



**TEXAS AFT REPORT ON
NOTABLE LAWS ENACTED IN THE 81st
REGULAR LEGISLATIVE SESSION
August 21, 2009**

The Texas legislature in its 81st regular session this spring enacted many new laws that will affect the students and staff of our state's public schools. This Texas AFT report provides an overview of the most notable 2009 legislation that will direct the course of Texas education policy from pre-kindergarten through college.

KEY BUDGET ITEMS

Two bills passed in the 2009 regular session govern spending on public education at all levels from preschool through graduate school. SB1, the general appropriations bill, set the state's budget for fiscal years 2010 and 2011, the two-year period starting September 1, 2009. HB 4586, the supplemental appropriations bill, makes adjustments to increase or reduce various budget items for the remainder of the current two-year budget period, which ends August 31, 2009.

- Total state spending for all education—pre-kindergarten through university—is set to increase by only 1.7 percent, from the current \$74.1 billion to \$75.4 billion for the 2010-2011 biennium.
- The \$52.8 billion portion for public education is actually a decrease of \$181 million from the current budget. The state's \$49.1 billion appropriation for the Texas Education Agency represents a decrease of \$309 million (0.6 percent) from the current biennium.
- HB 4586 reduces by \$500 million the current biennium's appropriation to TEA. Increased local property values—and thus local school property-tax revenues—allow this offsetting decrease in state Foundation School Program funding.
- The main conduit for state to aid to school districts, the Foundation School Program, receives via SB 1 a boost of \$1.87 billion, paid for with federal stimulus funds, to improve the equity and adequacy of state formula funding and cover the cost of a state-directed pay raise for classroom teachers and other specific categories of educators (see "School Finance" below.)
- Incentive pay, in the form of District Awards for Teacher Excellence grants, gets a boost to \$395.6 million, up \$53 million (more than 15 percent) from the previous biennium.

- Funding for the Educational Aide Program tuition exemption was set at \$28.7 million. This is an increase of more than \$9 million, or almost 50 percent, over the appropriation made for the current biennium.
- School funding allocated under SB 1 for the next two school years also includes federal stimulus aid totaling roughly \$2.25 billion for schools serving economically disadvantaged students under Title I of the federal Elementary and Secondary Education Act and serving students with disabilities under the federal Individuals with Disabilities Education Act. District-by-district estimates of the funds flowing under each program are available at these links: <http://ritter.tea.state.tx.us/opge/formfund/NCLB/NCLBARRAStimulusFunding.html> and http://ritter.tea.state.tx.us/opge/formfund/specialed/index_ARRA.html.
- The \$4.0 billion appropriation to the Teacher Retirement System of Texas is an increase of \$243 million (6.5 percent). However, that amount actually includes a reduction in the state's contribution to the TRS pension fund from the current 6.58 percent to 6.4 percent.
- The appropriation for TRS also includes \$523 million to the TRS-Care health plan for public-education retirees. That represents 1 percent of estimated public-education employee payroll and is the minimum amount the state is obligated by statute to contribute.
- SB 1 also makes a separate appropriation of \$120 million for a one-time "13th check" to TRS retirees. The amount for each retiree is capped at \$500. Payment of this and a similar benefit for ERS retirees is contingent on "issuance of an Attorney General opinion that indicates the above one-time payments are constitutionally and statutorily permissible." Absent such a determination by the attorney general, the amount will be transferred to the TRS pension fund, which would increase the state contribution rate from 6.4 percent to 6.644 percent.
- The \$1.1 billion appropriation for the state's contributions to higher-education employees' group insurance is an increase of \$172 million (18.1 percent) over the amount expected to be spent in the current biennium.
- That amount includes \$323 million to fund community-college employees' health benefits fully for both years of the upcoming biennium.
- In addition, HB 4586, the supplemental appropriations bill, included \$153 million to cover funding vetoed by Gov. Rick Perry in 2007 for community-college employees' benefits in the current biennium.

- The state’s budget for community colleges is at \$1.8 billion, an increase of \$140 million or 8.1 percent. (That amount is exclusive of state funding for employee health and retirement benefits.)

Other educational programs received significant funding as follows:

- Instructional materials receive \$812.8 million, including funding to pay for Proclamation 2010 textbook procurement for fiscal year 2010-2011. Proclamation 2010 covers English Language Arts, Spanish and English reading texts, and English as a Second Language materials. (The source of both textbook and technology funding for this biennium is the federal stimulus bill passed in February 2009. Funds customarily drawn for this purpose from the state Permanent School Fund were unavailable this session because of a steep drop in the value of PSF investments, paralleling the general decline in the stock market.)
- The technology allotment receives \$271 million, at the rate of \$30 per student, maintaining the funding level of the previous biennium.
- The state Virtual School Network receives \$20.3 million for the expansion of online instruction.
- Pre-kindergarten receives \$25 million more than the previous biennium, for a total of \$208.6 million. The \$25 million was first intended for a new program of full-day, enhanced-quality pre-k, but Gov. Perry vetoed the authorization bill for that program, HB 130. The \$25 million therefore is available to augment existing pre-k offerings.
- Voucher prohibition: SB 1 is the first appropriations bill to prohibit the use of any funds appropriated for public education to pay for a voucher program or a voucher pilot program. The prohibition applies “if the program uses federal funds or state tax dollars to pay tuition for children in grades 1 through 12 to attend a private school.” Not prohibited are “payments for services to a private or nonprofit entity so long as students receiving the services remain enrolled in public school”; “payments, including tuition, for students with disabilities placed in a private school or residential facility by a local admission, review, and dismissal committee to the extent required under federal law”; or “payments under other programs specifically authorized by federal law.”

SCHOOL FINANCE

Formula funding

HB 3646 uses nearly \$1.87 billion of federal funding, provided under the stimulus bill passed by Congress in February 2009, to increase state formula funding for public schools above the base level that otherwise would have been provided in SB 1. HB 3646 increases aid to districts that

have had their funding frozen under low “revenue targets” established in 2006, and it improves equity in funding among all school districts by increasing the basic allotment to at least \$4,765 (or 1.65 percent of the average statewide property value per “weighted” pupil). The equalized wealth level, above which a district becomes subject to “recapture” of a portion of local property taxes to equalize statewide funding, would be raised to \$476,500. As a result, recapture would be eliminated for some 26 of the 100-plus districts affected. HB 3646 grants every school district, regardless of local property wealth, a minimum increase of \$120 per weighted pupil in average daily attendance (WADA), with a maximum of \$350 per WADA.

