



Texas Association of Community Schools

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TACS LEGISLATIVE UPDATE

The week started off Monday morning with 7:30 am House Appropriations Article III Subcommittee meeting. Following that, we had another good legislative conference call. Tuesday, Chairman Dan Huberty held the first House Public Education Committee hearing of the 85th legislative session. He laid out his priorities and grilled Commissioner Morath on many outstanding issues. Thursday, the Senate Education Committee convened to discuss two bills on inappropriate teacher relationships and one bill creating the P-Tech program. Many relevant new bills were also filed this week! The pace is picking up!

1. House Appropriations Subcommittee on Article III Meeting

Monday morning, bright and early, the Article III Subcommittee of the House Appropriations Committee met to hear testimony from the LBB, TEA, and the public on many subjects including the Texas Education Agency and the Teacher Retirement System. A few interesting statistics and points caught my attention. The House currently has \$1.47 billion in the budget for funding above enrollment growth. The state share of the funding, however, continues to decline as districts continue to provide a larger share of the funding. In 2017, 41% of public education funding is coming from the state. In 2018, 38% of public education funding will come from the state. Donna Howard asked the LBB how much more the state would have to pay if it were to shoulder 50% of the costs to fund public education. For 2017, that number was quickly estimated at \$8 billion dollars, but later, when further considered, they realized that the difference would be shared, so it would be \$4 billion. Another interesting statistic is recapture as a percentage of M&O. Historically it has been between 3 and 5%, but in 2018, recapture will account for 6% of M&O. Mary Gonzales and Gary VanDeaver inquired about a \$33 million decrease in federal funds. Apparently that was based on the state not meeting "maintenance of effort" (MOE) for IDEA part B. TEA has also asked for an increase in funds for testing, and as they explained at a later hearing, it costs more to make shorter tests (as in those revised tests for HB 743). Yes, this is a good time to scratch your head and reread that sentence.

Commissioner Morath presented after the LBB and outlined the TEA goals and priorities that he has articulated around the state. He mentioned some new programs including "Lesson Study," "Math Innovation Zones," and the "Lonestar Governance Academy" they have developed. He briefly discussed the transition to A-F, new tools to increase transparency, and money for broadband. Donna Howard again had some good questions and some interesting data to share. When asked, Commissioner Morath replied that 5% of Texas students are in charter schools, but he didn't know the percentage of funds going to those schools. Donna Howard had it on hand. While 5% of students are in charters, 11.5% of state aid goes to charters according to data from a couple of months ago. Between 2008 and 2017, charters accounted for 25% of the population growth, but received 87% of the growth in state aid. Interesting!

Representative VanDeaver returned to questions on the MOE loss of funding, and the Commissioner said that different formulas yield different results. We may have been penalized because more was coming from districts and less from the state. (Sounds like the DOE is on our side on this one.) He also said that the MOE would need to increase if the special ed population grew, but it hasn't grown significantly in recent years. There is the expectation that with the special ed cap removed, that population may grow

substantially which would require the state to allocate additional funds to avoid a penalty for not reaching an appropriate “maintenance of effort.” Much more was discussed, but these were some of the topics that I found of particular interest.

Later in the morning, the subcommittee heard testimony on TRS. The Legislative Budget Board (LBB) said that the House budget (HB 1) includes \$4.8 billion for the TRS pension fund and health care programs for the coming biennium. In TRS’s Legislative Appropriations Request (LAR) presented in August, they requested \$1.35 billion in exceptional funding for the TRS-Care shortfall. This estimate has been reduced to \$1.05 billion. The TRS Executive Director, Brian Guthrie, testified that TRS-Care (for retirees) is unsustainable without additional funds or legislative changes. The funding mechanism relies on active member payroll, which is increasing at a slower rate than health care costs, causing the shortfall.

2. Legislative Conference Call

We covered quite a bit of ground on this week’s legislative conference call. Barry gave overviews of Senator Huffman’s recently proposed legislation on TRS ActiveCare (SB 789), TRS-Care (SB 788), and a study of retirement systems in Texas (SB 938). As anticipated, they all rely on high deductible plans, which would encourage health savings accounts for members.

Barry also addressed Representative Thompson’s HB 1788, which helps fast growth districts with EDA/IFA funding. We have identified a few additional bills on this topic, and we will discuss them further on next week’s call.

We also discussed the many bills filed relating to the Small School Adjustment Penalty. Many are identical, but we are not sure which, if any, will be heard first. The ones with the lowest fiscal note are most likely to get noticed. Likewise, Barry discussed the wide assortment of ASATR bills. The various bills extend ASATR for anywhere from 2 to 10 years.

