

Ideology, not public education, drove Legislature

It was clear from the beginning of the 82nd Legislature that anti-government ideology, not public education, was going to drive the session. And, it did. Governor Perry and the legislative leadership insisted on bridging a \$27 billion revenue shortfall primarily with budget cuts, and an overwhelming majority of conservative Republican lawmakers eagerly complied. The result was a new state budget that, for the first time in more than 60 years, didn't fully fund school finance formulas and meet anticipated enrollment growth, even though lawmakers – at the governor's insistence – left more than \$6 billion of taxpayer money untouched in the emergency Rainy Day Fund.

The bottom line was a \$4 billion cut to school district formula funding on top of \$1.4 billion in cuts to discretionary grants for such programs as full-day pre-kindergarten, dropout prevention and teacher bonuses.

Before all the dust settles, thousands of school employees will have lost their jobs, more classrooms will be overcrowded, electives will be cancelled and some neighborhood schools may be up for closure.

Moreover, the Legislature did nothing to address the structural deficit in the school finance system that is projected to be \$10 billion for the 2012-2013 biennium. This is the result of the Legislature's failure to fully pay for the school property tax cuts ordered in 2006.

All this financial neglect of public education in Austin is sure to result in still another lawsuit against the state over the school finance system, and that lawsuit likely will be filed soon.

Despite the budgetary setbacks, TSTA and other public school supporters put on a full-court press against several other pieces of anti-public education, anti-teacher legislation and were able to defeat them in the regular session. We blocked efforts to raise the 22-1 class size cap in K-4; repeal the minimum salary schedule; allow districts to furlough teachers and cut their pay; weaken teachers' due process rights; create a teacher appraisal system heavily weighted toward student test scores; create a private school voucher program; and expand the number of charter schools.

But in a special session immediately following the regular session, Republican majorities in the House and the Senate undid part of our work and passed several anti-teacher initiatives. A major part of the problem was the fact that the Senate operated during the special session without the two-thirds rule, making it difficult for TSTA's supporters to block bad legislation in that chamber.

For a short while, it looked like some potential good would come out of the special session. Rep. Donna Howard, a Democrat from Austin, was successful in amending Senate Bill 2, a fiscal matters bill, to provide a contingent appropriation from the Rainy Day Fund for public school enrollment growth, which isn't covered in the new state budget. Howard's amendment would have provided that any money in the Rainy Day Fund that exceeded the \$6.5 billion balance projected for the next budget period would have been spent to cover enrollment growth. That contingent expenditure would have been capped at \$2.2 billion. But pressure from conservative ideologues intent on shrinking state government killed that amendment in conference committee.

The anti-teacher provisions that were approved during the special session were in Senate Bill 8. They include language allowing school districts to cut teacher pay in two ways: (1) by ordering teacher furloughs for as many as six non-instructional days a year and reducing pay accordingly, and (2) by repealing the 2009 law that prohibited districts from paying returning teachers less than they earned in the 2009-2010 school year.

Senate Bill 8 also:

Allows a school board to declare a financial emergency at any time for purposes of imposing a reduction in force and removes seniority as a factor in determining which teachers are terminated during a RIF. Dismissals now will be based primarily on teacher appraisals or other criteria determined by the board.

Changes the deadline for notification of non-renewal of a teacher's contract from the 45th day before the end of instruction to the 10th day before the end of instruction. The same change applies to notification of a probationary teacher being dismissed. This change will give laid off teachers less time to find new jobs for the next school year.

Eliminates a teacher's right to an independent hearing in cases of mid-year dismissals.

Requires the state education commissioner to study the minimum salary schedule and make a recommendation to the Legislature in 2013 on the best way to determine the schedule.

TSTA was influential in having Senate Bill 8 amended to require districts to apply any furloughs and pay cuts to administrators as well as teachers and to hold public hearings on other budget options, including increases in local property taxes and use of available fund balances.

During the special session, TSTA also helped kill attempts to raise the 22-1 class size cap in K-4, repeal the minimum salary schedule and create a private school voucher program.