Pay raise

HB 3646 guarantees an across-the-board raise of at least \$800 or the uniform amount a school district can afford with \$60 per WADA, whichever is greater. The raise extends to all classroom teachers and full-time counselors, librarians, school nurses, and speech pathologists. (Districts for which \$60 per WADA provides more than \$800 per capita can use some of the money to cover their increased employer costs for TRS pensions and, if applicable, Social Security.)

The state-directed raise must be provided on top of whatever salary-step increase an individual employee would receive if the district's 2008-2009 salary schedule remained in effect for 2009-2010 and 2010-2011. Thus, the required raise must be paid in addition to whatever step increase would occur in each of those two school years. (Assume, for example, that a teacher would receive \$900 passed through from the state under HB 3646, and the local 2008-2009 salary schedule called for step increases of \$500 for each additional year of service. That teacher would be entitled to a total increase of \$1,400 for 2009-2010 and an additional \$500 on top of that in 2010-2011.)

Because the legislature chose to use federal stimulus funding to provide all of the new aid to districts, including the funds for the pay raise, the state technically had to “apply” for the necessary stimulus funding. U.S. Secretary of Education Arne Duncan approved this Texas plan for use of stimulus dollars on July 24. That same day the state commissioner of education affirmed that school districts are required to provide the pay raise as specified in HB 3646.

Tax-rate adoption

HB 3646 authorizes a school district to adopt a tax rate before the certification of the tax roll by local appraisers and before the school board adopts a budget. The effect is to allow districts to schedule a tax-rate approval election before the new school year starts.

Select committee on school finance

HB 3646 creates a 15-member interim committee to review the funding weights, allotments, and adjustments that govern the flow of state aid to school districts under the current school-finance system. The committee must begin meeting by October 1 of this year and must issue recommendations in a report to the legislature by December 1 of next year. The lieutenant governor will appoint four senators plus one person employed at a public school and one business representative; the speaker of the House will appoint four House members plus one

person employed at a public school and one business representative; the governor will appoint a person employed at a public school and a business representative; and the commissioner of education will serve on the committee as well.

Reduced Property Tax Relief Fund

HB 4765 amends the franchise tax, which was passed in 2006 as a partial substitute for school property taxes, reducing the amount of revenue that the franchise tax will produce in future years. The reduction in revenue results from raising the amount of tax-exempt revenue that a business can receive from \$300,000 a year to either \$600,000 or \$1 million. The effect of this franchise-tax reduction is to increase the amount of revenue that must be drawn from other sources to make good on the legislature's promised property-tax cuts for school ratepayers.

School-district tax abatements for economic development

School districts under current law can grant property-tax abatements to certain large businesses under the Texas Economic Development Act (Chapter 313 of the Tax Code). Because our school-finance system depends heavily on local property taxes, abatements are a significant issue statewide and within each school district. Under a Chapter 313 agreement, the qualifying business must make a required level of capital investment and meet certain wage and benefit requirements for workers. Because these abatements were designed primarily for capital-intensive, higher-wage employers, a relatively short-term abatement could be expected to yield higher property-tax revenues in the longer term. However, while the decision to grant the abatement is primarily a local one, the entire state absorbs the cost of the forgone tax revenue through the school-finance system—an amount estimated at several hundred million dollars per year.

HB 3676 extends for three more years, through 2014, the authority for these school property-tax abatements that was to have expired at the end of 2011. HB 3676 also makes several other amendments to Chapter 313. The most negative is this: The bill lowers significantly the wage level required for a larger project to qualify for abatement from 10 percent above the local average weekly wage for manufacturing jobs to 10 percent above the local average weekly wage for all jobs. Statewide, average wages for all jobs are less than three-quarters of average wages for manufacturing jobs.

On the plus side, the bill requires increased public information, notice, and participation concerning agreements under Chapter 313. The bill also requires that grantees meet the minimum investment and job-creation terms in each year of an agreement or be subject to the property tax on the full valuation of the subject property.

In addition, HB 3676 limits so-called “payments in lieu of taxes” to a local school district by the recipient of an abatement—payments that reward the district for granting the abatement but do not count as part of the school district's local funding capacity, allowing the district to receive more state aid than it would if the payment were actually booked as a property-tax receipt.

TEA receipt of grants

HB 635 allows TEA to seek, accept, and distribute grants awarded by the federal government or any other public or private entity “for the benefit of public education.” For the purpose of determining eligibility to receive federal grant funds for technology service and support, HB 635 says a Head Start program is considered to serve the same function as an elementary school by providing elementary education at one or more program facilities. However, such a determination by the commissioner does not entitle a Head Start program to receive any state funds for which the program would not otherwise be eligible.

Sales-tax exemption for school supplies

HB 1801 amends the state Tax Code to exempt school supplies from sales taxation during the back-to-school sales tax “holiday”—the same exemption already afforded to school backpacks and clothing. This change is expected to save consumers \$10 million annually—and thus to cost the state and local governments approximately \$10 million per year in lost tax revenue.

CURRICULUM, TESTING, AND ACCOUNTABILITY

Overview

HB 3 extensively revised state law on testing and accountability. For promotion from third grade, the bill reduces the emphasis on the state achievement test, relying more on the professional judgment of a student's teacher and on other locally determined criteria. Otherwise, though, the bill ratchets up the pressure on both students and schools to hit state targets on achievement tests. HB 3 would phase in a new standard of "college readiness" in math and English, yet to be defined, as a basis for high-school graduation and for school accountability ratings. As a result, schools would face at least ten more accountability "tripwires" that could trigger a low-performing rating and start the clock running on potential sanctions including reconstitution and school closure. Eventually, yet another ten "college readiness" tripwires would be added as standards are developed for social studies and science. Students would have to achieve a cumulative passing score on the battery of end-of-course exams in each core subject--and they would have to pass Algebra II and English III, eventually at the "college readiness" level.

HB 3 does include a stricter cap on locally required testing in preparation for state exams, and it gives teachers and parents a means of tightening the cap on locally required testing even further. On the other hand, the bill makes only limited changes in the punitive sanctions for low ratings that cause administrators to go overboard on locally required test preparation in the first place. This contradiction reflects the unresolved tension in the legislature between those who want to continue test-driven accountability and those who oppose misuse of the state's standardized tests as the primary basis for assessing students, teachers, and schools.

