

LONE STAR STATE SCHOOL COUNSELOR ASSOCIATION END OF SESSION REPORT FOR THE 88TH TEXAS LEGISLATIVE SESSION

Eric Wright & Associates tracked over 250 bills for the Lone Star State School Counselor Association (LSSSCA). Members came into session with plenty of momentum to file a record number of bills having come of a previous session that operated during a pandemic with a more restrictive environment. In addition, the budget surplus also motivated members to file bills to expand existing programs and services or to establish new resources for Texas knowing this was a once in a lifetime opportunity for appropriations. Early on, the Legislature focused on a number of priorities including school safety, teacher pay raises, mental health, the 13th check for retired teachers, gun safety, property tax relief, workforce shortages, and protecting children from certain harmful environments, social media, and explicit materials.

However, the work of the Legislature continues since there were several priority bills that failed to pass. Among these priorities that did not pass was the teacher pay raise, school vouchers, restricting materials in libraries, and more. While the pay raise is accounted for in the budget, members tied the raise to the passage of HB 100 by Rep. Ken King which did not pass. On Sine Die, May 29th, Governor Abbott called the Legislature back for the First Called Special Session. On the call is property tax compression and human trafficking as it relates to the border. When both Chambers gaveled back in, the House immediately gaveled back out, passing two bills specific to the Governor's call.

The Senate is continuing to work as the two bodies do not align on the property tax relief package. While compression is an option for the Senate, Lt. Governor Patrick believes compression needs to be combined with raising the homestead exemption for taxpayers to truly see relief over the long-term. As part of the property tax relief package, the House wants to add an appraisal cap, but this is not supported by the Senate. The tension between the two leaders, Lt. Governor Patrick and House Speaker Phelan, is a significant challenge to overcome for both Chambers. Furthermore, there is also pressure and tension increasing between Lt. Governor Patrick and Governor Abbott. All leaders have marked their line in the sand, and Governor Abbott has indicated he is willing to call the Legislature back as many times as it takes to get work done. We anticipate more special sessions, especially one in the Fall related to school vouchers. We will continue to update LSSSCA as these developments unfold, and more information becomes available about future special sessions.

Over consecutive sessions, LSSSCA has demonstrated their leadership on issues, and again, maintained visibility at the Capitol. As we move into the interim, we look forward to working with LSSSCA and the Board on creating a strategic path forward leading up to the 2025 legislative session. Below we look at some of the significant legislation that moved through the process that we monitored as well as directly engaged in discussions.

Budget:

HB 1, General Appropriation Act, provided for \$5.35 billion in contingency funding for public education funding. That means that these appropriations are contingent upon the passage of legislation. Some of the appropriations include:

- \$500 million for curriculum
- \$300 million for school safety
- \$4 billion for formula funding increases and teacher pay raises (***legislation did not pass***)
- \$500 million for school choice (***legislation did not pass***)
- \$49.4 million for virtual education (***legislation did not pass, however, Governor Abbott directed TEA to continue virtual/hybrid environments for the next two years***)

SB 30, Supplemental Appropriations Bill for Fiscal Year 2023 appropriated \$5 billion for a supplemental 13th check (\$1.645B) and cost-of-living adjustment (\$3.355B) for retired teachers. SB 30 also includes \$1.1 billion to award grants for school safety initiatives.

Legislation:

School Counselors

SB 763 by Rep. Hefner/Sen. Middleton:

SB 763 was an extremely controversial bill. As filed, it stated schools district could employ chaplains in lieu of school counselors. LSSSCA and other stakeholders immediately reacted. LSSSCA developed a one pager and with the help of ASCA, sent out a CALL TO ACTION to members to reach out to the Senate Education Committee, expressing opposition to the bill. When Sen. Middleton laid out the bill in Committee, he stated that his committee substitute changed the language as to not replace school counselors with chaplains but giving school districts flexibility to hire chaplains as an additional staff member to help students. In addition, Sen. Middleton created a new section within the Education Code, Chapter 23, removing the language from the section governing school counselors. The bill passed the Senate and moved to the House where Rep. Hefner continued the theme of flexibility and the intent to not replace school counselors.