But Senate Bill 8 is bad enough, and most of its changes are permanent and can be changed only by convincing future legislative sessions to repeal them.

Senate Bill 8 also moves TSTA's fight to a different venue – local school boards. School boards won't consider most of these changes until the 2012-2013 school year, but now is the time for teachers and other public school employees to focus more attention than ever before on school board races and school board policies.

Bills that passed in the Regular Session

Finance

HB 1, the new state budget, cuts \$4 billion from school district funding, the first time in 60 years the state has not fully funded formulas and paid for anticipated enrollment growth. Another \$1.4 billion is cut from education discretionary grants.

HB 275 spends \$3,198,661,120 from the Rainy Day Fund to help balance the budget for the remainder of the current fiscal year. More than \$6 billion in the Rainy Day Fund is left unspent.

Accountability/Curriculum

HB 34 requires economics courses to include instruction in methods of paying for college and other postsecondary education, beginning with the 2013-14 school year.

SB 290 requires instruction in personal financial literacy in each mathematics course from kindergarten through eighth grade.

Students

HB 350 allows a judge to sentence someone younger than 17 to community service or tutoring for committing a Class C misdemeanor at a public school.

HB 359 allows parents to sign annual statements prohibiting school districts from administering corporal punishment to their children.

HB 692 directs the State Board of Education to allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English Language Arts, math, science or social studies or one academic elective credit for PE.

HB 734 allows a truancy case to be filed in a constitutional county court of the county in which a parent resides or in which the school is located if the county has a population of 1.75 million or more. Prior law directed the county must have a population of two million or more.

HB 968 requires removal of a student from class to a disciplinary alternative education program (DAEP) for a felony offense of aggravated robbery. It also provides that a student may be expelled from a DAEP for engaging in documented serious misbehavior while on the program campus.

HB 1224 allows a student to be expelled for breaching a school district's computer security.

HB 2038 provides more safeguards for responding to concussions suffered in school athletics. Students and parents will have to sign forms about concussion awareness, symptoms and treatment before the student is allowed to participate in athletic activity.

HB 2135 provides that a student in grades 5 or 8 who is enrolled in a course above grade level, or for high school credit for which the student will be assessed, is not required to pass the state tests for the grade 5 or 8 state assessment on the same subject.

SB 49 requires a school district to provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation.

School Boards and Districts

HB 398 prohibits any school district contractor or subcontractor from permitting an employee to work at a school if the worker has been convicted of a felony or misdemeanor that would prevent the person from being employed by the district.

HB 592 increases the county population requirement for establishing a juvenile justice alternative education program from 125,000 to 180,000. Such programs will be permissive for smaller counties.

HB 675 establishes new standards for high school football helmet safety.

HB 826 requires a school district to appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child who is the conservatee of the state.

HB 861 requires that at least one member of the Continuing Advisory Committee for special education services be a director of special education programs for a district or for a shared services arrangement of multiple school districts.

HB 942 exempts a school district from security for court costs and appeal bonds when instituting and prosecuting suits. It also allows districts to appeal judgments without giving supersedeas or cost bonds.

HB 1130 concerns reporting of students receiving special education services in various settings.

HB 1555 allows districts with student enrollment of 190,000 or more to start school before the mandatory start date using local funds if the campuses are undergoing comprehensive reform or most students at a campus are educationally disadvantaged and the campus is undergoing comprehensive reform.

HB 1907 requires immediate notification of teachers and other school employees if a student with whom they have regular contact has been accused of a serious criminal offense.

HB 1942 requires school districts to adopt policies against bullying and for responding to incidents of bullying. It further provides that a district may transfer a student who has been a victim of bullying, or transfer the student who engages in bullying, to another class or another campus. It also requires the State Board of Education to include awareness and prevention of bullying in the curricula for health classes.

HB 2561 redefines the meaning of school year as a 12-month period beginning Sept. 1 and ending Aug. 31 of the next calendar year.

HB 2678 provides for schools to be able to print and issue agency-approved driver education certificates with the certificate numbers to be used for certifying completion of an approved driver education course.

