



ATPETM

ATPE Input on HB 3

Relating to public school finance reform

March 12, 2019

The **Association of Texas Professional Educators (ATPE)** appreciates this opportunity to offer input on House Bill (HB) 3 by Rep. Dan Huberty, chairman of the House Public Education Committee. HB 3 is the most comprehensive attempt at modernizing and improving the state's complex school funding system that we've seen this session. ATPE appreciates the hard work that has gone into its drafting and the opportunity to share our feedback on the proposals contained in the bill.

HB 3 includes several positive school finance-related provisions that ATPE would like to recognize:

- We are very supportive of the emphasis on early childhood education in HB 3, which includes the early reading allotment and additional provisions that could assist districts in funding full-day pre-K programs.
- We particularly appreciate that HB 3 prioritizes state funding that targets educationally disadvantaged students and English language learners.
- The incentive aid for year-round schools allowing districts to be able to better provide extra instructional days to extend student learning could be a game changer when it comes to combatting summer learning lags and the education gap to which they contribute.
- Additionally, the bill's proposed student-based allotments for dyslexia or related disorders, dual language learners, and middle school career and technical education are beneficial for directing funds to programs that will improve student outcomes.
- Recognizing that poverty is a spectrum and addressing it through a spectrum compensatory education allotment was one of the most innovative ideas to come out of the Texas Commission on Public School Finance last year, and ATPE is glad that it made it into HB 3.
- ATPE also greatly appreciates that rolling portions of the existing school finance system that haven't been updated in decades, such as the high school allotment and cost of education index, into an increased basic allotment of \$6,030, serves to simplify, streamline, and modernize a complex system.

Tackling a comprehensive reform of the state's funding system is no small undertaking, and ATPE appreciates Chairman Huberty's continuing dedication to this task and the work of the House to prioritize school finance improvements over multiple legislative sessions. **ATPE believes that HB 3**

makes a strong opening statement recognizing the need for better funding of our public schools and showing that it is possible to make meaningful changes this legislative session that will have a profoundly positive impact on Texas's more than 5.4 million public schoolchildren. In that spirit, ATPE requests consideration of the need for some changes to the bill as it moves forward.

Turning our attention to aspects of the bill that are more policy related, ATPE has real concerns about HB 3's proposed structural changes to the state's minimum salary schedule (MSS) statutes and to laws governing teacher evaluations. We will focus our concerns first on changes to the laws governing minimum salaries proposed by HB 3, which are clearly well intentioned, but problematic.

- First, ATPE appreciates the bill's attempt to raise teacher salaries statewide, especially for educators working in the state's lower paying districts, by strategically raising the minimum salary amounts associated with the first 20 years of an educator's career. We like the fact that more attention has been paid to driving salary increases in the first decade of a teacher's career when educators are both at greater risk of leaving the profession and experiencing more rapid growth and development of their skills as a teacher.
- However, by pulling teachers completely out of the existing state MSS, bifurcating the statute into two discrete schedules, eliminating certain professionals who are currently subject to the MSS from the benefit of it going forward, and creating a second, entirely new MSS that covers most but not all teachers, HB 3 produces an unnecessarily complex set of MSS statutes, more complicated than what is found in current law. We recommend including everyone currently covered by the existing MSS on the new MSS to promote consistency and simplicity. Compared to classroom teachers, the other categories of professionals on the MSS are very small populations and their inclusion on the updated schedule should have very minimal cost.
- More troubling, HB 3 includes a provision that authorizes any school board to abandon altogether the complicated MSS structure outlined in the bill in favor of a district option that need only contain a single minimum salary that is at least equal to the lowest salary required under the state's MSS. (Currently, only a District of Innovation (DOI) has the option of exempting itself from the state's MSS law; HB 3 would expand this option to all school districts without the local process protections found in DOI.)
- Considering the complexities of the new salary-related statutes as laid out in HB 3, it stands to reason that most, if not all, districts will voluntarily opt themselves out of the state's MSS system in favor of their own district-designed plans that will only include a single minimum wage for all educators. **As such, ATPE is very concerned that the real impact of HB 3 will be the death of the state's MSS.**

