

By: Shapiro, et al.

S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the flexibility of the board of trustees of a school
3 district in the management and operation of public schools in the
4 district.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 21.0031, Education Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (b-1) to
8 read as follows:

9 (a) An employee's probationary, continuing, or term
10 contract under this chapter is void if the employee:

11 (1) does not hold a valid certificate or permit issued
12 by the State Board for Educator Certification; ~~[or]~~

13 (2) fails to fulfill the requirements necessary to
14 renew or extend the employee's temporary, probationary, or
15 emergency certificate or any other certificate or permit issued
16 under Subchapter B; or

17 (3) fails to comply with any requirement under
18 Subchapter C, Chapter 22, if the failure results in suspension or
19 revocation of the employee's certificate under Section
20 22.0831(f)(2).

21 (b) If a school district has knowledge that an ~~[After an~~
22 ~~employee receives notice that the]~~ employee's contract is void
23 under Subsection (a):

24 (1) the ~~[a school]~~ district may, except as provided by

1 Subsection (b-1):

2 (A) terminate the employee;

3 (B) suspend the employee with or without pay; or

4 (C) retain the employee for the remainder of the
5 school year on an at-will employment basis in a position other than
6 a position required to be held by an employee under a contract under
7 Section 21.002 [~~classroom teacher~~] at the employee's existing rate
8 of pay or at a reduced rate; and

9 (2) the employee is not entitled to the minimum salary
10 prescribed by Section 21.402.

11 (b-1) A school district may not terminate or suspend under
12 Subsection (b) an employee whose contract is void under Subsection
13 (a)(1) or (2) because the employee failed to renew or extend the
14 employee's certificate or permit if the employee:

15 (1) requests an extension from the State Board for
16 Educator Certification to renew, extend, or otherwise validate the
17 employee's certificate or permit; and

18 (2) not later than the 10th day after the date the
19 contract is void, takes necessary measures to renew, extend, or
20 otherwise validate the employee's certificate or permit, as
21 determined by the State Board for Educator Certification.

22 SECTION 2. Subsection (a), Section 21.103, Education Code,
23 is amended to read as follows:

24 (a) The board of trustees of a school district may terminate
25 the employment of a teacher employed under a probationary contract
26 at the end of the contract period if in the board's judgment the
27 best interests of the district will be served by terminating the

1 employment. The board of trustees must give notice of its decision
2 to terminate the employment to the teacher not later than the 10th
3 ~~[45th]~~ day before the last day of instruction required under the
4 contract. The board's decision is final and may not be appealed.

5 SECTION 3. Section 21.157, Education Code, is amended to
6 read as follows:

7 Sec. 21.157. NECESSARY REDUCTION OF PERSONNEL. A teacher
8 employed under a continuing contract may be released at the end of a
9 school year and the teacher's employment with the school district
10 terminated at that time because of a necessary reduction of
11 personnel by the school district~~[, with those reductions made in~~
12 ~~the reverse order of seniority in the specific teaching fields]~~.

13 SECTION 4. Subsection (a), Section 21.206, Education Code,
14 is amended to read as follows:

15 (a) Not later than the 10th ~~[45th]~~ day before the last day of
16 instruction in a school year, the board of trustees shall notify in
17 writing each teacher whose contract is about to expire whether the
18 board proposes to renew or not renew the contract.

19 SECTION 5. Subchapter I, Chapter 21, Education Code, is
20 amended by adding Sections 21.4021 and 21.4022 to read as follows:

21 Sec. 21.4021. FURLOUGHS. (a) Notwithstanding Section
22 21.401 and subject to Section 21.4022, the board of trustees of a
23 school district may, in accordance with district policy, implement
24 a furlough program and reduce the number of days of service
25 otherwise required under Section 21.401 by not more than six days of
26 service during a school year if the commissioner certifies in
27 accordance with Section 42.009 that the district will be provided

1 with less state and local funding for that year than was provided to
2 the district for the 2010-2011 school year.

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

7 (b-1) A furlough program must subject all contract
8 personnel to the same number of furlough days.

9 (c) An educator may not be furloughed on a day that is
10 included in the number of days of instruction required under
11 Section 25.081.

12 (d) An educator may not use personal, sick, or any other
13 paid leave while the educator is on a furlough.

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

17 (f) Implementation of a furlough program may not result in
18 an increase in the number of required teacher workdays.

19 (g) If a board of trustees adopts a furlough program after
20 the date by which a teacher must give notice of resignation under
21 Section 21.105, 21.160, or 21.210, as applicable, a teacher who
22 subsequently resigns is not subject to sanctions imposed by the
23 State Board for Educator Certification as otherwise authorized by
24 those sections.

25 (h) A decision by the board of trustees to implement a
26 furlough program:

27 (1) is final and may not be appealed; and

1 (2) does not create a cause of action or require
2 collective bargaining.

3 Sec. 21.4022. REQUIRED PROCESS FOR DEVELOPMENT OF FURLOUGH
4 PROGRAM OR OTHER SALARY REDUCTION PROPOSAL. (a) The board of
5 trustees of a school district may not implement a furlough program
6 under Section 21.4021 or reduce salaries until the district has
7 complied with this section.

8 (b) A school district must use a process to develop a
9 furlough program or other salary reduction proposal, as applicable,
10 that:

11 (1) includes the involvement of the district's
12 professional staff; and

13 (2) provides district employees with the opportunity
14 to express opinions regarding the furlough program or salary
15 reduction proposal, as applicable, at the public meeting required
16 by Subsection (c).

17 (c) The board of trustees must hold a public meeting at
18 which the board and school district administration present:

19 (1) information regarding the options considered for
20 managing the district's available resources, including
21 consideration of a tax rate increase and use of the district's
22 available fund balance; and

23 (2) an explanation of how the district intends,
24 through implementation of a furlough program under Section 21.4021
25 or through other salary reductions, as applicable, to limit the
26 number of district employees who will be discharged or whose
27 contracts will not be renewed.

1 (d) Any explanation of a furlough program under Subsection
2 (c)(2) must state the specific number of furlough days proposed to
3 be required.

4 (e) The public and school district employees must be
5 provided with an opportunity to comment at the public meeting
6 required under Subsection (c).

7 SECTION 6. Subsection (a), Section 38.101, Education Code,
8 is amended to read as follows:

9 (a) Except as provided by Subsection (b), a school district
10 annually shall assess the physical fitness of students enrolled in
11 grade three or higher in a course that satisfies the curriculum
12 requirements for physical education under Section 28.002(a)(2)(C)
13 [~~grades 3 through 12~~].

14 SECTION 7. Subchapter A, Chapter 42, Education Code, is
15 amended by adding Section 42.009 to read as follows:

16 Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Not
17 later than July 1 of each year, the commissioner shall determine for
18 each school district whether the estimated amount of state and
19 local funding per student in weighted average daily attendance to
20 be provided to the district under the Foundation School Program for
21 maintenance and operations for the following school year is less
22 than the amount provided to the district for the 2010-2011 school
23 year. If the amount estimated to be provided is less, the
24 commissioner shall certify the percentage decrease in funding to be
25 provided to the district.

26 (b) In making the determinations regarding funding levels
27 required by Subsection (a), the commissioner shall:

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

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

8 (3) determine a district's weighted average daily
9 attendance in accordance with this chapter as it existed on January
10 1, 2011.

11 SECTION 8. Subsection (d), Section 21.402, Education Code,
12 is repealed.

13 SECTION 9. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect on the 91st day after the last day of the
18 legislative session.