to the Legislative *Budget* [Education] Board the financial status of each county education district. The report shall include the total state and local education revenues for each tier of the Foundation School Program.

SECTION 8. Subsection (a), Section 16.008, Education Code, is amended to read as follows:

(a) The Legislative *Budget* [Education] Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the qualified funding elements under Section 16.256(e) of this code necessary to achieve the state policy under Section 16.001 of this code not later than the 1994–1995 school year and for each school year thereafter.

SECTION 9. Section 16.202, Education Code, is amended to read as follows:

Sec. 16.202. STUDIES. On a biennial basis, the [~~Legislative Education Board and the~~] Legislative Budget Board, with the assistance of the Educational Economic Policy Center and the Central Education Agency, shall complete each of the following studies and develop recommended amounts where appropriate for each year of the next biennium:

(1) a study of the fiscal neutrality of the system to determine the status of the state and local finance system with regard to the policies established under the provisions of Section 16.001 of this code, including recommendations for adjustments necessary to maintain fiscal neutrality;

(2) the accountable costs per student to school districts of providing educational programs, personnel, and other operating costs that meet accreditation criteria and the provisions of law and regulation;

(3) program cost differentials designed by program to provide support for the added expense of high-cost courses or programs for students participating in such courses or programs, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

(4) transportation and career ladder allotments;

(5) the levels of tax effort necessary for each tier of the Foundation School Program necessary to fulfill the requirements of Sections 16.001 and 16.008 of this code; and

(6) capital outlay and debt service requirements and formula elements for the requirements of Subchapter I of this chapter or other provisions of this chapter.

SECTION 10. Section 16.203, Education Code, is amended to read as follows:

Sec. 16.203. PROCEDURES. (a) The program cost differentials developed [jointly] by the [~~Legislative Education Board and the~~] Legislative Budget Board shall be submitted to the foundation school fund budget committee for adoption beginning with the 1993–1994 school year. If the foundation school fund budget committee fails to adopt by April 1 the program cost differentials for the following school year, the commissioner of education, after considering the recommendations developed by the *Legislative Budget Board* [these boards], shall adopt program cost differentials.

(b) The commissioner of education shall provide appropriate assistance to the *Legislative Budget Board* [boards] for the calculation of the various funding elements. Subject to review by the Legislative *Budget* [Education] Board, the commissioner of education shall retain from the allotments under Sections 16.102 and 16.103 of this code and Subchapter D of this chapter amounts appropriate to finance necessary additional costs for the studies required under this subchapter.

(c) The *Legislative Budget Board* [boards] may appoint advisory committees to assist in the development of the various funding elements and studies required under this subchapter. Advisory committee members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. Reimburse-

ment shall be from funds available under Subsection (b) of this section or from other funds available to the *board* [~~boards~~].

(d) In the studies relating to program cost differentials the *Legislative Budget Board* [~~boards~~] shall give special consideration to cost factors associated with class size, laboratory expenses, materials, equipment, teacher training, necessary salary supplementation, and special services related to individual courses or groups of courses.

SECTION 11. Subsection (b), Section 16.204, Education Code, is amended to read as follows:

(b) If the construction or operation of a significant new naval military facility begins during a school year, the [~~Legislative Education Board and the~~] Legislative Budget Board shall recommend the adjustment of the basic allotment during that school year to consider any impact of the facility on the cost of education index of the districts in the impacted region.

SECTION 12. Subsection (d), Section 16.205, Education Code, is amended to read as follows:

(d) Prior to the beginning of each regular session of the legislature, the agency shall provide a report with recommendations to the *Legislative Budget* [~~Education~~] Board and the legislature.

SECTION 13. Subsections (d) and (f), Section 16.256, Education Code, are amended to read as follows:

(d) The foundation school fund budget committee shall adopt rules for the calculation for each year of a biennium of the qualified funding elements necessary to achieve the state funding policy under Section 16.001 of this code not later than the 1994–1995 school year and for each year thereafter. In the calculation of these funding elements, the committee shall consider the report of the *Legislative Budget* [~~Education~~] Board prescribed under Section 16.008 of this code.

(f) Beginning in 1992, not later than November 1 preceding each regular session of the legislature, the foundation school fund budget committee by rule shall adopt and report the equalized funding elements calculated under this section to the commissioner of education and the legislature. Before the committee adopts the elements, the committee or the committee's designees shall hold a public hearing on the recommendations of the *Legislative Budget* [~~Education~~] Board.

