

# 2013 Texas Legislature

**We Weathered the Storm.  
Now We Need to Change the Climate.**



Texas teachers and all education employees weathered an unprecedented storm of hostile legislation in the 2013 regular session of the Legislature. Texas AFT's team from the grass roots to the Capitol fought back hard, pressing for a better deal for public education from preschool through college. We gained back much of the funding lost two years ago, and the great bulk of the bills attacking public schools and teachers met with failure. We made headway on testing reform and other issues of importance to Texas AFT members.

But the Legislature has now gone into overtime twice at the behest of the governor, and outcomes on major issues remain unsettled. The governor can place any issue he chooses on the legislative agenda for the second month-long special session that started July 1. He has not yet opened the agenda to education issues, but he could do so at any moment.

While we remain ready to do battle again in the second special session or any later one, here is an interim update on the status of major issues and bills of the 2013 regular session.

## Attacks on Schools and Educators

Public schools and the teaching profession came under coordinated attack this session as never before.

In 2011, the would-be dismantlers of public education in Texas used the excuse of a recession and an erroneous forecast of a revenue shortfall to justify education cuts and curtailment of educator contract and salary rights.

This time, private interests used front groups like the newly created "Texans for Education Reform" to push an even

broader attack on educational quality standards and educator safeguards than we saw in 2011. They had many bills filed that added up to an attempt to do away with public education as we know it and move Texas toward a privatized education system.

By standing up for public schools and standing together in defense of the education profession, we stopped nearly all of their bills. Not one of the many private-school voucher bills filed this session made

### 2014 - 2015 State Budget

- **85% of formula aid lost in 2011 budget cuts is restored.**
- **\$600 million in cuts continues for two more years.**
- **Per-pupil funding still more than \$500 short of level reached before recession and budget cuts.**

it to the House or Senate floor for a vote. A passel of other bills to hand over public schools to private charter operators (in the guise of "parent trigger" legislation like SB 1263 or "achievement district" bills like SB 1718, for example) also came to naught. We managed to block multiple bills to put greater emphasis on students' state test scores in teacher evaluation.

The privatizers did score two limited breakthroughs. SB 2, the charter-expansion bill by Sen. Dan Patrick (R-Houston), authorizes a bare majority of a school board to convert a whole feeder pattern of neighborhood schools into charter campuses without teacher or parent input, nullifying key statutory protections for students, parents, and

teachers and other education employees. HB 1926, a "virtual learning" bill by Rep. Ken King (R-Canadian), authorizes private, for-profit entities to provide online courses at taxpayer expense to students enrolled in traditional public schools and charter schools. But HB 1926 still leaves Gov. Perry and other backers of full-time, online instruction disgruntled, because it limits the amount of instruction most students can receive online.

## School Funding

The 2014-2015 budget restores 85 percent of the formula aid that school districts lost in the budget cuts of 2011 (\$3.4 billion out of \$4 billion). Of course, that figure also means a continuation of 15 percent, or \$600 million, in cuts of formula aid for two more years, and it also means that average annual funding per-pupil remains more than \$500 short of the level reached before the recession and ensuing budget cuts.

Even so, restoration of the bulk of formula aid means that most school districts will have money to restore jobs, raise pay, reduce class sizes, or take other measures to undo the damage to children's education. Texas AFT local affiliates and members already are in the forefront of efforts to capitalize on the restoration of state per-pupil aid.

The two-year budget plan does much less to restore grant funding, which was cut by \$1.4 billion in 2011. Under SB 1, though some grant funding is restored, the bulk of the massive cuts enacted in 2011 will continue for two more years in valuable programs such as full-day prekindergarten

and the Student Success Initiative offering extra help for students struggling to pass state exams.

