House Bill 3 Implementation Decisions

House Bill 3 Decision-making process

Data Sources

The following decisions related to data sources **have been made** or **will soon be made** that could impact district bottom lines:

Data	Initial Decision	Implication
Count of low income students for compensatory education allotment	Fall PEIMS Snapshot	
Count of low income students for compensatory education allotment for purpose of formula transition grant	Not yet announced, but template allows data entry	

Data Sources

The following decisions related to data sources **have been made** or **will soon be made** that could impact district bottom lines:

Data	Initial Decision	Implication
Middle School CTE FTEs	CTE Middle School Courses that will count for high school credit are funded	
Advanced CTE FTEs	ADA of students enrolled in P-Tech or New Tech, not FTEs	
M&O Tax Collections under Old Law	Not yet announced. Template takes prior year rate, adjusted for disaster pennies, and multiplies by yield per penny	
Property Value for Calculating VATR in TY 2020	Not yet announced	

Data Sources

The following decisions related to data sources **have been made** or **will soon be made** that could impact district bottom lines:

Data	Initial Decision	Implication
DPV for local share calculation	Will be updated in February rather than waiting until settle up	
Tax collections	Not yet announced	

Formula Calculations

The following decisions related to data sources **have been made** or **will soon be made** that could impact district bottom lines:

Data	Initial Decision	Implication
Fast Growth Allotment	Using percent growth in enrollment to determine who is "fast growth"	
Compensatory Education Buckets	All factors weighted equally, no additional factors considered	
Yields for Tier 2 under FTG	No announcement, but template uses appropriations bill yields	
Mentor Teacher Allotment	No formula in bill, no appropriations limit, no announcement yet	

Spending Rules

- Bilingual Education Allotment: Will TEA allow some portion of teacher salaries to count towards meeting 55% requirement under bilingual education allotment
- Compensatory Education Allotment: Spending on At Risk and Low Income students is now allowed. Will TEA go further and allow other expenses targeted toward closing the gaps?

Program Requirements

- Teacher incentive allotment:
  - What performance and validity standards will be established?
  - Will any districts encourage National Board Certification as that results in recognized status and rules are known
- Incentive for Additional Instructional Days
  - Will there be a way for districts to participate if they use minutes to provide fewer than 180 days?
- Prekindergarten
  - How likely are waivers in the coming years?
- Reading Academies
  - Can districts work with TEA to find less expensive delivery mechanisms?

KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 19, 2019

To All Bond Counsel:

RE: Applicability of Certain Election Law Changes to Bond Elections to Be Held on November 5, 2019 and Other Matters

This letter addresses whether certain election law changes passed by the 86th Legislature apply to bond elections to be held on November 5, 2019. Its scope is limited to election law changes regarding matters reviewed by this office as part of the bond proceedings submitted by issuers after the election. Together with the analysis set forth below, please review the attached exhibit, which identifies the specific bill provisions addressed by this letter and their applicability to bond elections to be held on November 5, 2019.

Bond counsel have asked whether certain election law changes reflected in the attached exhibit apply to the upcoming bond election date of November 5, 2019, in light of the different language used regarding the effective date. Some bills contain an express provision that the changes apply to elections *called or ordered* on or after September 1, 2019. Other bills merely state an effective date of September 1, 2019. At least one bill provides that the changes made govern elections *held* on or after September 1, 2019.

In conferring with the Elections Division of the Secretary of State's Office, we believe the operative factor is whether the issuer must take or determine the election law action prior to the effective date of the bill. For example, if state law requires the governing body of an issuer to take the particular action by adopting its election order – such as determining the bond proposition or ballot language – before the effective date of the particular bill, those election law changes should not be applicable to the upcoming November 5, 2019 bond election because the governing body must call the election by August 19, 2019. *See* Tex. Election Code §3.005; https://www.sos.texas.gov/elections/voter/2019-important-election-dates.shtml.

However, for bills not expressly stating that the changes apply only to elections called or ordered on or after September 1, 2019, if the method of providing notice of the election will cause such notice to occur on or after the effective date of the Act, those provisions should apply to the November 5, 2019 bond election. In other words, the issuer determines most of *the content* of the election information provided in the notice at the time it adopts its election order; however, the act of *providing* the election notice occurs after the effective date.

We recognize that the governing body directs and authorizes the providing of the notice of election in its order calling the election. Therefore, the governing body may want to additionally authorize its officers to provide any other manner of notice as authorized by law.

Moreover, if a change in law directs an entity separate from the issuer to post notice of the election in lieu of the issuer under certain circumstances, such as House Bill 933, the governing body may choose to additionally authorize its officers to post a copy of the notice on the bulletin board as permitted in section 1 of House Bill 933.