SECTION 14. Subsection (b), Section 16.302, Education Code, is amended to read as follows:

(b) Beginning with the 1993–1994 school year, if the program cost differentials developed [~~jointly~~] by the [~~Legislative Education Board and the~~] Legislative Budget Board under Section 16.203 of this code and the adjustments studied under Section 16.206 of this code are not adopted by the foundation school fund budget committee or the commissioner of education, the amount guaranteed under this section is an amount per student rather than per weighted student and a school district's average daily attendance ("ADA") under Section 16.006 of this code is substituted for "WADA" in the formula under Subsection (a) of this section.

SECTION 15. Subsection (c), Section 20.941, Education Code, is amended to read as follows:

(c) Before each regular session of the legislature, the [~~Legislative Education Board, with the assistance of the~~] Legislative Budget Board[,] shall review the taxable value of property in each county education district and shall recommend changes in the boundaries of the districts necessary to ensure that no district has a taxable value of property in excess of \$280,000 per weighted student in average daily attendance, or a value set by the foundation school fund committee.

SECTION 16. Subsection (b), Section 21.041, Education Code, as amended by Chapters 353 and 813, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit by students who are in attendance fewer than 80 days during a semester. Each board may determine the number of committees needed in the

district and the composition of each committee. The committees may give class credit to a student who is in attendance fewer than 80 days during a semester because of extenuating circumstances. Each local school board shall establish guidelines to determine what constitutes extenuating circumstances, subject to rules adopted by the State Board of Education, and shall adopt policies establishing alternative ways for students to make up work or regain credit lost because of absences. The State Board of Education shall submit its rules adopted under this section to the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] for review to ensure compliance with legislative intent. A certified public school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

SECTION 17. Subsection (b), Section 21.5511, Education Code, is amended to read as follows:

(b) Before adopting rules under this section, the board shall consider the comments of the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] as required under Section 11.24 of this code.

SECTION 18. Subsection (b), Section 21.5512, Education Code, is amended to read as follows:

(b) Before adopting rules under this section, the board shall consider the comments of the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] as required under Section 11.24 of this code.

SECTION 19. Subsection (g), Section 21.5513, Education Code, is amended to read as follows:

(g) *Not later than the 30th day before the date on which a regular session of the legislature convenes*, [~~At each regular meeting of the Legislative Education Board~~] the committee shall report to the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~board~~] its progress regarding:

(1) the essential knowledge and skills identified by the committee for elementary and secondary students, including at a minimum knowledge and skills in the areas of reading, writing, speaking, mathematics, and critical thinking;

(2) a statewide assessment program developed by the committee for elementary students that is primarily performance-based, uses a variety of assessment methodologies to determine if students have mastered the essential knowledge and skills, and is designed to assess students in at least two elementary grade levels;

(3) a statewide assessment program developed by the committee for secondary students that is primarily performance-based, uses a variety of assessment methodologies to determine if students have mastered the essential knowledge and skills, and provides criteria for a certificate of initial mastery;

(4) recommendations for appropriate uses by public schools and school districts of the results of the statewide assessment programs;

(5) recommendations for changes to state laws and rules, school district policies, budget procedures, and other factors that inhibit schools from adopting strategies designed to ensure that students achieve the essential knowledge and skills;

(6) recommendations for accurate and fair indicators to measure the level of student learning in public schools and school districts and measures that would assist public schools and school districts in which student learning is below expected levels of performance;

(7) recommendations for modifying college and university entrance requirements that inhibit public schools from adopting strategies that are designed to ensure that students achieve the essential knowledge and skills;

(8) the time, support, and resources, including technical assistance, that the committee determines to be necessary for public schools and school districts to ensure that students achieve the essential knowledge and skills; and

(9) recommendations for replacing course or class credit requirements with requirements for core competencies, including critical thinking skills, for the purpose of improving and evaluating student performance.

SECTION 20. Subsection (i), Section 21.557, Education Code, is amended to read as follows:

(i) Each school district shall maintain on file and expeditiously make available on the request of a member of the general public a copy of the report describing the district's overall compensatory education program for educationally disadvantaged students. The report must include sufficient detail to describe the overall compensatory education program offered on each campus and the activities and services provided on each campus from each funding source. The commissioner of education shall develop model report formats that districts may use for the report. The model formats must be designed to be easily understood by a member of the general public and may not be overly burdensome for districts to prepare. The commissioner shall submit the model formats to the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] for comment and may not distribute the formats until the commissioner has received and considered those comments. Each school district shall prepare and periodically update the description of the district's compensatory education program to accurately reflect the programs and services currently provided to educationally disadvantaged students.

