

1-1 By: Shapiro S.B. No. 8
1-2 (In the Senate - Filed May 31, 2011; May 31, 2011, read
1-3 first time and referred to Committee on Education; June 3, 2011,
1-4 reported favorably by the following vote: Yeas 5, Nays 4;
1-5 June 3, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the flexibility of the board of trustees of a school
1-9 district in the management and operation of public schools in the
1-10 district.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 21.0031, Education Code, is amended by
1-13 amending Subsections (a) and (b) and adding Subsection (b-1) to
1-14 read as follows:

1-15 (a) An employee's probationary, continuing, or term
1-16 contract under this chapter is void if the employee:

1-17 (1) does not hold a valid certificate or permit issued
1-18 by the State Board for Educator Certification; ~~[or]~~

1-19 (2) fails to fulfill the requirements necessary to
1-20 renew or extend the employee's temporary, probationary, or
1-21 emergency certificate or any other certificate or permit issued
1-22 under Subchapter B; or

1-23 (3) fails to comply with any requirement under
1-24 Subchapter C, Chapter 22, if the failure results in suspension or
1-25 revocation of the employee's certificate under Section
1-26 22.0831(f)(2).

1-27 (b) If a school district has knowledge that an ~~[After an~~
1-28 ~~employee receives notice that the]~~ employee's contract is void
1-29 under Subsection (a):

1-30 (1) the ~~[a school]~~ district may, except as provided by
1-31 Subsection (b-1):

1-32 (A) terminate the employee;

1-33 (B) suspend the employee with or without pay; or

1-34 (C) retain the employee for the remainder of the
1-35 school year on an at-will employment basis in a position other than
1-36 a position required to be held by an employee under a contract under
1-37 Section 21.002 ~~[classroom teacher]~~ at the employee's existing rate
1-38 of pay or at a reduced rate; and

1-39 (2) the employee is not entitled to the minimum salary
1-40 prescribed by Section 21.402.

1-41 (b-1) A school district may not terminate or suspend under
1-42 Subsection (b) an employee whose contract is void under Subsection
1-43 (a)(1) or (2) because the employee failed to renew or extend the
1-44 employee's certificate or permit if the employee:

1-45 (1) requests an extension from the State Board for
1-46 Educator Certification to renew, extend, or otherwise validate the
1-47 employee's certificate or permit; and

1-48 (2) not later than the 10th day after the date the
1-49 contract is void, takes necessary measures to renew, extend, or
1-50 otherwise validate the employee's certificate or permit, as
1-51 determined by the State Board for Educator Certification.

1-52 SECTION 2. Subsection (a), Section 21.103, Education Code,
1-53 is amended to read as follows:

1-54 (a) The board of trustees of a school district may terminate
1-55 the employment of a teacher employed under a probationary contract
1-56 at the end of the contract period if in the board's judgment the
1-57 best interests of the district will be served by terminating the
1-58 employment. The board of trustees must give notice of its decision
1-59 to terminate the employment to the teacher not later than the 10th
1-60 ~~[45th]~~ day before the last day of instruction required under the
1-61 contract. The board's decision is final and may not be appealed.

1-62 SECTION 3. Section 21.157, Education Code, is amended to
1-63 read as follows:

1-64 Sec. 21.157. NECESSARY REDUCTION OF PERSONNEL. A teacher

2-1 employed under a continuing contract may be released at the end of a
 2-2 school year and the teacher's employment with the school district
 2-3 terminated at that time because of a necessary reduction of
 2-4 personnel by the school district [~~with those reductions made in~~
 2-5 ~~the reverse order of seniority in the specific teaching fields~~].

2-6 SECTION 4. Subsection (a), Section 21.206, Education Code,
 2-7 is amended to read as follows:

2-8 (a) Not later than the 10th [45th] day before the last day of
 2-9 instruction in a school year, the board of trustees shall notify in
 2-10 writing each teacher whose contract is about to expire whether the
 2-11 board proposes to renew or not renew the contract.

