



HOW EDUCATION ISSUES FARED DURING THE 2021 LEGISLATIVE SESSION

The five-month legislative session that ended on Memorial Day began during a pandemic and survived a winter storm disaster, and throughout it all, the safety and instructional needs of students and educators weren't high priorities for the governor and legislative leaders. Then during three special sessions throughout the summer and early fall, TSTA had to fight some of the same battles again. Nevertheless, we posted some victories.

With the Biden administration backing our efforts, the state finally put educators on the priority list for COVID vaccinations and began distributing billions of dollars in federal pandemic relief funds to school districts.

We won a one-time, additional check for retired educators; killed efforts to make it easier for corporate charter chains to expand in Texas; kept our voucher-killing string alive; and weakened a bill that would have given the appointed education commissioner too much power to take over school districts.

But we lost an effort to kill a politically motivated law designed to curb the teaching of racism and other injustices and discourage political participation by students. Also over our opposition, an important safeguard of the school marshal law was loosened to allow armed marshals to carry their firearms around students all day, rather than keep them locked up.

There was much more. Here is a more-detailed, issue-by-issue summary:

CHARTER SCHOOLS

As originally filed, SB28 would have removed the authority of the elected State Board of Education to veto new charter schools approved by the appointed education commissioner. It also would have removed the ability of traditional school districts and other local officials to block the location of an unneeded charter school in their community. That version of the bill was approved by the Senate.

But SB28 and a companion measure, HB3279, encountered opposition in the House Public Education Committee, where both died. Two other more-limited bills, HB1348 and SB487, which would have prevented local officials in small cities from using their zoning powers to block the location of charter schools, also died.

Another charter bill, HB3610, passed and was sent to the governor. This bill will give a tax exemption to property leased by charter schools, as well as traditional public school districts, and require that the lessors transfer their savings from the tax exemptions to the charters or school district tenants.

But the bill does not ensure that charter schools benefiting from the tax exemption use their savings to benefit students. It also does not exclude charter schools that lease from related for-profit organizations from receiving the tax exemptions, despite the potential for conflicts of interest.

Another bill, HB97, which would have prohibited charter schools from denying admission to students based on discipline histories, died.

VOUCHER BILLS

In an overwhelming bipartisan vote, the House made a strong stand against vouchers by adding a provision to its version of the state budget to prohibit the expenditure of state funds for private school vouchers in any form.

Consequently, the only voucher bill to gain any traction was SB1716, which the Senate approved to allow special education families to receive grants to purchase instructional materials or services from private vendors without any school district oversight. The House amended the bill to remove the voucher element and give the education commissioner and education service centers control over the grant process, and the Senate accepted the changes.

SB1968, a tax-credit scholarship voucher bill, died in the Senate.

VIRTUAL SCHOOLS

During the regular session, we killed HB1468, which would have expanded the number of virtual schools offered by districts as we emerge from the pandemic and funded these virtual schools in the same manner as a district's physical classrooms. For safety reasons, we have had to teach virtually during the health emergency. But we opposed this bill because research and the experiences of many students during the pandemic have clearly shown that virtual schools are inferior to classrooms with teachers.

SB15, a pared-down version of the virtual schools bill, was enacted during the second summer special session. This new law, which we also opposed, provides a limited expansion of funding for virtual schools through the 2022-23 school year. Only schools that have C or higher ratings on the state accountability system qualify for the special funding, and it is limited to no more than 10 percent of a district's enrollment unless the education commissioner grants a waiver. Additionally, only students who pass their STAAR exams are eligible for the funding, a restriction that excludes a disproportionate number of Black and Hispanic students.

During the regular session, the Legislature passed SB348 to allow parents to observe virtual instruction and review instructional materials or other teaching aids provided to their children while they are participating in virtual or remote learning.

RETIRED EDUCATORS

The Legislature, during its second special session, enacted SB7, giving retired educators a so-called 13th check, a one-time extra payment equal to their monthly annuity capped at \$2,400. Lawmakers also appropriated about \$700 million to pay for it. But they didn't provide a much-needed cost-of-living adjustment, or COLA, which TSTA will continue to urge them to do in a future session.

During the regular session, lawmakers enacted SB288 to ease return-to-work provisions for TRS retirees, including reducing financial penalties and providing allowances for returning to work during a declared disaster. The Legislature also passed the TRS sunset bill, HB1585, which requires TRS to improve services to members and retirees by:

- Developing a communication and outreach plan on retirement planning;
- Appointing an ombudsman to monitor the agency's interactions with members and investigate complaints; and
- Improving efforts to return contributions to inactive members before funds are forfeited.

The Legislature kept its commitment to increase the state's contribution to the Teacher Retirement System pension fund in order to keep the fund financially sound. The state's contribution increased from 7.5 percent to 7.75 percent on Sept. 1, 2021, and will increase to 8 percent on Sept. 1, 2022. Members' contributions increased from 7.7 percent to 8 percent on Sept. 1, 2021, and will remain there for another year. School district contributions increased from 1.6 percent to 1.7 percent on Sept. 1, 2021, and will increase to 1.8 percent on Sept. 1, 2022.