We also discussed a handful of bills that Senator Garcia asked us to review and will give her feedback accordingly.

As usual, the conversation rolled around to A-F. Early Tuesday morning, Ken King’s HB 2132 was rolled out. It creates 3 (instead of 5) Domains. Domain 1 focuses on Student Achievement, Domain 2 is for School Performance, and Domain 3 is for School Climate. Each domain would get its own grade, not a single grade for the school or district. No specific weights are given to each domain in the bill. Additional bills revising A-F are expected from Representative Huberty and Senator Taylor. We understand that they too may rely on 3 domains, but we haven’t seen these bills yet. Several of us will be having a discussion on A-F later today to gather key input from TACS districts.

Joey Patek, Superintendent of Aransas County ISD, raised an extremely important and alarming issue. His representative, Todd Hunter, told him that voucher advocates are contacting him at a rate ten times the rate of anti-voucher public education advocates. This is a wake up call. We have all been sidetracked by A-F, and the voucher bills are looming out there and will likely get a hearing soon in the Senate. We need to get our communities to contact their legislators and tell them they oppose vouchers of any form (ESAs, Tax credits, etc.). I have reached out to PTA and to the Coalition for Public Schools to sound the alarm bell. Please contact your Senators and Representatives and urge them to vote NO on any form of voucher. Engage your community as fully as you can. There will be a direct negative impact on public schools if vouchers become a reality. With over 90% of Texas students in our public schools, elected officials should be flooded with calls and letters opposing vouchers!

3. House Public Education Committee Meeting

Tuesday afternoon, Representative Huberty convened the first House Public Education hearing of the 85th session. Representative Huberty had outlined his priorities at a conference earlier that day:

- 1) Fix school finance! (HB 2 will do this, and will look similar to Rep. Aycock’s HB 1759 last session)
- 2) Fix A-F (Ken King’s bill is filed, but more are expected soon)

- 3) Get rid of the special ed cap
- 4) Inappropriate teacher relationship legislation
- 5) He also made a point to say that funding for private schools CANNOT come without transparency and accountability.

Chairman Huberty said that the Speaker had given clear instructions to fix school finance. (We believe opposing vouchers is a major priority too, but that was not explicitly articulated in the hearing.)

Two speakers were invited to give testimony, Education Commissioner Mike Morath, and Andrew Kim, Superintendent of Comal ISD, and Chairman of the Texas Commission on Next Generation Assessment and Accountability. Commissioner Morath's presentation was quite similar to the one before the Appropriations Committee. Representative Huberty asked the bulk of the questions:

1. What is the status of removing the special ed cap? Chairman Huberty has a bill to do this and Commissioner Morath said that it will be removed even if the bill doesn't pass.
2. What about the ETS mess from last year? Commissioner Morath thinks that between the financial penalties TEA imposed on ETS, and a good deal of work, things should be much better this year. We shall see...
3. Update on Implementation of HB 743? Commissioner Morath said that they had shortened the tests, but doing so cost \$1.5 million. (I will restrain myself from commenting.)
4. Representative Huberty urged TEA to please communicate with districts clearly about the changes in accommodations for various forms of STAAR tests so his wife won't yell at him anymore.
5. Representative Huberty and Commissioner Morath briefly discussed a letter that TEA received in December expressing concern about the validity of STAAR tests based on a peer review done for the first time in over a decade. TEA is focusing on one part of the letter, which deals with the writing tests (and suggests there should be additional writing tests in all tested years). The letter mentions a potential loss of Title I funds to the tune of \$1.5 billion, however, TEA is not mentioning the many other validity issues raised by the USDOE. Representative Huberty instructed Commissioner Morath emphatically: "Don't increase testing. No one wants more tests, and we are already testing more than the feds require." TEA has not yet replied to the letter, and you may be hearing more about this...
6. The committee and Commissioner Morath briefly discussed Districts of Innovation, charters, finance, and recapture. Representative Dutton raised the issue that came up in interim hearings related to charters and how they are forcing urban districts into recapture. Commissioner Morath acknowledged that if all of the kids in Houston charter schools were in HISD, they wouldn't be paying recapture. Representative Alma Allen tried to get him to go further and say how vouchers would further doom public schools as they lost students, but Morath was wary of going down that dangerous path.
7. Representative Huberty also asked about how many charters there are. He mentioned that he always hears about wait lists, but they aren't at the maximum number of charters allowed. TEA replied that there are 178 public charter entities, with 603 charter campuses serving 245,000 who account for 5% of the population. I think charters may be on the defensive this session as well.
8. Andrew Kim gave an overview of the findings of the Next Gen Commission and answered several questions as well.
9. They discussed writing (26 line essay isn't the answer), testing only readiness standards, and a few other issues.
10. Representative Huberty asked Mr. Kim if the SBOE had reduced the TEKS and if so, how many. He recalled last session's SB 313, which required TEKS reduction, which was vetoed by the Governor because it stepped on SBOE's relating to TEKS reduction. I wouldn't be surprised if a new TEKS reduction bill is introduced if Representative Huberty isn't satisfied that SBOE has made adequate progress these past two years.