HB 3 also proposes numerous changes to existing laws governing teacher evaluations. Texas law has long provided for a state-recommended teacher appraisal system that is adopted through commissioner rule. Nearly a decade ago, our state began the difficult process of overhauling the state-recommended appraisal system, which had not been updated since the 1997 implementation of the Professional Development and Appraisal System (PDAS), after federal officials declared the PDAS to be noncompliant with the No Child Left Behind Act. The result, following years of legislative debates, stakeholder reviews, research, piloting, rulemaking, and even litigation, was the launch of the Texas Teacher Evaluation and Support System (T-TESS) in the 2016-17 school year. Commissioner's rules implementing T-TESS were finalized in 2017, less than two years ago, and they

included language developed as a result of a settlement of litigation against the Texas Education Agency (TEA) regarding the prescribed use of certain student growth measures in teacher evaluations. Considering the relative youth of the T-TESS and the years of effort and expense that went into its creation, it is unclear why legislators would want to modify the state's appraisal-related statutes now in the context of this school finance bill.

HB 3 proposes unnecessary state-mandated policy shifts regarding the evaluation of teachers and the purpose of those evaluations, including increasing the emphasis on more controversial student performance measures. The inclusion of this component of the bill, potentially reigniting conflicts over the rulemaking language associated with T-TESS and forcing school districts to expend additional time and money revisiting their own evaluation policies that were developed around the still relatively new T-TESS framework, is counterproductive to HB 3's primary goal of modernizing and improving the way we fund our public schools while also offering needed tax relief to homeowners.

Of particular concern to ATPE is Section 2.008 of the bill, which presents a number of difficulties in its attempt to identify and reward the state's educators who are deemed by commissioner rule to be the most effective. Rather than encouraging districts to innovate and develop their own differentiated pay plans at the local level with input from educators within each community, HB 3 imposes a top-down, agency-driven system of ranking teachers for purposes of determining their worth. The bill gives the commissioner of education unprecedented latitude to make such determinations. It is worth noting that HB 3 transfers to the commissioner of education substantial authority that has historically rested with either the elected legislature or State Board of Education. Considering that the commissioner is an officer appointed by the governor and is not even required to have any experience as an educator, ATPE members have concerns about expanding the scope of the commissioner's rulemaking authority, especially over determining how taxpayer funds should be spent. HB 3's granting such unfettered and unilateral decision-making power to a single appointed government official who is never held accountable to voters is disconcerting, especially in light of the bill's numerous passages exempting the commissioner's rulemaking exercises from certain checks and balances outlined in the Government Code and prohibiting any appeal of the commissioner's decisions.

The following are some more specific concerns about Section 2.008 of the bill, which would become Subchapter P under HB 3:

- First, HB 3's designations of merit would apply only to a teacher of record who instructs a minimum number of students, which would have the effect of arbitrarily barring from the program certain teachers who provide vital instruction, including many educators who provide instruction to students with special needs and often teach smaller classes. Also, language in this section that is meant to highlight opportunities for nationally board-certified teachers to qualify for a designation of "recognized" appears to limit the designation *only* to those teachers who are board certified and also meet the other criteria of the program. Given the relatively small number of teachers who achieve national board certification, ATPE assumes that this is simply a drafting error that will be corrected in the anticipated substitute version of HB 3.
- HB 3's outline of criteria that districts "must" use to identify potential candidates for a designation of merit is overly prescriptive and includes controversial and largely speculative methods beyond the scope of T-TESS, such as "student perception surveys" of teachers. Of immense concern, the bill limits the commissioner to approving only evaluation systems capable of ranking teachers on a statewide basis. While several evaluation methods are listed

in the bill in addition to commissioner-determined “reliable...assessments used to evaluate student performance” that would be administered during “defined testing windows,” the only data currently available that would allow educators to be ranked statewide are STAAR test results. ATPE notes that numerous legislators, including members of the House Public Education Committee, have voiced the concern they share with parents and educators across the state about using student performance data in this way. Nevertheless, the language of HB 3 continues to lead inevitably to the use, or misuse, of student performance data for purposes of implementing this subchapter. ATPE opposes the use of student standardized test scores as the determining factor in educator compensation decisions.