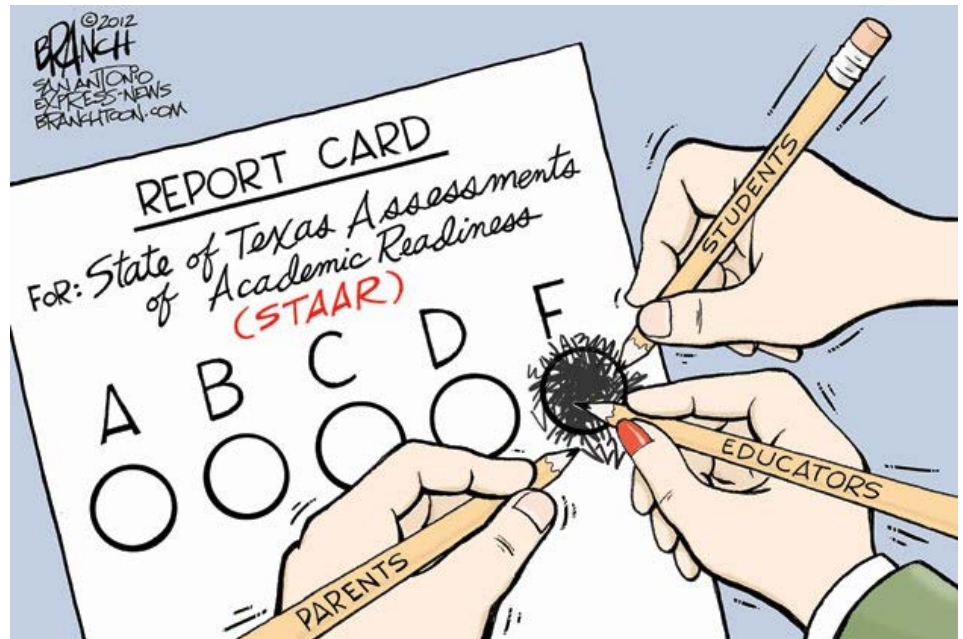
Legislative leaders say these ongoing cuts in public education are necessary because available funding is limited. But lawmakers left more than \$8 billion untouched in general revenue and in the Economic Stabilization Fund (the Rainy Day Fund reserve). At the same time, in other legislation, they have cut state revenue by \$1.4 billion in order to give that money to businesses via various kinds of tax breaks.

On a positive note, under SB 1 funding of Texas children's public education will depend significantly less on the happenstance of high or low property wealth in the school district where those children live. This improvement in equity presumably will put Texas in a better position as the state continues to face a strong legal challenge in state district court to both the equity and the adequacy of school funding. A final ruling from the state supreme court, expected next year, could give the Legislature another strong push to complete the job of restoring education funding to a level that meets the state's constitutional obligation to the schoolchildren of Texas.

## Accountability and Testing

HB 5 by Rep. Jimmie Don Aycock (R-Killeen) limits state end-of-course tests to Algebra I, Biology, English I, English II, and U.S. History. Thus, required end-of-course tests will decrease from 15 to five. The English I and English II tests will assess both reading and writing. Districts will have the option of administering post-secondary readiness tests in Algebra II and English III, but passing these exams will not be required for graduation, and the exams will not count in state accountability ratings. The bill does not reduce state testing in lower grades, though it does limit local benchmark tests to two per state exam.

The state accountability system will use a new A-to-F grading system for school districts but will retain the



**Significant ground was gained on addressing overtesting in high school with HB 5, which reduced the number of end-of-course exams. But attempts to end the misuse of tests were stifled, and vetoes from Gov. Rick Perry killed bills to help address overtesting in lower grades.**

existing ratings of exemplary, recognized, academically acceptable, and academically unacceptable for campuses. Unfortunately, HB 5 omits language Sen. Wendy Davis (D-Fort Worth) had inserted in the Senate version that would have precluded the use of state achievement tests for purposes for which they are not demonstrably valid and reliable. In other words, under HB 5 the current misuse of test results for punitive, high-stakes ratings of school districts, schools, students, and educators can continue.

Gov. Perry also vetoed another testing-related bill, HB 2836 by Rep. Bennett Ratliff (R-Coppell), containing a provision very similar to the Davis amendment requiring independent validation of achievement tests. In addition, a second Bennett Ratliff bill (HB 2824) authorizing high-performing districts to experiment with alternatives to STAAR state achievement exams to measure student performance fell victim to a Perry veto. A third bill, HB 866 by Rep. Dan Huberty (R-Humble), would exempt high-performing students from some STAAR exams in grades three through eight, but it won't take effect unless a

waiver of No Child Left Behind Act testing mandates can be secured from the federal government.

## Retirement Benefits

SB 1458, the main Teacher Retirement System bill of the session, combines some real gains for the 800,000-plus active and 300,000-plus retired TRS members with a significant takeaway of earned benefits from hundreds of thousands.