HB 3506 allows a district to use transportation allotment funds to provide a bus pass or card for another transportation system to students for whom the district's regular transportation system is not feasible.

SB 27 requires a school board to implement and administer a policy for the care of students at risk for anaphylaxis.

SB 226 requires a school district to provide to the Texas Education Agency the results of individual student performance on the physical fitness assessment instrument. The results may not include a student's name, Social Security number or date of birth.

SB 471 requires that each school district's improvement plan include a policy addressing sexual abuse and other maltreatment of children. It requires training for educators in preventing and increasing awareness of those problems.

SB 729 allows for the election of trustees of an independent school district to be held on the same day as an election for members of the governing board of a public junior college district in which the school district is located.

SB 736 allows a school board to appoint a member from a local domestic violence program to the local school health advisory council.

SB 738 allows parents of students at a failing campus, under certain circumstances, to ask the state education commissioner to repurpose the campus, order alternative management of the campus or close the campus.

SB 764 prohibits a school board from using taxes or other public resources for the design, construction, renovation or operation of a hotel.

SB 778 provides that a campus-level planning and decision-making committee should include, if practicable, at least one representative with the primary responsibility of educating students with disabilities.

SB 966 allows school districts to issue high school diplomas to war veterans who left school before graduating.

SB 975 allows junior colleges to partner with school districts in dropout recovery programs on the junior college campuses.

SB 1042 prohibits any school district contractor or subcontractor from permitting an employee to work at a school if the worker has been convicted of a felony or misdemeanor that would prevent the person from being employed by the district.

SB 1106 requires a school district to disclose information in a student's educational records to a juvenile service provider, as necessary under certain circumstances.

SB 1545 grants immunity from civil liability to unpaid health care practitioners who examine or screen students for participation in athletics or other school-sponsored extracurricular activities.

SB 1610 requires school districts to put seatbelts on buses only to the extent that the legislature has appropriated money for reimbursement.

SB 1619 provides that a school district is not required to pay a student's tuition or other costs for taking a college credit course.

Employees

HB 1334 states that a certificate or permit is not considered to have expired if: (1) the employee has completed the requirements for renewal of the certificate or permit; (2) the employee submitted the request for renewal prior to the expiration date; and (3) the date the certificate or permit would have expired is before the date the State Board for Educator Certification takes action on renewal.

HB 1610 allows a district to suspend a teacher or administrator immediately without pay if the district is notified that the person has been convicted of a felony or received deferred adjudication for a felony, or if the person's certificate is revoked for a felony offense. There is no appeal, and notice and hearing requirements do not apply. The bill also makes it a felony offense to engage in sexual contact with a person the employee knows is enrolled in a public primary or secondary school in the district in which the employee works or with a student participant in an educational activity that is sponsored by a school district.

HB 1682 prohibits school board members or school district employees from coercing another employee to make or refrain from making a charitable contribution or to attend a meeting called for the purpose of soliciting charitable contributions.

SB 54 sets certification requirements for teachers of students with visual impairments.

SB 866 requires certain educators to receive training on dyslexia; requires testing of students for dyslexia; and contains provisions on reassessing dyslexic students in college.

SB 1668 deals with the purchase of Uniformed Services Employment and Reemployment Rights Act credit.

Retirement

HB 1061 extends the investment authority of the Teacher Retirement System and limits investments in hedge funds to 10 percent of the value of TRS' total investment portfolio.

HB 2120 requires the governor to appoint one member of the Teacher Retirement System board from a slate of three persons who have been nominated by the following groups collectively: Members from

institutions of higher education, members with service credit at public school districts and retirees who are receiving benefits from the retirement system.

SB 1667 makes changes in the administration of the Teacher Retirement System. Among other things, it prohibits anyone who is convicted of causing the death of a member from receiving the benefits of that member, and it allows for earlier retirement with a reduced benefit.

SB 1669 revises the retire/rehire program. The bill allows for an annuity payment if the rehire has been separated from service with all Texas public educational institutions for at least 12 full, consecutive months.

Charter Schools

HB 1550 includes charter school employees and officers under the contract for travel services procured by the state.