We have provided this letter pursuant to our authority under section 402.044 of the Government Code, which requires that we advise the proper legal authorities in regard to the issuance of bonds that by law require the attorney general's approval. However, please note that this letter does not dictate how a court might rule should an election contest be filed regarding the applicability of certain provisions to the November 5, 2019 bond election.

We have also received questions regarding changes in law that govern bond elections subsequent to the November 5, 2019 bond election, such as the changes required of school districts in providing separate bond propositions for certain purposes specified in Senate Bill 30. We intend to address such matters in a future All Bond Counsel Letter. We ask that you provide your questions and legal analysis about such matters in writing to ensure we consider all pertinent legal issues.

Sincerely,

Leslie Brock

Leslie Brock
Assistant Attorney General
Chief, Public Finance Division

Exhibit A

Bond Election/Notice Changes Enacted by the 86th Legislature Addressed by this All Bond Counsel Letter

Enacted Bill	Applicable Section of Bill Regarding Bond Election Requirement Addressed by this Letter	Applicable Section(s) of Bill Regarding Effective Date.	Applicable to November 5, 2019 Bond Election?
HB 3	The portion of Section 1.008 of bill that amends section 45.003 of Education Code to require bond ballot to include following statement: "THIS IS A PROPERTY TAX INCREASE."	Section 6.001(a). September 1, 2019.	No.
HB 440	Section 2 amends 4.003(f) of Election Code to require any sample ballot prepared for election to be posted during 21 days before election on political subdivision's internet website, if the political subdivision maintains an internet website	Section 6. September 1, 2019	Yes.
HB 440	The portion of section 3 adding section 1253.002 to Government Code prohibiting political subdivisions from issuing general obligation bonds with a weighted average maturity of the issue of bonds exceeding 120 percent of the reasonably expected weighted average economic life of the improvements and personal property financed with the issue of bonds.	Section 5. Section 1253.002, Gov't Code, as added by act applies only to general obligation bonds authorized to be issued at an election held on or after the effective date of September 1, 2019.	Yes.
HB 477	Section 1 amends section 3.009 of Election Code regarding contents of debt obligation order. Section 2 amends section 52.072 of Election Code regarding ballot propositions. Sections 3 and 4 amend chapter 1251 of Government Code and add new subchapter B imposing certain debt obligation election order and ballot requirements for debt obligations by a political subdivision.	Sections 7(a) and 8. Changes in law made by act to chapter 1251 apply only to a ballot for an election ordered on or after the effective date of September 1, 2019.	No.

Enacted Bill	Applicable Section of Bill Regarding Bond Election Requirement Addressed by this Letter	Applicable Section(s) of Bill Regarding Effective Date.	Applicable to November 5, 2019 Bond Election?
HB 933	Section 1 amends 4.003(b) of Election Code to require counties receiving notices of election from political subdivisions under section 4.008(a) of Election Code to post notice of the election, including each polling place location, on the county's internet website, if the county maintains a website; if the county does not maintain a website, then the authority responsible for giving the notice of the election shall post a copy of the notice of the election on the bulletin board used for posting notices of the meetings of the governing body; Even if county does maintain website, section 4.003(b), as amended, provides that the authority responsible for giving notice of an election may post a copy of the notice on the bulletin board. Section 2 amends 4.008(a) of Election Code to require political subdivision giving notice of election to county to include location of each polling place and to require county to post the notice with location of each polling place on county's internet website if it maintains a website.	Section 17. September 1, 2019.	Yes.
HB 1048	Section 1 amends 85.010 of the Election Code regarding the use of a county early voting polling place by a political subdivision.	Section 2. Effective Immediately	Yes.
SB 30	Section 1 amends section 45.003 of Education Code to require certain school purposes be stated in separate ballot propositions. Section 2 amends section 52.072 of Election Code regarding ballot propositions. Sections 3 and 4 amend chapter 1251 of Government Code and add new subchapter B imposing certain ballot requirements for debt obligations by a political subdivision.	Sections 6 and 7. Change in law made by act applies only to an election ordered on or after effective date of September 1, 2019.	No.

