

## **2019 LEGISLATIVE WRAP-UP**

The 2019 legislative session is finally behind us, and it is questionable whether the state made transformative changes to public school finance and property tax reform. Rewind to the fall of 2018 when campaigns were at full tilt and candidates running for office promised if you elected them, they would make school finance and property tax relief their number one priority. These two issues polled off the charts, and the voters had their say. Twelve house seats and two senate seats flipped from republican to democrat, two congressional seats also flipped, and every republican statewide candidate had a much smaller margin of victory, including Lt. Governor Dan Patrick.

Those election results set the stage for this legislative session. On inauguration day, the House elected a new speaker with overwhelming democratic support, and that speaker gave some plum chairs to many of those democratic supporters. The speaker also opened up the session declaring now is the time to fix public school finance, and even had refreshment cups emblazoned with "School Finance Reform: The time is now." phrase. That was to remind the members every day what their primary purpose would be.

On the other side of the building, the Lt. Governor Patrick wasn't even in Austin. He was in Washington D.C. meeting with President Trump about the "wall" in Texas. The chatter around the building was that he might be appointed to lead Homeland Security. Patrick squashed those rumors at the end of session. Patrick also failed to deliver on his promise to give every full-time teacher and librarian a \$5,000 dollar pay raise.

The house was much more diplomatic this session, with both parties working hard to get along on most issues. A few wedge issues dealing with voter suppression, local control over paid sick leave, and a very bad bill on women's health care caused a disturbance, but otherwise the house stayed true to Speaker Bonnen and his agenda. Even Dan Patrick moderated his agenda this session by ignoring the voucher movement, pay-roll deduction, and the bath room bill which consumed most of the 2017 session. This teamwork on the part of leadership ensured that their top priorities passed without the need of the Governor to call a special session.

With the session in the rearview mirror, it is now time to look ahead to 2020 to make sure TSTA elects pro public education friendly members to the 2021 Texas Legislature who will be committed to finishing the job of real transformational public school finance reform with a sustaining revenue source to support it.

## **BUDGET (HB 1 and HB 3)**

What the legislature ultimately accomplished is a one-time cash infusion into public education using the state's surplus revenue and shifting money from other parts of the state's budget. Texas will spend approximately \$51 billion dollars for the next biennium on public education. HB 1, the budget bill, will also fund the provisions in HB 3, the school finance bill, allocating \$11.6 billion state dollars of new money for public education and property tax reform. Of that

amount, \$6.5 billion is designated for public education (including \$2 billion to increase compensation for teachers, librarians, counselors, and nurses; and full-time support staff as determined by the school board) and \$5.1 billion for property tax relief. This funding provides a statewide average increase of approximately \$1,020 per pupil in additional funding through the basic allotment increase to \$6,160.

This additional funding will shift the state share of school funding from 38% to 45% and cuts recapture by 46%. This is a very important piece to this puzzle and the one the legislature ignored this session which will require the new legislature convening in 2021 to make up the difference. In fact, not only did the legislature ignore this, they actually made it harder for districts to raise money going forward.

HB 3 requires school districts to reduce their tax rates by eight cents in 2020 and by 13 cents in 2021. In addition, the bill will limit the growth in revenue to 2.5 percent beginning in 2021. Districts will need voter approval in order to set tax rates that raise revenue by more than 2.5 percent. Before calling a tax rate election, school districts will be required to contract for and pay for an efficiency audit.

So yes, there is more money flowing to districts over the next two years, however, it remains to be seen how the state will maintain this level of funding and provide for a continued enrollment growth of 40,000 to 60,000 more students every year.

Here are some of the highlights of bills passed this session, but for a list of all the bills passed dealing with public education, go to the TSTA website under "Bills sent to Governor" under the legislative tab.

The deadline for the Governor to veto bills is June 16.

### **SCHOOL FINANCE AND TEACHER PAY (HB 3)**

**Pay raises.** School districts will be required to use 30 percent of the increase in the basic allotment on compensation. The basic allotment will increase in FY 2020 to \$6,160, an increase of \$1,020 per student in average daily attendance (ADA). There are no increases scheduled for FY 2021.

- 75 percent of these funds must be spent on providing compensation to teacher, nurses, counselors, and librarians who are subject to the minimum salary schedule (MSS). The pay increases must prioritize differentiated pay for teachers with more than five years of service. The increase in the basic allotment will provide an average of about \$3,000 per MSS employee.
- 25 percent of the fund may be used to increase compensation to full-time employees other than administrators.
- Compensation may include benefits, such as health insurance contributions.

- Note: Not all school districts will benefit equally from the basic allotment. Due to numerous other changes in the bill, some districts will receive significantly less new revenue than the increase \$1,020/ADA increase in the basic allotment. As a result, some districts will need to provide these pay raises using current revenue.