When the bill was considered by the full House, three amendments were adopted that defining chaplain, providing for background checks, and prohibiting these individuals serving in this role cannot be a sex offender or registered as a sex offender. Sen. Middleton did not concur with House amendments, and the bill went to a conference committee. In the end, the conference committee removed the definition of chaplain, and reference to background checks but requires chaplains to adhere to the entire Subchapter C, Education Code Chapter 22 which encompasses background checks. It did retain the language regarding sex offenders. While the authors continued to state that the legislation does not replace school counselors, however, in the last days of session, when the bill came up for final passage in the House, Rep. Hefner was flooded with questions from Rep Talarico and Rep. Gina Hinojosa. Seemingly flustered, Rep. Hefner commented that school districts could hire chaplains in lieu of a school counselor. This comment resulted in significant backlash by school counselors and others as well as continues to receive state and national attention. ***SB 763 is effective 9.1.23.***

SB 798 by Sen. Middleton/Rep. Buckley:

SB 798 was another bill that caused concern for LSSSCA and others. SB 793 removed the teaching requirement associated with the qualifications of school counselors. While Texas is one of the last states to remove the teaching requirement, the legislation was unsettling as the two-year teaching requirement provides critical experience in the classroom, and ensuring school counselors can perform the duties within the Texas Model for Comprehensive School Counseling Programs. Sen. Middleton and Rep. Buckley claimed removing this requirement would assist in mitigating school counselor workforce shortages.

We worked with both authors on LSSSCA amendment language to strengthen the bill and give assurances that individuals coming into the field, were not doing blindly and without some experience and knowledge. Our language added training requirements through a practicum or internship, and/or working under a mentor. Despite concerns around the bill, the legislation had momentum which led it final passage in mid-May and was signed by the Governor within two weeks. ***SB 798 is effective 9.1.23.***

Continuing Education

HB 2929 by Rep. Lozano/Sen. West:

HB 2929 relates to continuing education and training requirements for classroom teachers and public school counselors. This bill prohibits that a classroom teacher's continuing education requirements could not require that more than 25 percent of the training required every five years include instruction on certain topics. Teachers could still take these courses in excess of 25 of their total hours and count these courses toward their overall continuing education hours. It also removes the cap on certain courses for school counselors that are central to their duties. ***The bill was signed by the Governor and is effective for the 2023-2024 school year.***

HB 1249 Rep. Lozano:

Rep Lozano filed another bill relating to continuing education requirements for public school counselors. This bill removes the requirement that continuing education requirements for a school counselor must provide that not more than 25 percent of training required every five years include instruction regarding certain topics. It amends this provision to state that the continuing education requirements for a school counselor must include such instruction. ***The bill was set for hearing in the House Select on Youth Health & Safety Committee, however, the bill was removed from the scheduled. Ultimately, Rep. Lozano addressed similar language in HB 2929 that passed.***

HB 3833 by Rep. Janie Lopez:

Rep. Lopez filed legislation also relating to the duties of a public school counselor. This bill amends the Education Code to add emotional abilities among the student abilities the development of which is the primary responsibility of a school counselor. It includes a student who is at risk of choosing an unhealthy or inappropriate solution to a problem or engaging in harmful behavior toward the student's self or others among the students whose special needs must be addressed in a comprehensive developmental school counseling program. ***The bill passed the House and referred to Senate Education Committee, but not further action was taken in the Senate. The bill died in the Senate.***

Student Mental Health

HB 3642 by Rep. Talarico:

Rep. Talarico along with several other members filed bills allow other uses of the school safety allotment. The legislation specified that training in classroom behavioral management is an authorized use of funds under the school safety allotment. Professional development for educators in behavioral management can be an important tool to give teacher the skills to help with student behaviors and maintain a safe environment,

possibly even being able to de-escalate situations that may arise. Dr. Lewis for LSSSCA provided testimony on the bill, noting the important role school counselors play, and stating that any additional support provided to students should be done only after a referral or consultation with a school counselor. In addition, LSSSCA asked to include language to clarify the role of school counselors as the professional supporting students and training staff. ***The House Select on Youth Health & Safety Committee did not take further action on the bill, and it died in Committee.***