In closing the meeting, Chairman Huberty announced that the next two hearings will focus on school finance. Next week's will discuss ideas, and the following week will hear bills on the topic. The week after (spring break?) will address accountability, and the week after that will be "all of the other 50 issues!"

4. Senate Education Committee Meeting

Thursday morning, the Senate Education Committee met to hear three bills. SB 7 (Bettencourt) and SB 653 (Van Taylor) address the issue of improper relationships between educators and students, and

creates a criminal offense for principals and superintendents who don't refer cases to the Texas Education Agency for review. The issue of inappropriate teacher student relationships has attracted a lot of attention in the media, and at the Lieutenant Governor and Governor's offices in recent months. The number of incidents is on the rise, and the legislature wishes to deal quickly with this issue. TEA has complained that they are limited in access to witnesses and investigations done by school districts and they are seeking much more power to investigate and prosecute cases through these bills.

Senator Bettencourt's SB 7 already has 25 co-sponsors, and he is carrying it for the Lieutenant Governor. SB 7 applies to employees of public or private schools. This bill predominantly focuses on the reporting requirement and creates a criminal offense for principals and superintendents. Senator West, an attorney, questioned the authors about the vague language in SB 7 which states that the superintendent or director of a school district must notify the State Board for Educator Certification (SBEC) by filing a report with the board not later than the 7th day after the director "knew or should have known" about an alleged incident. TEA said that they intentionally want the language to be vague in order to generate more reports. While we certainly agree that educator misconduct is unacceptable, and we support the aim of the legislation, making the language vague while creating a criminal offense (which could cost you your job and land you in jail) seems unfair. The failure to provide notice (of an incident or alleged incident) within 7 days is a Class A misdemeanor, but if the court finds that the superintendent, director, or principal "intentionally" concealed information about the crime or alleged incident, then it is a jailable felony.

Senator Van Taylor's SB 653 is a much longer and more comprehensive bill and his office has included TACS and other education groups in drafting of the bill over the past several months. Senator Van Taylor explained how just dealing with the misconduct at one end is not sufficient to fix the problem. Accordingly, SB 653 requires districts to create policies on electronic communications, updates teacher training standards and continuing education standards for teachers and principals, creates a "do not hire" registry, lowers the reporting threshold for educator misconduct, authorizes SBEC to subpoena witnesses, access more teacher records, and temporarily suspend alleged offenders. It also requires termination of teachers who are registered sex offenders, and empowers school boards to terminate felons. It also prohibits administrators from making positive job references for teachers who engage in misconduct, and revokes pensions for teachers convicted of criminal acts against children. SB 653 applies to public schools, charters, and Districts of Innovation.

Senator Huffines asked how the bills provide recourse for false accusations. This is an important point since these bills are intended to field a much broader and wider array of alleged incidents. There was also a long discussion of how districts and police cooperate in the investigation of these incidents. Senator Huffines was most concerned about false accusations and whether there would be lasting negative consequences for educators falsely accused. Senator West was very concerned with due process and balancing the need to stamp out misconduct with being sure all parties are clear on the requirements of the bill and that those requirements are reasonable.

It is unclear which of these bills will move forward, or if perhaps they will be merged. There are several bills addressing student teacher relationships in the house as well. Most of the testimony was in support of the bills, but areas for improvement were presented. We will continue to monitor these bills and work to improve them to make them as fair and clear as possible.

The third and final bill was Senator Larry Taylor's SB 22, which establishes the Pathways in Technology Early College High School (P-TECH) program. This program enables students to get a high school diploma, and a 2-year associate's degree, or an industry certification in 6 years. Representatives from Toyota, the Air Conditioning Contractors Association, BASF, and others testified in favor of the bill. They echoed the sentiment that this is what many industries have been waiting for, as they are in great need of qualified candidates for mid-skill level jobs that this program would create.

Tune in next week for more on the unfolding saga of the 85th legislative session!
Have a great weekend!

Regards,

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