Limit on local testing

HB 3 limits locally required testing designed to prepare students for state-administered

assessment instruments to no more than 10 percent of instructional days. A campus-level planning and decision-making committee may limit the administration of locally required assessment instruments to an even lower percentage of the instructional days in any school year.

Graduation requirements

The “recommended” program remains the default curriculum for students in high school, but the program is changed in several respects. Under HB 3, four credits are required in each of the four core subjects (English language arts, math, science, and social studies), including at least a half credit in government and at least a half credit in economics to meet the social-studies requirement. Also required are one credit each in fine arts and physical education. Two credits are required in a foreign language. The number of electives is increased to six. (Subtracted from the previous state requirements are a half credit in speech, one credit in technology applications, a half credit in health, and a half credit in PE. Local districts can still have additional requirements that go beyond these state requirements.) One or more credits in the required curriculum for the recommended and advanced graduation programs must include a research writing component. Students must pass Algebra II and English III at a “college readiness” standard and must achieve a satisfactory cumulative score on their end-of course assessments.

Graduation requirements under the “advanced” program are the same as above, except for a required third credit in a foreign language and thus only five electives.

HB 3 makes it harder for a student to choose the minimum program. Safeguards against “tracking” are that the student must have written approval from parents and school officials, must be at least 16 years old, and must have completed at least two credits toward graduation in each core subject (or must have failed to achieve promotion to tenth grade). Parents must receive written notice of the benefit of the recommended program before the minimum program can be selected. The notice must be printed in English and Spanish, and receipt of the notice must be confirmed. Graduation under the minimum program still requires a student to pass Algebra I and English III.

End-of-course exams

EOC exams count 15 percent toward a student’s final grade in the subject covered. Advanced Placement, ACT, and SAT exams can be used in place of end-of-course exams to meet graduation requirements. In each core subject, the student must achieve a cumulative score on EOC exams (generally, three in each subject) that averages out to a scale score indicating satisfactory performance, as defined by the commissioner of education. (This requirement takes the place of the former provision requiring that a student attain at least a 70 average on EOC exams in each subject area, based on a scale of 100.) The student’s score on any one EOC exam must not fall below a level to be defined by the commissioner. (This provision takes the place of the former requirement that a student must score at least a 60 on a scale of 100.)

In addition to meeting cumulative-score requirements on EOC exams, students who seek to graduate under the recommended or advanced program must meet the passing standard defined

by the commissioner on the Algebra II and English III exams.

Passing standards

HB 3 transfers from the State Board of Education to the commissioner of education the authority to determine the level of performance deemed satisfactory on state-mandated exams. The bill also directs the commissioner, in collaboration with the commissioner of higher education, to determine the performance level that demonstrates college readiness. College readiness is defined as the level of preparation a student must attain in ELA and math courses to enroll and succeed, without remediation, in an entry-level college course for credit in the same content area. Performance standards from grade 3 through ELA III and Algebra II must be correlated to the attainment of college readiness in ELA and math upon graduation.

Student advancement in grades 3-8

If a student fails to perform satisfactorily at these grade levels, the student must receive accelerated instruction in the applicable subject area or may not be promoted and must be assigned to a fully certified teacher in the applicable subject area. Still in force for fifth-graders and eighth-graders are provisions requiring retention of a student who fails an applicable state achievement exam unless a student's grade-placement review committee authorizes promotion. For third-graders who fail the state reading exam, however, the rules for promotion have changed; retention is no longer the default option in this situation. Other factors that a school district may consider in deciding to promote a student who has failed the third-grade reading exam are the recommendation of the student's teacher, student grades, and "any other necessary academic information, as determined by the district."

Accelerated instruction is required for students who fall short of the passing standards in grades three, five, and eight. For students in fifth and eighth grade who are promoted to the next grade level after failing a state achievement exam, HB 3 requires that their assigned teacher be fully certified in the relevant subject and grade.

Accountability indicators

The commissioner must adopt a set of indicators of the quality of learning and student achievement. These must include not only student passing rates, or growth toward meeting the passing standard on state assessments, but also percentages of students meeting college-readiness standards or, or demonstrating growth toward college readiness. Also among required indicators are dropout/completion rates for high-school students.

The commissioner must periodically raise the state standards for achievement indicators to reach the goal, by no later than the 2019-2020 school year, of student performance, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top ten states in terms of college readiness.

When the college-readiness achievement indicators for ELA and math are added to the current array of indicators based on passing standards, the total number of indicators a district or campus

could have to satisfy would increase from 35 to 45. If college-readiness standards for science and social studies are added later as authorized under HB 3, the potential maximum number of indicators to be satisfied would rise to 55.

The commissioner is required to rate academic performance of campuses and districts based on meeting the state standard for the current school year or for the current year averaged together with the preceding two school years (i.e., a three-year rolling average).

The commissioner could grant a campus or district an acceptable performance rating if it satisfies 85 percent of the applicable measures and does not fail to perform satisfactorily on the same measure two years in a row.

An additional rating system developed by the commissioner of education in consultation with the state comptroller will establish financial accountability for school districts. TEA will review and project the future solvency of school districts, solicit additional data if a deficit is projected, and impose an accredited-warned status on a district that fails to submit or comply with a corrective plan.

Interventions and sanctions

If a campus performance is “below any standard,” the commissioner shall take action “to the extent the commissioner determines necessary.”

- The commissioner may order a hearing or establish a school-community partnership team composed of members of the campus-level planning and decision-making committee and additional community representatives. The commissioner can choose not to implement state interventions or sanctions if a campus has taken “substantially similar” corrective action already under the federal accountability system.
- If campus performance meets performance standards for the current school year but would not satisfy performance standards if the standards to be used for the following school year were applied to the current school year, the commissioner may require a campus improvement plan.
- The commissioner must assign a campus intervention team if campus performance is “below any standard.” The team must perform a “targeted on-site needs assessment relevant to the area of insufficient performance,” unless the commissioner calls for a more comprehensive assessment.
- The on-site needs assessment must address certain factors that may contribute to the insufficient performance. These include the percentage of fully certified teachers, the number of inexperienced teachers, and teacher turnover rates.

- The commissioner is authorized to supplant the site-based decision-making committee in this process and substitute a school-community partnership team. The targeted improvement plan devised by that team can take the place of the customary campus improvement plan.
- The targeted plan of campus improvement that results from this process must be put before the public in a hearing held by the board of trustees of the school district.