SECTION 21. Subsections (a) and (e), Section 21.7531, Education Code, are amended to read as follows:

(a) The State Board of Education, on the advice of the academic excellence indicators advisory committee, the educational excellence committee, and the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~], shall adopt a set of indicators of the quality of learning on a campus and other performance standards. The board biennially shall review the indicators for the consideration of appropriate revisions.

(e) The Educational Economic Policy Center shall biennially review the indicators adopted under this section and recommend changes in those indicators to the State Board of Education and the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~].

SECTION 22. Subsections (a) and (c), Section 21.758, Education Code, are amended to read as follows:

(a) The commissioner of education may order the suspension of the powers of the board of trustees of a school district if the school district has been rated academically unaccredited for a period of one year. The commissioner shall immediately inform the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] of the commissioner's decision to order the suspension.

(c) The appointed superintendent shall report annually to the commissioner on the progress of the school district toward meeting the requirements necessary for accreditation. The commissioner shall report to the *standing committees of the senate and house of representatives with primary jurisdiction over the public school system* [~~Legislative Education Board~~] annually on the district's progress.

SECTION 23. Subsection (g), Section 34.052, Education Code, is amended to read as follows:

(g) The committee shall report to the *Legislative Budget Board* [~~Legislative Education Board~~] at least once a year. The committee shall also report to the governor, the State Board of Education, the Texas Higher Education Coordinating Board, and the legislature before the convening of each regular session.

SECTION 24. Chapter 322, Government Code, is amended by adding Section 322.013 to read as follows:

*Sec. 322.013. REVIEW OF EDUCATIONAL POLICY IMPLEMENTATION. (a) The standing committees of the senate and house of representatives with primary jurisdiction over the public school system shall oversee and review the implementation of legislative*

education policy by state agencies that have the statutory duty to implement that policy, including policy relating to:

- (1) fiscal matters;
- (2) academic expectations; and
- (3) evaluation of program cost-effectiveness.

(b) The committees shall periodically review the actions or proposed actions of the State Board of Education for the purpose of ensuring compliance with legislative intent. If a committee determines that any action or proposed action of the State Board of Education conflicts with legislative educational policy, the committee shall submit its comments on the conflict to the State Board of Education in writing. If a committee determines that a final action of the board conflicts with the intent of legislative educational policy, the committee may:

- (1) request additional information from the State Board of Education relating to the intent of the board's action;
- (2) request a joint meeting with the State Board of Education to discuss the conflict between the action and legislative educational policy;
- (3) request that the State Board of Education reconsider its action; or
- (4) notify the governor, lieutenant governor, speaker of the house, and the legislature of the conflict presented.

(c) The board shall assist the committees in administering this section.

(d) For purposes of carrying out its duties, the board may administer oaths and issue subpoenas, signed by the chairman or vice-chairman, to compel the attendance of witnesses and the production of books, records, and documents. A subpoena of the board shall be served by a peace officer in the manner in which district court subpoenas are served. On application of the board, a district court of Travis County shall compel compliance with a subpoena issued by the board in the same manner as for district court subpoenas.

SECTION 25. (a) The Legislative Education Board is abolished.

(b) Chapter 327, Government Code, is repealed.

(c) Any reference in a law not amended by this Act to the Legislative Education Board means the Legislative Budget Board.

(d) A rule adopted by the Legislative Education Board that is in effect on the effective date of this Act is considered to have been adopted by the Legislative Budget Board until amended, repealed, or superseded by the Legislative Budget Board.

(e) An action taken by the Legislative Education Board before the effective date of this Act has the same effect as an action of the Legislative Budget Board or legislative committee to which the authority for that action is transferred by this Act.

(f) The personnel, property, records, and funds of the Legislative Education Board are transferred to the Legislative Budget Board.

SECTION 26. This Act takes effect September 1, 1993.

SECTION 27. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 7, 1993: Yeas 30, Nays 0; passed the House on May 22, 1993, by a non-record vote.

Approved June 8, 1993.

Effective Sept. 1, 1993.