2-12 SECTION 5. Subchapter I, Chapter 21, Education Code, is
 2-13 amended by adding Section 21.4021 to read as follows:

2-14 Sec. 21.4021. FURLOUGHS. (a) Notwithstanding Section
 2-15 21.401, the board of trustees of a school district may, in
 2-16 accordance with district policy, implement a furlough program and
 2-17 reduce the number of days of service otherwise required under
 2-18 Section 21.401 by not more than six days of service during a school
 2-19 year if the commissioner certifies in accordance with Section
 2-20 42.009 that the district will be provided with less state and local
 2-21 funding for that year than was provided to the district for the
 2-22 2010-2011 school year.

2-23 (b) Notwithstanding Section 21.402, the board of trustees
 2-24 may reduce the salary of an employee who is furloughed in proportion
 2-25 to the number of days by which service is reduced, provided that the
 2-26 furlough program is implemented in compliance with this section.

2-27 (c) An educator may not be furloughed on a day that is
 2-28 included in the number of days of instruction required under
 2-29 Section 25.081.

2-30 (d) An educator may not use personal, sick, or any other
 2-31 paid leave while the educator is on a furlough.

2-32 (e) A furlough imposed under this section does not
 2-33 constitute a break in service for purposes of the Teacher
 2-34 Retirement System of Texas.

2-35 (f) Implementation of a furlough program may not result in
 2-36 an increase in the number of required teacher workdays.

2-37 (g) If a board of trustees adopts a furlough program after
 2-38 the date by which a teacher must give notice of resignation under
 2-39 Section 21.105, 21.160, or 21.210, as applicable, a teacher who
 2-40 subsequently resigns is not subject to sanctions imposed by the
 2-41 State Board for Educator Certification as otherwise authorized by
 2-42 those sections.

2-43 (h) A decision by the board of trustees to implement a
 2-44 furlough program:

2-45 (1) is final and may not be appealed; and

2-46 (2) does not create a cause of action or require
 2-47 collective bargaining.

2-48 SECTION 6. Subsection (a), Section 38.101, Education Code,
 2-49 is amended to read as follows:

2-50 (a) Except as provided by Subsection (b), a school district
 2-51 annually shall assess the physical fitness of students enrolled in
 2-52 grade three or higher in a course that satisfies the curriculum
 2-53 requirements for physical education under Section 28.002(a)(2)(C)
 2-54 [~~grades 3 through 12~~].

2-55 SECTION 7. Subchapter A, Chapter 42, Education Code, is
 2-56 amended by adding Section 42.009 to read as follows:

2-57 Sec. 42.009. DETERMINATION OF FUNDING LEVELS. (a) Not
 2-58 later than July 1 of each year, the commissioner shall determine for
 2-59 each school district whether the estimated amount of state and
 2-60 local funding per student in weighted average daily attendance to
 2-61 be provided to the district under the Foundation School Program for
 2-62 maintenance and operations for the following school year is less
 2-63 than the amount provided to the district for the 2010-2011 school
 2-64 year. If the amount estimated to be provided is less, the
 2-65 commissioner shall certify the percentage decrease in funding to be
 2-66 provided to the district.

2-67 (b) In making the determinations regarding funding levels
 2-68 required by Subsection (a), the commissioner shall:

2-69 (1) make adjustments as necessary to reflect changes

3-1 in a school district's maintenance and operations tax rate;
 3-2 (2) for a district required to take action under
 3-3 Chapter 41 to reduce its wealth per student to the equalized wealth
 3-4 level, base the determinations on the district's net funding levels
 3-5 after deducting any amounts required to be expended by the district
 3-6 to comply with Chapter 41; and
 3-7 (3) determine a district's weighted average daily
 3-8 attendance in accordance with this chapter as it existed on January
 3-9 1, 2011.

3-10 SECTION 8. Subsection (d), Section 21.402, Education Code,
 3-11 is repealed.

3-12 SECTION 9. This Act takes effect immediately if it receives
 3-13 a vote of two-thirds of all the members elected to each house, as
 3-14 provided by Section 39, Article III, Texas Constitution. If this
 3-15 Act does not receive the vote necessary for immediate effect, this
 3-16 Act takes effect on the 91st day after the last day of the
 3-17 legislative session.

3-18 * * * * *