HB 2366 provides that an open enrollment charter school of a municipality may admit children of the municipality's employees before conducting its lottery, provided that those children are only a small percentage of the school's total enrollment.

HB 2971 makes confidential teacher evaluations and administrator records in open enrollment charter schools. It also provides that an open enrollment charter school may provide documents evaluating the performance of a teacher or administrator to a requesting school district or open enrollment charter where the employee has applied for employment.

SB 1484 authorizes certain open-enrollment charter schools to be awarded academic distinction designations.

State Agencies

HB 3278 amends a number of statutory provisions relating to memberships of the state commissioner of education and the Texas Education Agency on advisory committees, commissions, task forces and other similar groups.

HJR 109 proposes a constitutional amendment to include in calculating the fund's market value discretionary real asset investments and cash in the state treasury derived from property belonging to the Permanent School Fund (PSF). It also would allow the General Land Office to distribute revenue derived from PSF land or properties to the Available School Fund. The distribution could not exceed \$300 million per year. HJR 109 will be on the Nov. 8 ballot for voters to approve or reject.

SB 149 allows the state education commissioner and the Texas Higher Education Coordinating Board to adopt rules covering reporting for the school district college credit program.

SB 199 allows the Department of Agriculture to award a grant to a nonprofit organization that partners with a school district in agricultural projects.

SB 391 states that the notice of the textbook review and adoption cycle must require a publisher of an adopted textbook for a grade level other than pre-kindergarten to submit an electronic sample copy of the textbook.

SB 419 prohibits state funding to public junior colleges for physical education courses offered for joint high school and junior college credit.

SB 501 establishes the Interagency Council for Addressing Disproportionality to make recommendations for reducing the involvement of minority children in the juvenile justice, child welfare and mental health - systems.

SB 1094 requires the State Board of Education to develop and deliver high school equivalency examinations online.

SB 1383 requires the state education commissioner to establish and administer a comprehensive appraisal and professional development system for principals.

SB 1410 requires the Texas Education Agency to identify and report to the Texas Higher Education Coordinating Board the number of students enrolled in a tech-prep program.

SB 1557 creates the Texas High Performance Schools Consortium to find ways to improve student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

SB 1620 requires the State Board of Education to establish a process for substituting an applied STEM course for a specific mathematics or science course required under the high school curriculum.

Bills that failed in the Regular Session

The following bills died during the regular legislative session. However, sponsors tried to resurrect several of them during the special session.

HB 400 would have permanently raised the 22-1 cap in K-4 to 25-1; permanently eliminated the requirement that districts cannot pay teachers less next year than they earned this year; eliminated the state minimum salary schedule and let districts set their own compensation systems with their own rules; permanently allowed school boards to furlough teachers and reduce their salaries accordingly; permanently allowed a district to declare a financial emergency at any time for purposes of doing a reduction in force; permanently deleted seniority as one of the factors used in determining who is terminated if a RIF is implemented; permanently changed the date for notice of non-renewal to the last day of instruction; and permanently eliminated the use of a neutral hearing officer for mid-year terminations and replaced that with a hearing before the board.

HB 936 would have abolished the cap on open-enrollment charter schools.

HB 1076 would have removed the 10-1 ratio on accelerated instruction groups for students who fail to perform satisfactorily on an assessment instrument.

HB 1311 would have allowed that, under certain circumstances, new open-enrollment charter schools for students at risk of dropping out could avoid applying for authorization.

HB 1587 would have mandated that a significant portion of teacher evaluation be based on the teacher's student learning objectives and outcomes, including student performance on assessment instruments.

HB 1589 would have established the Center for Financial Accountability and Productivity in Public Education, an independent policy center to represent business, finance, public policy, education and other interests. The center's purpose would have been to increase productivity and cost effectiveness at the school district and campus levels; rank each district, campus and charter school; and provide annual progress reports and recommendations.

HB 1603 would have allowed 100 additional new charters to be granted every state fiscal year by the State Board of Education.

HB 1632 would have changed the deadline for teachers under probationary, continuing and term contracts to leave a district without penalty from 45 days before the first day of instruction to not later than 60 days.