Reconstitution, repurposing, alternative management

If a campus is rated “below any standard” for two consecutive school years, the commissioner must order the reconstitution of the campus.

The principal may not be retained at that campus unless the campus intervention team determines that retention of the principal would be more beneficial to student achievement and campus stability than removal.

The impact of reconstitution on teachers at the campus is unchanged from prior law. The teacher of a subject covered on state achievement tests may be retained at that campus only if the campus intervention team determines that the teacher’s students show a pattern of significant academic improvement. An educator who is not retained at the campus may be assigned to another position in the district.

If a campus “is considered to have an unacceptable performance rating” for three consecutive school years after the campus is reconstituted, the commissioner generally must order: repurposing of the campus; alternative management of the campus; or closure of the campus. The commissioner can waive this requirement for not more than one year if a campus has made significant improvement over the preceding two years and is likely to receive an acceptable performance rating the following year.

If a campus is repurposed, all students assigned to the school’s attendance zone the prior year must be provided with a chance to enroll in another school and must be provided with transportation to that school on request.

The principal cannot be retained at the repurposed campus unless the commissioner determines that the students enrolled at the campus have demonstrated significant academic improvement. Teachers employed at the campus the prior year cannot be retained, unless the commissioner grants an exception at the district’s request for a teacher in a subject not covered on state exams who demonstrates satisfactory performance or for a teacher in a covered subject if the district can show that the teacher’s students demonstrated satisfactory performance or improved academic growth on the relevant assessment. Educators not retained at the repurposed campus can be assigned to another position in the district.

If the commissioner orders alternative management, the commissioner may solicit proposals

from qualified for-profit entities to assume management of a campus if no nonprofit entity has responded to the commissioner's request for proposals.

Accountability transition

The new accountability system generally must be implemented by August 2013. The commissioner may suspend assignments of accreditation status and of performance ratings for the 2011-2012 school year. For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions, the performance ratings and accreditation status issued in the 2010-2011 and 2012-2013 school years will be considered consecutive. During the 2011-2012 school year and, with respect to the college-readiness indicators, the 2012-2013 school year, the commissioner must continue to implement interventions and sanctions for those districts and campuses identified as having unsatisfactory performance in the 2010-2011 school year. College-readiness standards will not be considered in the assignment of ratings until the 2013-2014 school year.

Campus distinction

Campus distinction is awarded if a campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement, or if the campus significantly diminishes or eliminates performance differentials between student subpopulations and is ranked in the top 25 percent of campuses. Distinctions will also be awarded for academic achievement in English language arts, mathematics, science, or social studies; fine arts; physical education; the 21st Century Workforce Development program; and for a second-language acquisition program.

Career and technology education

CTE programs must constitute a "rigorous course of study" consistent with the required curriculum, must incorporate competencies leading to academic and technical skill attainment, and must lead to an industry-recognized license, credential, or certificate, or associate or baccalaureate degree. CTE programs also must include opportunities for students to earn college credit for coursework.

Data portal

HB 3 creates an online data portal allowing school districts, teachers, parents, students, and public institutions of higher education to view individual assessment data.

STUDENT DISCIPLINE

Consideration of mitigating factors required

Under current law school districts must indicate in their student code of conduct *whether* they consider, as factors in determining student discipline, a student's intent or lack of intent, disciplinary history, self-defense, and (for students with disabilities) mental capacity to know conduct is wrongful. HB 171 *mandates* that districts consider these factors both in determining whether misconduct has occurred and in determining the appropriate placement of a student for

misconduct. The mandate to consider these factors expressly applies not only to discretionary disciplinary actions but also to cases where serious misconduct, if found to have occurred, would trigger placement in a disciplinary alternative education program or in a juvenile-justice alternative education programs.

Note well: Most school districts' policies already require consideration of these factors. HB 171 does not specify how much weight must be given to these mitigating factors in making disciplinary decisions, merely that they must be considered.

Exemption from mandatory expulsion

HB 1020 creates a narrow exception to the state law mandating expulsion for using, exhibiting, or possessing a firearm at a school-related event. Under this bill a student may not be expelled solely for using, exhibiting, or possessing a firearm at an approved, off-campus target range while involved in a school-sponsored sporting competition or an equivalent activity conducted by the Texas Parks and Wildlife Department or by a shooting-sports organization working with Parks and Wildlife. This new exception does not authorize a student to bring a firearm onto school property.

Campus handbooks to provide notice of gang-free zones

Under HB 2086, penalties are enhanced for certain criminal offenses, particularly gang-related offenses, that occur within 1,000 feet of a school campus or institution of higher education, and the student handbook for each campus must include information on gang-free zones and the consequences of engaging in organized criminal activity within them.

Counties not required to have juvenile-justice alternative education programs

Under the Safe Schools Act as passed in 1995, a county with a population greater than 125,000 must operate a juvenile-justice alternative education program for students expelled from public schools. Recent population growth would trigger that requirement for some counties for the first time. HB 1425 allows counties to avoid the requirement if their population did not exceed 125,000 at the time of the 2000 census. The bill instead requires such a county's juvenile board to work out an agreement with each of the county's school districts to try to minimize the number of expelled students who do not receive alternative educational services.

Reading instruction and behavior management for incarcerated youth

As part of a sweeping overhaul of the Texas Youth Commission, HB 3689 requires Texas Youth Commission facilities to provide incarcerated students with a comprehensive plan to improve reading skills and behavior. The bill prescribes the content of the reading program in detail and mandates that TYC teachers of English, reading, math, science, social studies, or career and technology education must be appropriately trained to provide the prescribed instruction. HB 3689 also requires systematic use of "positive behavior supports" and mandates that every TYC teacher and other educational staffer be trained to implement this system. The bill requires collection and evaluation of data documenting school-related disciplinary referrals, school-related disciplinary actions including time-out, placement in security, and use of restraints, and

the number of minutes students are out of the regular classroom for disciplinary reasons.

EMPLOYEE RIGHTS AND BENEFITS

Educational aides' tuition exemption

SB 1798 transfers certification of eligibility for the Educational Aide Exemption program from the Texas Higher Education Coordinating Board to the institution at which the applicant seeks to enroll. The bill requires the institution to make the determination of eligibility, notify the applicant, and notify the school district employing the applicant.