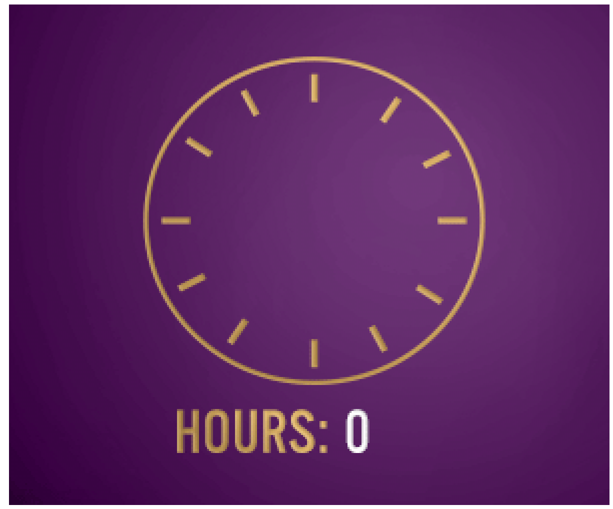
EDUCATION WEEK

How Another Recession Could Test K-12's Resilience

By Andrew Ujifusa

August 23, 2019

Back to Story



If there's one painful experience the nation's schools share from recent history, it's the Great Recession. It's something no educator is keen to relive—but with anxiety rising about an economic downturn in the not-too-distant future, it's possible they won't have a choice.

Forecasting such a change for the economy is notoriously difficult, as is projecting how policymakers and schools would respond. But amid the economic warning signs there's the recognition that a recession, in addition to shrinking K-12 budgets and spending, could upend policies that have developed over the past decade that have prioritized equitable funding and other resources.

And it's unlikely the circumstances and response would be the same as those from more than a decade ago, when Congress and President Barack Obama's administration responded to the Great Recession by directing $100 billion to both K-12 and higher education through the 2009 American Recovery and Reinvestment Act, commonly known as "the stimulus."

"I'm really concerned about a recession," said Sharie Lewis, the director of business services and operations for the Parkrose school district in Portland, Ore.

With a $36 million operating budget, no rainy-day fund, and about 3,000 students in Parkrose, Lewis said she knows that if she had to make significant cuts, she'd have to curtail her high school career-technical education offerings, her athletics programs, and of course, her staff.

"It would have to be teachers, because there's not much else in a district my size," said Lewis, who is also chairwoman of the legislative advisory committee for the Association of School Business Officials International.

The most severe financial crisis since the Great Depression that lasted from 2007 to 2009 had a profound impact on K-12 education. Roughly two-thirds of states cut spending on schools to deal with the loss in tax revenue, leading to cuts in the teacher workforce and shrinking state education departments. The impacts varied based on regional factors. Schools in states where the mortgage crisis hit hardest like Arizona, California, and Nevada were acutely impacted, as were states in the upper Midwest.

In addition to the **$100 billion in stimulus money aimed at shoring up school funding**, the Obama administration later backed and Congress approved the $10 billion Education Jobs Act to stop thousands of educators from getting laid off. Nevertheless, it took many schools years to recover amid a virtually unprecedented period of economic growth. And by one estimate from the progressive Center on Budget and Policy Priorities, **per-pupil expenditures in nearly half of states still haven't recovered**.

"I think everyone has PTSD from the last recession," said Noelle Ellerson Ng, the associate executive director of AASA, the School Superintendents Association. "It might have been 10 years ago, and you might have had three superintendents since then, but a recession of that magnitude leaves an impact."

Changed Landscape

The stimulus represented a "once in my lifetime response to a really dire recession," said Sara Abernathy, the deputy executive director of the Committee for Education Funding, a Washington group that advocates for the federal government to increase the share of its budget for K-12. But today's economic and political landscape is quite different from a dozen years ago.

Abernathy said the fact of the matter for schools is that, "When there's a recession, the state and local funds are going to be cut."

Concerns about a downturn have grown after a recent shift in Treasury Department bond yields, the direction of which has led many analysts to forecast economic weakening. Still, the severity of any such decline would depend on a variety of fiscal and political factors.

See Also: **Recession-Proofing Tips for Districts**

It's far too soon to say if, or when, such a dip in the U.S. economy might occur. All the same, fiscal realities could make it harder, or at least less attractive, for Washington to use stimulus spending to shore up public services should that take place. Federal interest rates are already relatively low. And as of August, the fiscal 2019 deficit—what the federal government spends versus its revenue—stood at $866 billion, compared to $684 billion a year ago, and the Treasury Department has projected it will hit nearly $1 trillion this year.

Then there are potential political differences between the last crisis and any future downturn.

In 2009, Congress and the White House were controlled by Democrats, who in general (and perhaps particularly during economic downturns) are more open to driving federal resources to public services, including schools. There's no guarantee that would be the case when the next economic tumble occurs.

"The federal government is in a different position now," Abernathy said.

There are also caps on federal spending that have been in statute since 2011 that could factor into any decisions about how to handle another major downturn. In theory, the 2009 stimulus spending would not have been impacted by such caps, since it was a different category of funding. But that was then.

In addition, the partisan control of states—and therefore their responses to any significant financial dip—could also look markedly different in any upcoming downturn than a decade ago.

At the start of 2009, Democrats controlled 28 governorships compared to 22 for Republicans, and 27 legislatures compared to 14 for Republicans (the remainder were split), according to the National Conference of State Legislatures. By February of this year, Republicans controlled 30 legislatures and 27 governorships, compared to 18 and 23, respectively, for Democrats.