**The takeaway:** SB 1458 will require employees who do not have five years of service credit by August 31, 2014, to work until age 62 if they want full, unreduced retirement benefits. Their pension will be reduced 5 percent for each year below age 62 when they retire. About 190,000 current employees could be affected by this benefit cut.

The bill also sets age 62 as the new



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minimum needed to qualify for a TRS-Care retiree health plan other than the lowest-level, catastrophic coverage, unless by August 31, 2014, the TRS member meets a rule of 70 (age plus years of service equal to 70 or more) or has at least 25 years of service credit. This benefit cut will curtail access to retiree health coverage for hundreds of thousands of current employees. (Note: A person who is not grandfathered and who retires before age 62 would become eligible to step up to a TRS-Care plan offering more than catastrophic coverage upon reaching age 62.)

**Some real gains:** Considering where it started, SB 1458 improved significantly over the original Senate proposal. The improvements are directly attributable to the tens of thousands of active and retired teachers and other education employees and supporters who worked long and hard this session to push for a fairer deal on retirement contributions and benefits. Well over 50,000 of you took advantage of Texas AFT's e-letter and call-in facilities to lobby your legislators on SB 1458.

These efforts helped achieve important goals: enhancing the long-term sustainability of the Teacher Retirement System pension fund; providing overdue relief for many current retirees; and sharing more equitably the responsibility of making adequate contributions to the pension fund. Entries we can book on the positive side of the SB 1458 ledger include these:

- State contributions will increase to 6.8 percent (from 6.4 percent currently) starting in September, and state law will prohibit any reduction in state contributions without a parallel reduction in employee and district contributions.

- Higher contributions for active employees will be phased in gradually, over four years, staying at 6.4 percent through August 2014, then rising to 6.7 percent in fiscal 2015, 7.2 percent in fiscal 2016, and 7.7 percent in fiscal

2017. The employee contribution in all years will be more than matched by state and district contributions. A district contribution of an amount equaling 1.5 percent of payroll will be required starting in fiscal 2015 (only districts that pay into Social Security will be exempt).

- SB 1458 will all but ensure a 3-percent cost-of-living adjustment (COLA) for about 195,000 TRS members who retired before September 2004—nearly 60 percent of all retirees and about twice as many as originally proposed. If delivered as expected sometime this fall, the COLA (capped at \$100 a month) will mean a small but permanent increase in pension annuities—the first such TRS cost-of-living increase since 2001, a period in which inflation has eroded pensions' purchasing power by more than 30 percent.

- SB 1458 will help sustain the already-strong TRS defined-benefit pension program for current retirees and for active employees now working in our schools, colleges and universities, and for all future education employees. Bolstering the pension fund's long-term actuarial outlook will help us continue to fend off attacks on defined-benefit pensions. We can expect these attacks will intensify as private interests seek to replace defined-benefit pensions with 401(k)-style individual accounts, which do not guarantee a lifetime benefit but do offer rich profit-making opportunities for private fund managers.

Passage of SB 1458 is not the end of the fight for a balanced and fair deal on pension and health benefits for TRS members. The fight for a fairer deal for all education employees, active and retired, will continue, perhaps in an anticipated special session on school finance and certainly in the next regular legislative session. So be ready.

## Guns on Campus

HB 1009 by Rep. Jason Villalba (R-Dallas) authorizes school districts

## Changing the Climate

Weathering a storm of hostile legislation and making some headway on school funding, testing, and other issues are no mean accomplishments. Texas AFT members can be proud of what they achieved in the 2013 regular session. But the enemies of public education are not going away. They will continue pushing relentlessly an agenda that has three basic elements: Underfund public education. Declare public schools a failure. And then privatize them.

We need to do more than just weather the storm of these attacks session after session. We need to do what it takes to change the climate in the state Capitol to one of unstinting support for our more than six million students from pre-K through college and unstinting respect for the teaching profession and for all who labor to make our students successful. (See "Join the 1000 Club" on page 5 for how to help.)

We can change the climate in Austin, but only if we join forces with education-friendly allies to build a better Legislature and better team of statewide elected officials. A crucial phase of our climate-change project will start with the March 2014 primaries and the November 2014 general elections. Look for much more on this theme in coming issues of the *Texas Teacher*.