Teachers' grading authority

SB 2033 establishes that a teacher cannot be required to assign a minimum grade for an assignment without regard to the quality of the student's work. School districts must adopt a grading policy before each school year requiring teachers to assign a grade that "reflects the student's relative mastery of an assignment." The grading policy also may allow a student a "reasonable opportunity" to make up or redo a class assignment or examination for which the student received a failing grade.

Personal leave

SB 522 amends the Education Code to grant school employees the authority to decide which type of leave they will use when both state minimum personal leave and additional local personal leave are available.

Confidentiality of criminal-history data

HB 2730, the sunset bill for the Department of Public Safety, amends state statutes governing criminal-history background checks for school employees to ensure the confidentiality required by federal law. This amendment secured by Texas AFT should prevent inappropriate public disclosure of related information requested from Austin ISD; it also should serve to block similar inappropriate requests made in the future.

Note: HB 2730 was amended on the Senate floor to incorporate SB 2046, which attempted to expand radically the criminal background-check requirements applied to higher-education employees. That provision was stripped from HB 2730 in final House-Senate negotiations and does not appear to have passed the legislature in any other bill. Texas AFT was the only education-employee organization to take a public stand in opposition to SB 2046.

Notice of assault leave

HB 1470 amends the Education Code to require that districts notify employees about their right to assault leave through the employee handbook and on employee-leave forms.

Audio recordings of grievance proceedings

HB 2512 amends the Education Code to require that school-district grievance policies permit an

employee to make an audio recording of meetings or proceedings related to a grievance. (Texas AFT supported the bill and also worked to ensure it did not diminish existing employee rights.)

Appeals to commissioner of education

HB 829 allows appeals of district actions directly to the courts instead of going first through the commissioner of education for cases based on state laws such as the Open Meetings Act that are referenced in the Education Code but are not part of the Education Code.

For those grievances that are appealed to the commissioner, HB 829 requires the commissioner to issue a decision within 180 days of receiving the appeal.

Employees' access to service records

HB 1365 adds a new Section 21.4031 to the Education Code requiring a school district that previously employed a classroom teacher, librarian, counselor, or nurse to provide, at the employee's request, a copy of the individual's service record to the district currently employing that person, for the purpose of determining proper placement on the district's salary schedule.

TRS amendments, including "13th check"

HB 3347 makes several largely technical changes to TRS programs designed to maintain the plan's tax-exempt status or to address recent changes in federal laws. However, late in the session, the bill also became the vehicle to provide authority for a supplemental "13th check" payment to TRS retirees. Appropriation for the "13th check" was made in SB 1 and is contingent on a determination by the Attorney General that payment does not violate relevant state statutory or constitutional provisions.

Investment products for school employees

HB 3480 amends various statutes relating to optional investment products for public school employees. The bill expands available 403(b) products to include 403(b)(7) mutual funds. It also requires the Texas Department of Insurance, the Department of Banking, and the Securities Board to investigate complaints received by TRS about any company that violates 403(b) certification requirements and authorizes the attorney general to enforce related civil penalties. HB 3480 additionally requires third-party administrators of optional retirement plans for education employees to be appropriately licensed.

TRS-Care sign-up period

Currently retiring school employees must elect to participate in TRS-Care health-insurance coverage on or before their retirement date. HB 1191 amends the Insurance Code to allow retirees to select coverage any time during the first 90 days after retirement.

TRS Active-Care coverage of pre-existing conditions

HB 1364 provides greater coverage for pre-existing conditions under the TRS Active-Care health-insurance program.

Tuition exemption for community-college employees

HB 1568 allows a community college to exempt its employees from tuition and fees for courses at the college.

PROFESSIONAL REGULATION AND SUPPORT

Rules for incentive pay

HB 3646 terminates the state-developed incentive program called TEEG (Educator Excellence Grants). It modifies the District Awards for Teacher Excellence (DATE) program of locally developed incentive grants. For example, the bill requires prior notice to teachers and principals of the criteria and formulas used as the basis for incentive awards. The bill also broadens the ability of districts to use DATE grants for teacher induction and mentor support.

Mentoring

SB 1290 amends the teacher mentoring statute to specify that school districts may assign a mentor to a teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. Previously the statute authorized mentors to be assigned to teachers with less than two years of teaching experience.

National Board Certification

HB 709 specifically authorizes state “incentive pay” in the form of stipends for classroom teachers who achieve certification through the National Board for Professional Teaching Standards. The provision is not expressly tied to NBPTS. It covers advanced certification from an organization that certifies at least 2,500 teachers in the United States each year based on the teacher’s satisfaction, through study, expert evaluation, self-assessment, and peer review, of high and rigorous standards for accomplished teaching. However, NBPTS is the only body that qualifies currently, and no other entity is likely to meet that definition any time soon. HB 709 differs from HB 2646, which was passed during the 2007 session but vetoed by Gov. Rick Perry, in being less specific to a single national certifying body. The change was reported to have been made to accommodate the governor.

Special-education training for general educators

SB 451 requires school districts to provide appropriate training for an educator who works outside the area of special education and does not possess the knowledge and skills necessary to implement the individualized education program developed for a student who is to receive instruction from the educator. The bill would permit districts to determine when and where the training is provided.

Out-of-state certification

HB 4152 requires an applicant for Texas certification who holds a certificate from out of state or out of country to complete the required Texas certification exam within one year of SBEC’s completion of the review of the applicant’s credentials. For such applicants who apply for

certification in a shortage area, SBEC is required to accept or reject at least 90 percent of the applications within 14 days after the board receives the completed application. All applications must be accepted or rejected within 30 days.

Educator-preparation programs

SB 174 requires SBEC to propose rules establishing standards to govern the approval and continuing accountability of all educator-preparation programs based on information that includes improvement in achievement of students taught by beginning teachers for the first three years following certification. Also included would be information on compliance with board requirements regarding the frequency, duration, and quality of structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom.

SBEC must propose rules for the sanction of educator-preparation programs that do not meet accountability standards, and the board must annually review the accreditation status of each program. SBEC may take any necessary action, including requiring technical assistance, contracting of professional services, appointing a monitor, and if a program has been rated accredited-probation for at least one year, its accreditation may be revoked and the program may be closed. A program's accreditation must be revoked if it has been rated accredited-probation for three consecutive years. A revocation must be effective for at least two years. SBEC must provide information on its Web site regarding the qualifications of those admitted to each program, including average scores on SAT, ACT, or GRE exams. Among other items, employability of graduates and perseverance of beginning teachers should also be included on the Web site, as well as the extent to which the program prepares teachers to teach students with disabilities and students with limited English proficiency effectively. The bill authorizes SBEC to develop procedures under which each educator-preparation program receives a designation or ranking based on the information the board is required to make available.