APPROPRIATIONS

Unlike two years ago, legislators didn't approve additional money for school employee pay raises. Nor did they raise the state contribution to employees' health insurance premiums, which has been frozen for more than 20 years. But they added money to the new budget to keep the state's commitment to public schools laid out in House Bill 3, the school finance law enacted in 2019. And they passed separate legislation (HB1525, see below) to protect pay raises employees received from HB3.

During the third special session, the Legislature also appropriated \$286 million of federal COVID relief money to the Teacher Retirement System to help offset anticipated health insurance premium increases for retired and active members. The extra health care costs were triggered by the pandemic.

TRANSGENDER STUDENTS IN SPORTS

Legislation to restrict transgender students to participating in school sports based on their sex at birth, not the gender with which they identify now, failed to win approval during the regular and first two special sessions, dying each time in the House. But with Lt. Gov. Dan Patrick leading the drumbeat for a discriminatory bill targeting some of the most vulnerable children in Texas with political bullying, Gov. Greg Abbott kept adding it to the special session agendas, and the bill (HB25) finally passed in the third special session and became law.

The law, which TSTA opposed, will not make it easier or safer for girls to participate in school sports, as Patrick claims, but it has thrown conservative red meat to his campaign supporters, which is what it was intended to do. There are no current examples in Texas of student athletes being negatively impacted by competition from transgender children.

Rep. Donna Howard, D-Austin, succeeded in getting the bill amended to ensure the new law will comply with state and federal laws on the confidentiality of student medical information.

TEACHING ABOUT RACISM

HB3979, the law enacted during the regular session to limit the teaching of racism and regulate classroom discussions of controversial events or subjects, was revised during the second special session by SB3. It remains a bad law, a politically motivated intrusion into the classroom, and TSTA fought against both bills.

The new version, SB3, remains vague enough that districts may impose restrictions on teachers – or some parents may demand them – even if the law doesn't specifically require them. This will interfere with the ability of teachers to teach and undermine their efforts to help students develop the critical thinking skills so important to learning.

SB3 expands all the restrictions initially imposed on social studies courses to all courses in K-12, including electives, innovative courses and African American and Mexican American Studies courses.

The revised version of the law also repeals language, which was in HB3979, which would have ensured that Texas students learn about the history of white supremacy and about specific historical events featuring women and communities of color, such as the writings of abolitionist and civil rights advocate Frederick Douglass. Some of these stricken items are in the current social studies TEKS but, without being required by law, could be eliminated when the State Board of Education rewrites the curriculum standards.

OTHER PROVISIONS IN SB3 INCLUDE:

- Educators are prohibited from teaching that individuals by virtue of their race or sex bear responsibility for actions committed by other members of the same race or sex. They also are prohibited from teaching that the advent of slavery is the true founding of the United States or that slavery and racism are anything but deviations from our country's founding principles. Districts are barred from including these interpretations in any diversity training for employees, including training conducted with private funding. This would include, for example, training in implicit bias for SEL curriculum.
- A teacher can lead classroom discussions of current events but cannot be compelled by a district to "discuss a widely debated and currently controversial issue of public policy or social affairs." Depending on the school district, this restriction could curb classroom discussions of critical issues, such as climate change.
- The new law limits teachers from giving course credits to students for many political and advocacy activities. Exceptions are made for community charitable projects, programs that don't involve a student directly in lobbying or civics programs that simulate the governmental process. Teachers also can direct classroom activities that involve student communications with elected officials so long as the teacher doesn't influence the content of the communications.
- The legislation does not limit instruction in the TEKS curriculum standards.
- The law establishes a civics training program for educator compliance. The program will be developed by an advisory board of current or former educators appointed by the state education commissioner.
- SB3 clarifies that members of the public do not have a right to sue teachers for allegedly breaking this law. But a parent or someone else can still use SB3 to complain about alleged violations, and school districts will have the authority to discipline teachers, including dismissal, for alleged violations.

SCHOOL MARSHALS

Current law requires school marshals — school employees who are authorized by their districts to bring handguns to their campuses — to keep their firearms locked up in secure locations if their primary duty involves regular, direct contact with students. SB741 will allow marshals to carry their guns with them as they conduct their daily duties, including interactions with students in classrooms.

The so-called "constitutional carry" bill, HB1927, which would let most Texans carry handguns without a license or firearms safety training, keeps the existing prohibition against people carrying their guns onto school campuses.

SCHOOL TAKEOVER BILL

As originally filed, this measure, SB1365, would have increased the unelected state education commissioner's authority to impose sanctions on school districts, including the replacement of locally elected school board members with the commissioner's appointed boards of managers. And it would have made the commissioner's decisions unappealable to a court of law statewide.

TSTA opposes the final version of the bill, which passed, but it is much improved due to our efforts.

The final bill will not rate campuses that receive Ds or Fs during the 2021-22 school year under the state's accountability system. It will halt state interventions for a campus that receives a C next year after multiple years of failed ratings.