**(Meanwhile, for more on the 2013 legislative action, check [www.texasaft.org](http://www.texasaft.org) for our back-to-school report on notable laws of the 83rd regular session that will affect you and your students.)**



and open-enrollment charter schools to designate school employees as "school marshals," who would receive two weeks' worth of training in how to defend their campus against armed attack. These employees would have to be holders of concealed-handgun licenses and would be authorized to keep their weapon ready



Thousands of Texas AFT members, fellow educators, and parents sent letters to their lawmakers objecting to privatization attempts—accompanied by a flag making a firm statement that public schools are not for sale.

to hand at school. Gov. Perry vetoed another guns-on-campus bill, SB 17 by Sen. Patrick, which would have authorized Department of Public Safety training for up to two school employees per campus who are CHL holders to provide security against attack. Perry said the bill failed to make adequate provision for secure storage of weapons on campus. Other bills to authorize carrying of guns on college


campuses never made it to the governor's desk.

### Four Texas AFT Priority Bills Become Law

Four bills passed by overwhelming margins and signed by the governor on June 14 will help achieve Texas AFT priorities for student discipline, access of higher-ed adjunct faculty to health coverage, and rights of educators to timely action by the commissioner of education on their grievance cases. Here's a quick summary:

- SB 1541 by Sen. Leticia Van de Putte (D-San Antonio) and House author Rep. Alma Allen (D-Houston) bolsters authority for drivers to enforce discipline on board their school buses and protect students' safety. Effective date: June 14, 2013.
- HB 1952 by Rep. Senfronia Thompson (D-Houston) and Sen. Van de Putte requires principals and other administrators charged with enforcing

the Safe Schools Act to undergo periodic training, with special emphasis on the distinction between ordinary disciplinary referrals to the principal and formal discretionary removals of disruptive students from the classroom by their teachers. Effective date: June 14, 2013.

- HB 2127 by Rep. Donna Howard (D-Austin) and Sen. Kirk Watson (D-Austin) expands eligibility of adjunct faculty at public institutions of higher education to buy into the state Employees Retirement System health plan. Effective date: September 1, 2013.
- HB 2952 by Rep. Justin Rodriguez (D-San Antonio) and Sen. Kirk Watson (D-Austin) puts an end to multi-year delays in commissioner decisions on grievance appeals by educators. HB 2952 sets a 240-day deadline for the commissioner to decide these cases, with an extension of up to 60 days allowed if the parties to the case agree. Effective date: June 14, 2013. 

## Chances for pay raises increase, but local action is needed

With the recession and ensuing budget cuts in 2011, most school employees across the state have seen little or no increase in pay over the past few years. With the restoration of some 85 percent of the formula aid to districts, the prospects are much improved for increases this year.

This restored funding totals \$3.4 billion that districts can and should use to raise pay, increase district health-care contributions, hire and rehire staff, and reduce class size.

But this process is not automatic. And Texas AFT local affiliates already are at the forefront of local efforts to ensure that the employees and kids who bore the brunt of the harsh 2011 budget cuts now get the benefit of restored funding.

School employees also need to be aware of another key piece of legislation that may help boost the chances for pay increases or ways to hold the line on increasing health-care costs.

The legislature allocated \$330 million for fiscal 2015, starting September 1, 2014, to help school districts cover the cost of contributing an amount equal to 1.5 percent of payroll to the TRS pension fund. (See "Retirement Benefits" on page 7 for an outline of Senate Bill 1458.)

Districts that do not pay into Social Security will be obligated to pay that 1.5 percent of payroll into the pension fund starting

that September, but the allocation from the state will cover that cost for the fiscal year starting September 2014. That state allocation will make it easier for districts to muster local revenue for pay raises or health-care premium sharing.

All districts will get their share of the \$330 million, even districts like Austin ISD and San Antonio ISD that do pay into Social Security and therefore do not owe the 1.5 percent starting in September 2014.

Districts not obligated to pay into the pension fund will be free to spend the money on other local expenses, including salary increases. Therefore, these districts will have an extra measure of flexibility in making decisions on where to spend money in their local budgets.

That's where you come in. Whether your district benefits from the SB 1458 allocation or not, it's clear that many districts are facing better forecasts for revenue.

It's up to Texas AFT members and their local organizations to monitor local decisions on the budget now that the revenue picture has improved.

Together we can help ensure that you get the pay and benefits you deserve as Texas recovers from the self-inflicted wound of the 2011 budget cuts. 