Teacher-preparation academies

SB 2262 amends the statute authorizing math, science, and technology teacher-preparation academies intended to improve instructional skills. The institution of higher education must have a teacher-preparation program approved by SBEC. To participate teachers must be recommended by a school district and have at least two years of experience. Previously the statute limited participation to teachers with five years of experience.

Principals' training

HB 4435 removes a training requirement for a principal newly replacing another principal at a campus rated academically unacceptable. The bill maintains the training requirement for a principal who oversaw an academically unacceptable campus, even if that principal moves to another campus. (Similar language also passed as part of HB 3.)

SCHOOL HEALTH AND SAFETY

Web site on special health needs

Under HB 1322, TEA must coordinate with the Health and Human Services Commission to establish and maintain an Internet Web site to provide resources for teachers of students with special health needs. Specifically, the Web site must include information about the treatment and management of chronic illnesses and how such illnesses affect a student's well-being or ability to succeed in school. The site also must provide information about food allergies common among students.

School-based health centers

HB 281 requires the commissioner of state health services to award grants to assist school districts and local health departments, hospitals, health-care systems, universities, or nonprofit organizations that contract with school districts with the costs of expanding and operating school-based health centers. A preference is given to school-based health centers in rural and low property-wealth school districts. A grant may not be given to nonprofit organizations that offer reproductive or related services.

Sexual-abuse policy

HB 1041 requires each school district to adopt and implement a policy addressing sexual abuse of children to be included in the district improvement plan and any informational handbook provided to students and parents. The policy must address methods for increasing awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be the victim of abuse. The policy must also address the actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention, plus available counseling options.

Physical education

SB 891 requires the PE curriculum to be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life. The bill requires the State Board of Education, in identifying the essential knowledge and skills of physical education, to ensure that the curriculum meet a specific list of requirements.

Coordinated health program

SB 892 requires each elementary, middle, or junior high school's campus improvement plan to include the goals and objectives of a school's coordinated health program. The goals and objectives for the coordinated health program must be based on student fitness assessments, academic performance, attendance rates, percentage of economically disadvantaged students, and the use and success of vigorous physical activity as required by the Education Code.

Obesity and nutrition education

SB 282 authorizes the state Department of Agriculture to develop an outreach program to promote better health and nutrition programs and prevent obesity among children in the state. The department must award grants to public-school campuses for best practices in nutrition education. The department also must award grants to participants in the Child and Adult Care Food Program, Head Start program, or other early-childhood education programs to provide nutrition education for three- and four-year-olds. Awards must also go to community and faith-based initiatives that provide recreational, social, volunteer, leadership, mentoring, or developmental programs to incorporate nutrition education into programs provided for children younger than 19 years of age.

School health advisory councils and human sexuality instruction

SB 283 sets out requirements for local school health advisory councils. The bill specifies that a school board must appoint at least five members to the local school health advisory council, requires the local school health advisory council to meet at least four times each year, and requires each council to submit an annual written report to the school board.

Also under SB 283, before each school year a school district must notify parents in writing if the district will provide human sexuality instruction to district students. The notice must contain a statement of the parents' right to review the curriculum materials and their right to remove the student from any part of the instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction. The notice must also provide information regarding opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction.

Alcohol awareness

SB 1344 directs the State Board of Education to adopt standards of essential knowledge and skills for the health curriculum addressing the dangers of binge drinking and alcohol poisoning. School districts must choose a program from a list of evidence-based alcohol awareness programs to use in health instruction from middle school through high school.

No exemption for schools from pesticide-safety rules

As introduced, SB 768 exempted certain pesticide applications from important safety regulations governing pesticide use at schools. An amendment engineered by Texas AFT specifically provided that the bill's exemption from regulation does not apply to pesticide use at schools.

Safe bicycle routes to school

SB 161 requires proceeds from the sale of "God Bless Texas" and "God Bless America" license plates to be used by TEA solely to support the Safe Routes to School program of a designated statewide nonprofit organization whose primary purpose is to promote bicyclist safety, education, and access.

Use of wireless devices while driving

The state Transportation Code had prohibited a school-bus driver—or any other bus driver carrying children—from using wireless communication devices, including radios and cell phones, while the bus was moving and carrying passengers. The prohibition applied regardless of whether the bus was in a school zone or elsewhere. An exception was made for emergency calls. HB 55 expands this statute to apply to any driver operating a vehicle in a school zone, unless using a "hands-free" device. However, it also limits the prohibition only to cell phones or a similar commercial radio-telephone service. HB 55 clarifies the emergency situations allowing the use of a cell phone that otherwise would be prohibited. For school bus drivers, the law as amended by this bill prohibits use of a cell phone while the bus is moving and carrying passengers. There is no exception for using a "hands-free" device under those circumstances. An exception is made for emergency calls to official emergency responders, such as police and EMS. Use of a standard operator-to-base radio is no longer prohibited, even while the bus is moving. For other drivers, use of a cell phone without a "hands-free" device is prohibited while moving in a school zone.[Note: The application of the prohibition only to cell phones addresses a concern raised by Texas AFT that circumstances sometimes require direct communication by radio between a school-bus driver and the driver's base while the bus is moving and carrying passengers.

Seatbelts on school buses

HB 3646 modifies the state school-bus seatbelt law to require districts to equip new buses with seatbelts only if the state pays for it.

EDUCATIONAL PROGRAMS AND POLICIES

“Mandates”

SB 300 amends several portions of the Education Code to make relatively inconsequential changes to various state “mandates” on public school districts. The bill allows a district to post job vacancies either by a paper posting at its central office or on its Web site, rather than requiring both. It allows a district-level class-size waiver to be granted effective through the end of a school year, rather than the end of the semester, and requires TEA to make a report of requests for such waivers. SB 300 makes school-bus evacuation training permissive rather than a requirement. The bill also alters provisions for district planning to reduce consumption of electric energy.