HB 2506 would have required district employees hired after Sept. 1, 2012, to participate in a defined contribution plan instead of a defined benefits plan. TRS would have changed from a defined contribution plan to a costly defined benefits plan.

HB 2539 would have allowed a school district to suspend a teacher without pay for good cause in lieu of discharge or pending discharge.

HB 2540 would have eliminated a teacher's right to a hearing before an independent hearing examiner until after the teacher was suspended without pay for more than 20 days within a period of one year.

HB 2843 would have required the commissioner to study and implement strategies that provide quality electronic courses to students with special needs. The number of electronic courses a student could take would not be limited, nor would the number of students who could enroll in the state virtual school network. Homebound students could have taken an entire curriculum through virtual school.

SB 1612 would have required TRS to make an annual contribution to the Pension Review Board in the amount of \$0.50 per member, at a cost of over \$650,000.

Bills that passed in the Special Session

SB 1 includes a number of payment deferrals (including school district payments), tax accelerations and other accounting tools worth about \$3.5 billion during the next biennium. Its passage was necessary to balance the new state budget enacted for 2012-2013. This bill also distributes \$4 billion in cuts to the Foundation School Program among the state's school districts. During the 2011-2012 school year, those cuts will average about 6 percent for each district. During 2012-2013, the reductions will fall heaviest on the wealthier districts. The bill also provides that through 2015 the Legislature will fund school districts based on what state revenue is available, as it did this year, not on what the school finance formulas require. This is a dramatic departure from the school finance law that has been on the books for more than 60 years.

SB 2 is another fiscal matters bill related to the new state budget. The House approved an amendment that would have made a \$2.2 billion provisional appropriation from the Rainy Day Fund for public schools, but the amendment was stripped from the bill in conference committee.

SB 6 converts the state textbook fund into the Instructional Materials Fund. School districts are entitled to an annual allotment for textbooks and other materials based on student enrollment. This bill allows open-enrollment charter schools to receive the instructional materials allotment as if they were independent school districts. It also establishes a technology lending program, which will allow the state education commissioner to award grants to school districts and charter schools. The bill also adds the subject of economics (with an emphasis on the free enterprise system) to social studies for K-12 and removes it as a stand-alone subject.

SB 8 allows school districts to cut teacher pay in two ways, and it weakens teacher employment rights. It authorizes districts to order teachers to take furloughs for as many as six non-instructional days a year and cut their pay accordingly, and it repeals a 2009 law that prohibited school districts from lowering the pay of returning teachers. The bill includes a provision that furloughs and pay cuts also have to apply to administrators. This bill also changes the deadline for notification of non-renewal of a teacher's contract or termination of a probationary teacher from the 45th day to the 10th day before the end of instruction. It allows a school district to declare a financial emergency at any time for purposes of imposing a reduction in

force and removes seniority as a factor in determining dismissals during RIFs. Teachers can be fired instead on the basis of appraisals or other criteria determined by the school board. And, the bill eliminates a teacher's right to an independent hearing in the case of a mid-year termination.

Bills that failed in the Special Session

HB 17 would have repealed the state minimum salary schedule for teachers, counselors, nurses and librarians. It would have allowed districts to set their own pay levels for all teachers, as long as they were paid at least \$27,320 a year.

HB 18 would have allowed school districts to routinely increase class sizes in K-4 from the current cap of 22 to 25 by receiving automatic waiver approvals from the state education commissioner. It would have done away with the current waiver process, which requires districts to notify parents and hold public hearings on plans to increase class sizes above 22. This would have excluded parental participation in the process and weakened the 22-1 standard.

HB 19 would have removed a teacher's right to a hearing before an independent examiner in a mid-year termination during a financial emergency. A similar provision passed in SB 8.

HB 20 would have changed the deadline for notification of non-renewal of a teacher's contract or termination of a probationary teacher from the 45th day to the 15th day before the end of instruction. A provision changing the deadline to the 10th day before the end of instruction passed in SB 8.

HB 21 would have removed seniority as a factor in determining dismissals when school districts impose reductions in force. A similar provision passed in SB 8.