HB 1157 by Rep. Lozano:

Rep. Lozano filed HB 1157 in response to some concerns that student mental health appointments are not always excused absences. The legislation was simple, requiring a district to excuse a student from attending school for a temporary absence resulting from an appointment with mental health professionals. ***The legislation was referred to Senate Education, but no further action was taken. The bill died in the Senate.***

SB 1157 by Sen. Menendez:

SB 1157 would have school districts to employ social workers to collaborate with other school personnel and parents including the development of strategies to address school violence, suicide with prevention, and child abuse identification. ***The legislation was referred to Senate Education, but no further action was taken on the bill. The bill died in Committee.***

School Safety

HB 3 by Rep. Burrows/Sen. Nichols:

Two bills were this sessions, school safety bills, HB 3 and SB 11, however, HB 3 ultimately passed after SB 11 died on a point of order in the House. HB 3 was not without controversy, and when it was heard in Committee it drew fire from a number of concerned stakeholders related to gun safety, mental health, arming school personnel, etc. The legislation passed. Districts have at least one armed security officer per campus but does provide a good cause exemption. Good cause exemption must develop an alternative standard that may include a school marshal or other armed staff member. The bill also increases the school safety allotment 28 cents to \$10 per student and includes a \$15,000 per-campus allotment. HB 3 also requires most staff to complete mental health training; requires education service centers to serve as school safety resources for districts; and assigns TEA to monitor the implementation and operation of requirements related to school safety. ***The bill is effective 9.1.23.***

HB 473 by Rep. Hull/Sen. Sparks:

HB 473 related to parental rights regarding a threat assessment of a student conducted by a public school's threat assessment and safe and supportive school team. This bill requires that before a team may conduct a threat assessment of a student, they must notify the parent or guardian the assessment. The parent or person can participate in the assessment and submit information regarding the student. The parent or guardian will be provided with the findings and conclusions regarding the student. ***This bill was effective immediately.***

HB 1905 Rep. Talarico/Sen. West:

HB 1905 allows a school district to provide school safety training courses, including certain active shooter training courses, available at no cost to employees of accredited private schools located in the district, child-care facilities, or other organizations providing out-of-school-time care to children younger than 18 years old who reside in the district. ***The bill is effective 9.1.23.***

SB 999 by Sen. West/Rep. Tracy King:

SB 999 relates to the requirement that providers of active shooter training at public schools and institutions of higher education obtain a certificate issued by the Texas Commission on Law Enforcement. This bill requires that all individuals and legal entities providing active shooter training to students or employees at a public school

or public institution of higher education to possess certification from the Texas Commission on Law Enforcement. ***The bill is effective 9.1.23.***

SB 1720 by Sen. Kolkhorst/Rep. Lozano:

SB 1720 relates to the confidentiality of the identity of a public school employee who reports a potential threat to the school's threat assessment and safe and supportive school team. This bill allows a school district employee reporting an individual who may pose a threat to the safety of others to elect to keep their identity confidential, except as necessary for the threat assessment team, district, or law enforcement. ***The bill is effective 6.18.23.***

Virtual Education

HB 681 by Rep. Keith Bell and Sen. Bettencourt was the virtual education bill to ensure school districts could continue the adaptive learning environments for students that perform better in a virtual environment. The legislation would have also created mechanisms and authorizations to open new virtual/hybrid campuses. Many stakeholders fought for this legislation, knowing the negative impact of the bill if it did not pass. However, this legislation was stalled in the final days of session and died.

Governor Abbot directed the Texas Education Agency (TEA) to waive specific requirements for school districts or open-enrollment charter schools to be able to continue offering virtual instruction options for students in grades 3 through 12 through the Texas Virtual School Network (TXVSN) for the next two school years. This authority also ensures school districts providing full-time virtual instruction will receive full funding for each student in grades 3 through 12 who successfully complete the school year.