The bill also codifies a current practice that allows a D rating to trigger accountability sanctions in a way that is less severe than current commissioner practices. It does, however, allow for sanctions to be imposed when a district goes back and forth between D and F ratings. The measure also makes open-enrollment charter schools subject to oversight for D ratings and requires a D rating to be considered when the commissioner is deciding whether to renew an open-enrollment charter.

The final bill provides for a judicial appeal of a commissioner's decision to appoint a board of managers for a school district, but it will continue to allow the state to take over a school district because of a single campus' ratings.

EDUCATOR PAY RAISES

The Legislature approved HB1525, a so-called "cleanup" bill for HB3, the school finance law enacted in 2019. It also became a potential catch-all for a number of funding-related proposals, including some not good for public education.

TSTA got some of the bad ideas stripped from the bill in conference committee, including outcomes-based funding based on STAAR scores and a proposed requirement that school districts set aside 40 percent of their federal COVID relief funds, which we feared the Legislature could have used to replace state education funding in the future.

The final bill includes a provision that protects school employee pay raises funded through HB3, provided the district receives the same level of funding as under HB3 and the employee remains employed by the same district. The bill provides exceptions if a district declares a financial exigency.

Other provisions in the final bill:

- Postpones reading academies through the 2022-23 school year.
- Allows non-certified teachers to be eligible for Teacher Incentive Allotment bonuses and specify that TIA compensation is TRS eligible.
- Creates a tutoring program to be staffed by retired teachers and run by a non-profit entity.
- Requires parental consent for sex education and for sex education materials to be public.

STAAR, INDIVIDUAL GRADUATION COMMITTEES

Lawmakers passed HB1603 to make Individual Graduation Committees (IGCs) permanent. These committees, which have been operating temporarily for several years, provide alternatives for graduation to high school students who fail to pass end-of-course exams. This new law also will allow the state education commissioner to investigate any school where more than 10 percent of students in any given year get their diplomas through these committees.

The Legislature also passed HB999, which became law immediately, for IGCs to allow high school seniors who were otherwise qualified to graduate this year during the pandemic to receive their diplomas regardless of whether they passed or even took the end-of-course exams.

The House approved HB764 to remove STAAR tests in writing in grades four and seven, in social studies in grade eight and in any additional subject and grade not required by federal law, but this bill died in the Senate.

BROADBAND EXPANSION

Lawmakers approved HB5 to create a council for tracking and providing broadband access across Texas, including tracking school district access and providing grants to districts needing internet services. Broadband inequality among districts and different parts of the state became especially obvious during the pandemic.

PRE-K CLASS SIZE LIMITS

SB2081 will limit pre-kindergarten classes to 22 students, the same limit that has been imposed on K-4 classes for many years.

TEACHER TRAINING IMPROVEMENTS

The Legislature passed SB1267 to streamline teacher professional development and allow for more enriched development. This bill is a direct result of the Teacher Workforce Committee, with which TSTA was actively involved. Lawmakers also approved HB159, designed to improve training for teaching students with disabilities.

CONTRACT-ABANDONMENT CASES

TSTA was actively involved in the Legislature's approval of HB2519 to make contract-abandonment cases fairer for the teachers involved. The measure will ensure that any contract-abandonment case cannot have a mandatory one-year suspension and will require the Board for Educator Certification to consider relevant mitigating factors.

It will require prompt notice to a teacher of a suspension, including the basis for the suspension and how to respond. It also will allow a teacher to give a district 30 days' notice before resigning without any penalty. The measure also will require the certification board to include rural educators.

CONSTITUTIONAL AMENDMENT TO INCREASE BREAKS ON SCHOOL TAXES

The Legislature approved this proposed amendment in the third special session. If it is approved by voters in May 2022, it will raise the state's homestead exemption for school property taxes from \$25,000 to \$40,000 and save the average homeowner about \$176 a year, according to the legislative sponsor. But it would add more stress to an already underfunded school finance system.

It would cost the state more than \$600 million a year to cover the revenue losses to school districts. This money, instead, could be spent to increase overall school funding. The tax relief would be paid for in the first year from a \$4.4 billion state surplus, the sponsor said. But surpluses come and go. This tax break would only kick a bigger can down the road, delaying the much-needed task of addressing public education's budgetary needs as school enrollment continues to grow and federal COVID relief funding begins to dry up.

The 2019 school funding bill was only a partial fix to school funding issues that are building to a potential crisis.

HOMESCHOOLERS' UIL BILL

HB547, which passed, will allow a public school to provide home-schooled students who meet residency requirements the opportunity to participate for the school in sports and other UIL activities

TAX BREAKS FOR CORPORATIONS

These Chapter 313 school property tax breaks, which TSTA opposes and which will cost Texans \$1.9 billion in lost revenue during the next two years alone, are set to expire in 2022. HB1556 would have kept the program going and expanded it at an even greater loss of revenue for much-needed state programs. HB4242 would have extended the life of the program. Both bills died at the end of the session.

DUES' DEDUCTIONS

SB1660, which would have prohibited members of TSTA and other professional organizations from continuing the long, convenient practice of having their employers automatically deduct membership dues from payroll, died in the Senate without receiving a committee hearing.