Autism center

Under HB 1574, the Health and Human Services Commission is required to establish and administer an autism spectrum disorders resource center to coordinate resources for individuals with autism and other pervasive developmental disorders and their families. In developing the center, the Health and Human Services Commission must consult with the Texas Council on Autism and Pervasive Developmental Disorders and coordinate with appropriate state agencies, including each agency represented on the council. The center must collect and distribute

information and research regarding autism and other pervasive developmental disorders. The center must also conduct training and development activities for persons who may interact with an individual with autism or another pervasive developmental disorder in the course of employment. This includes school, medical, or law-enforcement personnel. Additionally, the center must coordinate with local entities that provide services to an individual with autism or another pervasive developmental disorder and must provide support for families affected by autism and other disorders.

Pre-k community awareness

HB 136 requires TEA to develop a joint strategy with other state agencies regarding methods to increase community awareness of pre-kindergarten eligibility through programs that provide information relating to public assistance. TEA may develop outreach materials for use by school districts to increase community awareness. Each school district must report annually to TEA the strategies implemented to increase community awareness of pre-k programs.

Pre-k eligibility

HB 3643 amends the Education Code to clarify that stepchildren residing with stepparents are eligible for free public pre-kindergarten programs.

At-risk designation

Under HB 2703, if a student does not advance from pre-kindergarten or kindergarten to the next grade level solely because retention was requested by the student's parent, then that student shall not be considered at risk of dropping out of school.

Community-college charter schools

Current law permits public four-year colleges and universities to receive charters and operate "open-enrollment" charter schools approved by the State Board of Education. HB 1423 amends the law to allow a community college to operate an "open-enrollment" charter school on the same basis.

Excused absence for citizenship proceedings or for autism services

HB 192 directs school districts to excuse a student from attending school for appearing at a governmental office to complete paperwork required in connection with the student's application for United State citizenship or for taking part in a United States naturalization oath ceremony.

The bill also requires an excused absence to be granted to a student diagnosed with an autism spectrum disorder in order for the student to keep an appointment with a health-care practitioner to receive generally recognized services for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Excused absence for college visits

HB 2542 allows a student to receive an excused absence if the student visits an institution of higher education for the purpose of determining the student's interest in attending the institution.

A district may not excuse more than two days for this purpose during the junior year and two days during the student's senior year. A district must adopt a policy to determine when an absence will be excused for this purpose and a procedure to verify the student's visit at the institution.

Flexible school day

Under HB 1297, school districts may apply to the commissioner of education to provide a flexible school day program for students who would otherwise be denied credit due to excessive absences. A student by this route can earn credit the student would not otherwise be able to receive without retaking the class. HB 1297 removes the current specification that the flexible school day applies to students in grades nine through 12.

Parenting awareness

HB 3076 expands the parenting and paternity awareness program to middle and junior high schools. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level. A student under 14 years of age may not participate in the program without the permission of a parent. The bill requires that school districts award high-school health credit to students enrolled in a middle or junior high school who successfully complete a course that includes the parenting and paternity awareness program.

SB 1219 similarly authorizes a teacher, at the discretion of the school district, to modify the suggested sequence and pace of the mandatory parenting and paternity awareness program in the high-school health curriculum.

Responsibility for return of textbooks

HB 1332 establish that students and parents are responsible for the return of electronic textbooks and technological equipment provided by the school, just as they already have been for traditional textbooks.

Virtual School Network

HB 3646 expands eligibility and funding for students taking electronic courses via the state Virtual School Network. Course providers, whether school districts or charter schools, are entitled to a \$400 allotment for each student who completes an electronic course. The district or charter school where the student is enrolled is entitled to \$80 for administrative costs. The commissioner of education is authorized to earmark funds appropriated for this program to promote credit recovery via electronic courses and participation by students in alternative education settings.

Open-source textbooks

HB 2488 makes several amendments to the Education Code providing for adoption of "open-source" textbooks—electronic textbooks available for free download—developed by certain research universities and technical institutes.

Electronic textbooks

HB 4294 amends the Education Code to expanding the use of and funding for electronic textbooks and related material. The bill requires the commissioner of education to adopt a list of instructional materials, electronic textbooks, and other materials for science instruction in grades K through five. It allows districts to purchase with state textbook funds items from that list as well as equipment needed to use the items. A Senate floor amendment to HB 4294 includes the provisions of SB 2178 establishing a computer-lending pilot program to make computers available for use by public school students and their parents. (See next two related items.)

Technology demonstration sites

HB 2893 establishes the Technology Demonstration Sites Project to demonstrate the use of technology for improving teaching and learning, including the use of digital tools and resources to extend learning opportunities from school to home. The project must make electronic devices available to each student in a participating school for use at school and at home. The student may retain the electronic device provided as long as the student is enrolled in a school in a participating district.

The bill also establishes a computer-lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents. A school is eligible if 50 percent or more of its students are educationally disadvantaged and the school agrees to allow students and parents to borrow a computer. The program must include an option for students and parents to work toward owning a computer initially borrowed under the school's lending program. The program must also provide training for students and parents as well as operate outside of regular school hours.

The bill extends the expiration date of the program to the end of the 2012-13 school year. The previous version of this pilot program would have expired in the 2010-11 school year.

Computer lending

SB 2178, like the Technology Demonstration Sites bill described above, requires the commissioner of education to establish a computer-lending pilot program to help public schools make computers available for students and their parents to borrow. The bill calls for surplus or salvage data-processing equipment to be used, as well as computers donated or purchased from any available source. Eligible schools must have a student enrollment at least 50 percent or more economically disadvantaged. The eligible schools must agree to operate outside regular school hours, provide training, and include an option for students and parents to work toward owning a computer initially borrowed under the school's lending program.

Modified "Top 10 Percent" rule

Beginning with admissions for the 2011-2012 academic year, the University of Texas at Austin is not required to offer admission to applicants who qualify for automatic admission under the "Top 10 Percent" law if the applicants are in excess of 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students. If the number of applicants

who qualify for automatic admission to the University of Texas at Austin exceeds 75 percent of the university's enrollment capacity, the university may elect to offer admission to those applicants by percentile rank according to high-school graduating class standing based on grade point average, beginning with the top percentile rank. These new provisions for the University of Texas expire after the 2015-2016 academic year. No later than December 31 of each year, the University of Texas shall deliver a written report to the governor, lieutenant governor, and speaker of the house of representatives regarding the university's progress in increasing geographic diversity, counseling and outreach efforts aimed at students qualified for automatic admission, recruiting Texas residents who graduate from other institutions of higher education to the university's graduate and professional degree programs, recruiting students who are members of underrepresented demographic segments of the state's populations, and assessing and improving the university's regional recruitment centers.