Workforce

HB 3140 by Rep. King:

Rep. King filed a bill expanding the eligibility requirements for the Teach for Texas Loan Repayment Assistance Program. The legislation was to address shortages in mental health professionals on school campuses. It allows any individual interested in providing mental health services to be eligible for the loan repayment assistance under the program. Mental health professional was loosely defined as an individual having at least one year of employment, full-time, providing mental health services to students in public school or currently employed and providing mental health services.

LSSSCA identified the legislation as an opportunity for school counselors to be eligible and worked with Rep. King's as well as Rep. VanDeaver's office to amend the bill for school counselor eligibility. While the amendment was not adopted in the House, there was an opportunity in the Senate. However, HB 3140 was referred to Senate Subcommittee on Higher Education, but no further action was taken on the bill. ***The bill died in Committee.***

Broadband:

Broadband expansion continued to be a priority for the Legislature this session. In order to address the gap and capitalize on federal funds available for expansion, Rep. Ashby and Sen Huffman filed HB 9 and HJR 125.

HB 9 and HJR 125 by Rep. Ashby/Sen. Huffman:

HB 9 creates the Texas Broadband Infrastructure Fund to be administered by the Texas Comptroller of Public Accounts. The Comptroller is charged with promulgating rules to administer the fund. It limits the Comptroller's use of the fund to certain categories, including administering grants through the broadband development program, funding 911 in the next-gen 911 upgrades and services, funding for the pole replacement program created in the 2021 session, providing matching funds for federal money, creating and updating broadband

maps, and providing outreach to communities regarding broadband services. HJR 125 puts the creation of the Texas Broadband Infrastructure Fund in front of Texas voters in November.

There is a ten-year sunset date in the HJR to allow unencumbered funds to be invested to incur interest and require the unexpended balance to be returned to the original source of funding. ***The bill is effective 1.1.24. HJR 125 election date is set for November 7, 2023.***

Pandemic Response

Members continued to file bills this session that addressed lingering pandemic issues and governmental overreach and mandates. Sen. Brian Birdwell carried SB 29 relating to the prohibition of governmental entities implementing or enforcing a vaccine mandate, mask requirement, or private business or school closure to prevent the spread of COVID-19. The bill prevents any state or local governmental entity from imposing restrictive COVID-19 mandates. ***The bill is effective 9.1.23.***

Rep. Harrison and Sen. Middleton filed bills, HB 81 and SB 177, related to informed consent before the provision of certain medical treatments involving COVID-19 vaccination. These bills were called the Texas COVID-19 Vaccine Freedom Act, and basically required informed consent before the administration of a COVID-19 vaccine to an individual, but also held providers liable for . ***Both bills died in the House.***

Rep. Vasut passed HB 609 relating to the liability of a business owner or operator arising from the exposure of an individual to a pandemic disease. HB 609 builds on the legislation passed in 2021, SB 6, by protecting businesses who choose not to require employees or contractors of their businesses to be vaccinated against a pandemic disease by exempting these owners from liability for injury or death caused by exposure. ***The bill is effective 9.1.23.***

SB 1024 by Sen. Kolkhorst is a prohibition on COVID-19 mandates. It prohibited governmental entities from requiring individuals to wear masks or mandate vaccinations. These entities included schools, counties, cities, higher education institutions, and public hospitals. It also prohibited COVID-19 vaccines and related booster shots from being added to the mandatory Texas school immunization schedule and restricted the authority of the Department of State Health Services and the Health and Human Services Commission (HHSC) from adding vaccines to the Texas school immunization schedule without the legislature's approval.

It also prohibited a licensed healthcare facility from refusing to provide healthcare services to an individual based on the individual's vaccination status with exceptions for cancer and organ transplants. Lastly, prohibited employers from refusing to hire, discharging, or otherwise discriminating against an individual because the individual has not been vaccinated against COVID-19. ***It was referred to House State Affairs, but no further action was taken, and it died in Committee.***