**Local Optional Teacher Designation System.** School districts will be authorized to create their own local teacher designation system. The teacher designations under this authority can be used to leverage additional funding under the Teacher Incentive Allotment. HB3 will prohibit teachers from being measured based on students' performance on state standardized tests and will not require school districts to use the state standardized test to regulate teacher bonuses. It will be up to the local school board to vote to create this local option. The local optional teacher designation system includes the following features:

- Based on appraisals required by current law
- Developed locally and approved by commissioner
- Prohibits use of state assessments
- Requires the mathematical possibility that all teachers can receive a designation
- Provides that all NBCT are automatically designated as recognized
- Requires TEA to study and "collect information necessary to implement"
- Establishes that the teacher has no vested property right to a designation

The commissioner shall ensure that local optional teacher designation systems: meet the requirements set out above; and prioritize high needs campuses. It is unclear to what extent teacher appraisals will be required for the study, but TSTA will fight to maintain all confidentiality in those evaluations. The commissioner is directed to enter into a memorandum of understanding with Texas Tech University to monitor the quality and fairness of local optional teacher designation systems.

**Teacher Certification.** The State Board for Educator Certification shall adopt rules that provide that in order to teach any grade level from prekindergarten through grade six a person must demonstrate proficiency in the science of teaching reading on a certification examination for each class of certificate issued by the board after January 1, 2021.

**Mentor Programs.** To be assigned as a mentor, a teacher must agree to serve as a mentor teacher for at least one school year, and begin assignment not later than the 30<sup>th</sup> day of employment. A district must agree to assign a mentor to a new classroom teacher for at least two school years, and must provide training to the mentor teacher before the beginning of the school year. Supplemental training must also be provided throughout the school year, and mentor teacher must meet with each classroom teacher assigned to the mentor not less than 12 hours each semester.

## **ACCOUNTABILITY**

The major testing bill this session, **HB 3906**, does not alter the STAAR reading tests in grades 3-8. However, effective September 2021, the state is no longer required to develop STAAR stand-alone grades 4 and 7 writing tests, including spelling and grammar, that students are currently required to take. The bill also maintains provisions for classroom portfolio methods to assess writing performance.

The bill also requires tests not have more than 75 percent of questions in multiple choice format and all tests to be administered electronically by the 2022-2023 school year will be required. With these provisions in place, although not stated explicitly in the bill, it appears that the state intends to allow short answer responses on STAAR tests in grades 3-8 and/or classroom portfolio methods as a new means to assess writing performance. Assessment of writing is still included in the English I and English II end-of-course exams, with a new provision that those assessment may be administered over more than one day.

Requires the commissioner to appoint a technical advisory committee to advise the commissioner and the agency regarding the development of valid and reliable tests. Requires members to be experts on educational assessments and psychometrics. Further requires the commissioner to appoint an educator advisory committee to advise the commissioner and the agency regarding the development of academically appropriate tests. Members must include experts in curriculum and instruction.

Adds safe guards to the provisions for a five-year transition period for the state to move to a system in which all STAAR tests would be administered electronically beginning in the 2022-2023 school year.

## **CHARTERS**

The attention paid to charter schools this session was more heavily weighted to reform measures advocated by TSTA and other coalition members advocating for public education. Not to say charters won't benefit from the infusion of new money from HB 3, and nothing was passed to slow or stop the growth of the charter movement. However, some reform measures on transparency, efficiency and fairness were part of the agenda, and a few things passed and some others were defeated.

SB 1454 authorizes TEA to direct the charter holder upon closure to dispose of property by either retaining the property and reimbursing the state; transfer title to the property to TEA or another public school; and/or liquidate the property. The law clarifies that that property purchased with state funds may not be transferred, sold, or otherwise disposed of without the prior written consent of TEA if the charter holder receives notice of revocation, nonrenewal, or expiration. All remaining state funds of a charter holder that ceases to operate must be returned to TEA and deposited in the charter school liquidation fund.

SB 968 died in committee which would have put charter schools in a better position than school districts with regard to abiding by zoning laws allowing for more control of where a charter school could be located.

## **VOUCHERS**

Again, for the first time in decades, vouchers were not at the top of the leadership's agenda, and in fact, no straight up voucher bills or tax credit scholarship schemes were heard in committee this session. A few bills dealing with the expansion of the Virtual School Network and allowing private vendors to run full day virtual programs did not make it through the process. The bills that failed included: **SB 1455** would have shifted taxpayer funds away from a public school to a private online vendor by removing the requirement that students must have previously attended a brick and mortar school and by removing the cap on the number of online courses that may be taken; **SB 947** would have removed the requirement that students of those serving in the military must have previously attended a brick and mortar public school in order to enroll in online virtual courses; **SB 380** would have removed the cap on the number of online courses that may be taken by a student; and **HB 429** would have allowed a student to take a course virtually even if it is offered by the district at a public school.