The bill requires school boards to have their high schools provide each student with written notice of the "Top 10 Percent" law when the student first enrolls. The bill creates a scholarship for students graduating in the top 10 percent of a high-school class.

Educational opportunity for military children

SB 90 enacts the Interstate Compact on Educational Opportunity for Military Children. SB 90 establishes requirements for unofficial or "hand-carried" education records, official education records and transcripts. The compact allows immunizations and vaccinations for students to be completed within 30 days from the date of enrollment. Kindergarten and first-grade students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level in the sending state, regardless of age. The compact establishes requirements for course placement, educational-program placement, special-education services, placement flexibility, and absences as related to deployment activities. TEA and local education agencies must facilitate military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. The bill establishes procedures for coursework waivers, exit exams, and transfers during senior year. The bill authorizes the commissioner of education to adopt rules to implement duties and authority regarding the adoption of a national norm-referenced test with a passing standard that may be substituted for the completion of a course or a test score required for graduation, and it requires the Texas Higher Education Coordinating Board to monitor the post-secondary performance of students allowed to graduate in accordance with that passing standard.

Tuition exemptions for military families

SB 93 revises requirements for certain military personnel, their spouses, or their children to qualify for tuition and fee exemptions at institutions of higher education. The bill establishes who is considered the child of certain military personnel for purposes of the exemption. It also establishes residency requirements. SB 93 applies beginning with the 2009 fall semester, and it requires an institution of higher education to refund tuition and other fees an eligible individual has already paid for the 2009 fall semester.

Monitoring and enhancement of services for foster-care students

SB 939 bill requires TEA and the Department of Family and Protective Services (DFPS) to exchange information to facilitate DFPS's evaluation of educational outcomes of students in foster care. DFPS must annually provide TEA with demographic information regarding individual students who during the preceding school year were in the conservatorship of DFPS following an adversarial hearing under the Family Code. TEA must then provide DFPS with aggregate information regarding educational outcomes of the same students. DFPS may authorize TEA to provide education research centers with demographic information regarding individual students received by TEA to allow the centers to perform additional analysis regarding educational outcomes of students in foster care.

SB 939 expands the existing higher-education tuition and fee exemption for a student who has been in the conservatorship of the DFPS. The bill extends eligibility for such exemptions to students enrolling through the student's 25th birthday. It requires TEA and the Higher Education Coordinating Board to create outreach programs to make eligible students aware of the tuition and fee exemption.

Foster-care educational transition

SB 2248 requires TEA to assist in the transition of students in substitute care (foster care) from one school to another by ensuring that school records for a student are transferred to the student's new school no later than 14 days after the student enrolls at a new school. The agency must also develop systems to ease transition for a student in substitute care during the first two weeks of enrollment at a new school. TEA must develop procedures for awarding credit for courses, including electives, completed by a student in substitute care while enrolled at another school.

School districts, campuses, and open-enrollment charter schools must accept a referral for special-education services made for a student in substitute care by a school previously attended by the student. SB 2248 makes a student eligible to enroll full-time in courses provided through the state Virtual School Network if the student has been placed in substitute care in Texas, regardless of whether the student was enrolled in a public school in Texas in the preceding school year.

Driver education

SB 858 amends the Education Code to allow all or part of the classroom portion of a driver-education course to be taught by online instruction if the provider meets certain requirements.

Costs of meeting public-information requests

SB 1629 amends the Government Code to broaden the categories of media companies that are not required to pay the costs of public-information requests that require large amounts of personnel time to fulfill.

Adult education and workforce development

HB 1935 establishes the Jobs and Education for Texans (JET) fund to provide grants to community colleges, public technical institutes, and eligible nonprofit organizations that prepare low-income students for careers in emerging industries and high-demand occupations. It also establishes the Texas Green Job Skills Development fund to provide grants for related training programs. (Provisions nearly identical to those in HB 1935 were included as an amendment to HB 3, the omnibus bill on testing and accountability.)

Note: “JET” grants to nonprofits are intended to fund programs established by Industrial Areas Foundation groups in Austin, San Antonio, and elsewhere. Texas AFT, with IAF support, successfully promoted an amendment to HB 1935 ensuring that the grants are not diverted to fund private-school vouchers.

“Innovative improvement” grants

HB 2263 amends the Education Code to extend to middle schools and junior high schools eligibility for grants currently directed to high schools for “implementation of innovative improvement programs.”

Joint college and high-school credit

HB 2480 amends the Education Code to allow community colleges and high school to establish dual-credit agreements, regardless of whether the high school is within the college’s service area, if the local community college cannot provide suitable courses.

EDUCATIONAL GOVERNANCE

Broadcast of State Board of Education meetings

HB 772 requires TEA to broadcast over the Internet live video and audio of each open meeting held by the State Board of Education. TEA must also make available through the agency’s Web site archived videos and audio for each meeting.

Political advertising

HB 1720 and SB 2085 protect from liability an officer or employee of a political subdivision (such as a school district) who spends public funds on a communication as long as the person does not “knowingly” make the expenditure for the purpose of political advertising. Under HB 1720, an officer or employee may not spend public funds for a communication describing a ballot measure if the person knows the information is false and it is likely to influence voters. Under both bills, the governing body of a political subdivision can obtain an advance ruling on whether a particular communication regarding a ballot measure violates the law. An individual is protected from prosecution if he or she reasonably relied on a court order or interpretation by a court, the attorney general, or the Texas Ethics Commission.

Reports required of school districts

HB 3041 adds a provision to the Education Code requiring TEA, “to the extent possible,” to develop and maintain a comprehensive schedule of reporting requirements imposed on school districts.

TRS fiduciary counsel

HB 1259 amends the Government Code to clarify that TRS must obtain approval from the state attorney general in hiring outside counsel, as required in statute, regardless of the source of funds used, including legal counsel in the areas of ethics and fiduciary responsibilities. Under a previous chairman, the board had attempted to hire outside fiduciary counsel without approval from the attorney general on the theory that the pension fund, rather than state general revenue, was being used to pay for that position. HB 1259 also requires the AG to act timely on any proposed contract for legal counsel and to specify the reasons for any denial.