- As previously noted, HB 3 also gives the commissioner broad power in his approval process for school districts’ evaluation systems that would be used to identify teachers who qualify for a designation, including the ability to reject a district’s process after the fact and render its prequalification of teachers to be null and void. With the bill’s insistence that the commissioner’s decisions will be final in all cases, will not create any property rights, and will not be subject to appeal, this raises questions about due process in matters involving teacher pay. What is the consequence for an individual teacher who has already received additional pay based on her district’s determination that she merits a designation under this subchapter if the district is forced to repay money to the state upon failing to meet the commissioner’s verification standards?
- ATPE members also strongly oppose HB 3’s proposal to make class-size limits in existing law inapplicable to classes taught by any teacher who earns a designation of merit under Subchapter P. Class-size limits exist not for merely the convenience of a teacher but for the safety and instructional support of students.
- Finally, ATPE members oppose removing the confidentiality of teacher evaluations as set forth in HB 3. Teacher evaluation is intended to foster a robust conversation between educators and their administrators and mentors for the purpose of improving their practice. Particularly with respect to the state’s recommended appraisal system of T-TESS, policymakers have gone out of their way during and since the inception of that system to emphasize the formative and supportive nature of its design. Removing the confidentiality of evaluations by providing them automatically to TEA will significantly dampen their utility in driving improvement in teacher quality.

Viewing HB 3’s proposed changes to salary-related statutes, modification of the state’s approach to teacher appraisal, and new system of merit pay designations collectively, ATPE fears that a majority of educators will actually see a *decline* in their compensation along with a shift in morale, moving the state’s education personnel away from a mindset of community to one that is more competitive than collaborative and rewards only a small minority of classroom teachers. We know that this is not the intent of the bill’s author and coauthors, and ATPE would welcome an opportunity to work on changes to the bill so as to prevent these unintended consequences.

In conclusion of ATPE’s written testimony, below are some specific recommendations for improvements to HB 3 as filed:

- As mentioned above, ATPE recommends maintaining a single state MSS for educators and removing subsection (c-4) of Section 2.007 of the bill.

- ATPE also request the deletion of HB 3's Section 2.008 as currently drafted. We recommend replacing section 2.008 with simple language requiring all school districts to implement a locally developed plan on differentiated compensation.
- Additionally, as we are highly supportive of the goal shared by the House Public Education Committee and the Texas Commission on Public School Finance to boost performance at the state's most challenging elementary campuses, we recommend a program to identify and send additional targeted funding to those schools through HB 3. Specifically, the bill should first require the commissioner of education to identify up to 50 of the state's most persistently struggling elementary campuses. HB 3 should allocate the \$140 million currently earmarked for teacher merit pay under Section 2.008 to instead provide multi-year grants to districts for use on those designated campuses to provide teacher and principal stipends; intensive targeted professional development on campus leadership, educating children of poverty, and other areas of concern specific to each included campus; and wraparound services for the students that will better allow them to take advantage of the learning environment. Fifty campuses would represent a significant percentage of the persistently struggling elementary schools in the state, and at that number, state grants would provide each campus an approximately 50% boost in available funding. School districts in coordination with campus leadership should continue to exercise full local control over any staffing and program decisions in coordination with campus leadership, but ATPE would not oppose the creation and dissemination by TEA of a researched-based best practices document for use in shaping those decisions. The campuses included in this program could be studied to ascertain additional best practices, and the program could be scaled up in later years if successful.

ATPE would welcome any opportunity to share more information regarding HB 3 and our recommendations for amending the bill as it moves forward. We commend Chairman Huberty and his colleagues for the hard work that has gone into drafting this bill and look forward to continuing to work on the important issue of school finance.

The Association of Texas Professional Educators (ATPE) has been a strong voice for Texas educators since 1980. It is the leading educators' association in Texas with approximately 100,000 members statewide. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for 5 million public schoolchildren. ATPE is the ally and the voice of Texas public school educators. For additional information, please contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org.