## **TEACHER RETIREMENT SYSTEM**

**SB 500**, the state's supplemental appropriations act to cover costs through this current fiscal year, includes the funding necessary from the Economic Stabilization Fund in support of the Teacher Retirement System.

**SB 12**, the TRS stabilization bill includes a one-time 13<sup>th</sup> check not to exceed \$2,000 and is funded in SB 500. The breakdown of funding for the stabilization and the future obligations for which the state is passing on to school districts and active employees which starts in 2022 can be found here: <https://tsta.org/sites/default/files/CCRSB12TRSPensionReform.pdf>

Unfortunately, nothing was done to combat the increasing costs associated with health care at the active employee or retiree levels. Retirees will not see a rate increase this biennium, however active employees participating in TRS Care will see a three to eight percent increase in premiums.

## **ACCELERATED CAMPUS EXCELLENCE (ACE) TURNAROUND PLAN**

**HB 4205** allows a district to turn a campus into an "accelerated campus excellence" turnaround plan if the campus has been rated unacceptable for two consecutive years. It will require districts to use a forced teacher ranking system based on student growth, which would almost certainly require the use of STAAR test scores. In order to qualify, the campus will have to replace 60% of the teachers at that campus and those teachers would have to be ranked in the top half of teachers in the district in order to be eligible. It will be up to the state education

commissioner to tell school districts how to measure student growth, how to pay their teachers at these campuses and what kind of employment practices to use.

## **SCHOOL SAFETY AND MENTAL HEALTH**

**HB 18** amends current law relating to consideration of the mental health of public school students in training requirements for certain school employees, mandating continuing education requirements for educators must now include at least 25% of the training required every five years, modifies curriculum requirements, counseling programs, educational programs, state and regional programs and services, and health care services for students and to mental health first aid program training and reporting regarding local mental health authority and school district personnel.

**SB 11**, the school safety bill, is a comprehensive approach to safety and mental health assistance in an effort to prevent situations like what happened in Santa Fe ISD.

## **OTHER BILLS OF INTEREST**

**HB 1026** requires SBOE to integrate positive character traits into the essential knowledge and skills adopted for kindergarten through grade 12, as appropriate. Requires school districts and open-enrollment charter schools to adopt a character education program that includes the positive character traits indicated in TEC and submit the adopted program to the commissioner annually.

**SB 619** will include the Texas Education Agency (TEA) in the next round of sunset reviews to ensure the agency is working efficiently and complying with all state and federal laws, including special education requirements under the Individual with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Family Educational and Privacy Rights Act.

**SB 2432** dealing with student discipline, includes "engages in conduct that contains the elements of the offense of harassment under Section 42.07, Penal Code, against an employee of the school district" among the reasons a student must be removed from class and placed in DAEP. Section 42.07 of the Penal Code addresses harassment with the intent to harass, annoy, alarm, abuse, torment, or embarrass another.

## **CONSTITUTIONAL AMENDMENTS NOVEMBER 2019**

Ten state constitutional amendments will appear on the statewide ballot during the November elections, election day is November 5, 2019.

Constitutional amendments must pass by two thirds of the Texas House and Senate and a majority of voters. Because constitutional amendment elections take place after a legislative session in odd-numbered years, these ballot propositions will be the only races on the statewide ballot this next election.

## **Taxes**

HJR 38 would ban the future passage of a state income tax. This reinforces a constitutional amendment approved by voters in 1993 that requires voters' permission for the Legislature to create a state income tax. This has the potential to extend the ban to businesses, reducing state revenue by billions of dollars.

HJR 95 creates a tax exemption for precious metals held in the Texas Bullion Depository.

## **Appropriations**

HJR 12 would double the amount of bonds that can be sold for Cancer Prevention and Research Institute of Texas to \$6 billion.

HJR 151 would double the annual General Land Office distribution to schools to \$600 million and let the State Board of Education also sell bonds for that purpose, currently prevented by the constitution.

SJR 24 would dedicate all revenue from the sporting goods sales tax to state park operators, as intended when the tax was created in 1993.

SJR 79 would let the Texas Water Development Board sell bonds for building water supply and wastewater facilities in economically distressed cities.

## **Natural disasters**

HJR 4 will allow the Texas Water Development Board to manage and spend \$1.7 billion from the economic stabilization fund for a flood infrastructure fund, to be used for planning, seeking permits for or constructing flood-related projects.

HJR 34 would let the Legislature lower tax rates on property damaged during a disaster declared by the governor.

## **Legal system**

HJR 72 should make it easier for smaller communities to find municipal judges by allowing one person to be elected to multiple cities' judgeships. Currently a person can only hold multiple municipal judgeships by being appointed to each one.

SJR 32 would let police dogs and other law enforcement animals retire to live with their handler or other caretaker. This would override the state constitutional provision which currently prevents law enforcement from transferring valuable property to a private person or organization for free.