'A Matter of Survival'

When she talks with districts about handling their budgets amid major economic slides, Jess Gartner says it can be important for schools to think about one typically painful option: school closures.

Gartner, the CEO and founder of Allovue, an education management firm that helps districts create and plan budgets, acknowledged that conversations about consolidating or closing schools that are significantly below their enrollment capacity are often difficult. But it's better to consider the possibility and do other budget diagnostics in relatively calm circumstances than "trying to do that in the height of a crisis."

"It may well be a matter of survival for the district" she said.

She said it's also important for districts to scrutinize contracts and other expenses every year, instead of letting bureaucratic inertia take over, and to be careful not to use one-time grant or other funding for teacher positions that can't be sustained when circumstances crunch operating budgets. (On a related issue: States and districts had to push to identify new revenue sources when the federal stimulus for schools wound down in 2010.)

Over the last several years, there's been a movement among states in particular to rethink their school funding formulas and to more broadly consider whether the resources provide the biggest impact for schools, especially for at-risk students and those with particular needs. But it remains to be seen if that momentum at all levels of government would dissolve after the impact of a bad economy.

However, Gartner stressed that she hopes schools are past the point where such approaches that emphasize equity are considered a luxury to be discarded in dire straits.

"It's no coincidence that the communities most in need will be hit the hardest" by any major economic downturn, Gartner said.

When she was accounting director for Portland schools (the largest district in Oregon) and slashed close to 200 positions due to the the Great Recession's impact on the district, Lewis noted that the full impact of the economic downturn did not fully hit the school until the 2010-11 school year. That timeline, at least, gave the district a little time to absorb the impact.

RELATED BLOG

Visit this blog.

"You do multiple things to try to prepare," Lewis said.

Vol. 39, Issue 02, Pages 1, 16

Published in Print: August 28, 2019, as **Recession Jitters Revive Memories of Past Downturn**

DISTRICT	NAME	TOTAL DYSLEXIC STUDENTS 2018-19	TOTAL ENROLLMENT 2018-19	PERCENT REPORTED DYSLEXIC (STATE AVERAGE: 3.6%)
014906	KILLEEN ISD	2,228	44,974	5.0%
015907	SAN ANTONIO ISD	1,716	48,745	3.5%
015910	NORTH EAST ISD	1,507	65,186	2.3%
015915	NORTHSIDE ISD (Bexar)	3,375	106,501	3.2%
031903	HARLINGEN CONS ISD	483	18,620	2.6%
043910	PLANO ISD	1,492	53,057	2.8%
057905	DALLAS ISD	4,461	155,119	2.9%
057909	GARLAND ISD	1,865	55,987	3.3%
057912	IRVING ISD	1,501	33,464	4.5%
057914	MESQUITE ISD	2,787	40,379	6.9%
057916	RICHARDSON ISD	1,971	39,108	5.0%
068901	ECTOR COUNTY ISD	934	33,268	2.8%
071902	EL PASO ISD	1,218	57,315	2.1%
071909	SOCORRO ISD	429	46,814	0.9%
079907	FORT BEND ISD	1,738	76,122	2.3%
101902	ALDINE ISD	3,199	66,854	4.8%
101903	ALIEF ISD	870	45,436	1.9%
101907	CYPRESS-FAIRBANKS ISD	1,875	116,512	1.6%
101912	HOUSTON ISD	4,090	209,772	1.9%
101913	HUMBLE ISD	1,558	43,553	3.6%
101914	KATY ISD	3,340	79,913	4.2%
101917	PASADENA ISD	2,193	53,291	4.1%
101920	SPRING BRANCH ISD	1,005	34,681	2.9%
108906	MCALLEN ISD	896	22,875	3.9%
108909	PHARR-SAN JUAN-ALAMO ISD	231	32,682	0.7%
152901	LUBBOCK ISD	772	27,759	2.8%
161914	WACO ISD	485	14,756	3.3%
165901	MIDLAND ISD	956	26,183	3.7%
178904	CORPUS CHRISTI ISD	1,354	37,318	3.6%
188901	AMARILLO ISD	1,275	32,829	3.9%
212905	TYLER ISD	1,409	18,130	7.8%
220901	ARLINGTON ISD	1,201	59,900	2.0%
220905	FORT WORTH ISD	2,233	84,510	2.6%
220916	HURST-EULESS-BEDFORD ISD	967	23,686	4.1%
221901	ABILENE ISD	239	16,645	1.4%
226903	SAN ANGELO ISD	182	15,080	1.2%
227901	AUSTIN ISD	5,778	80,032	7.2%
227904	PFLUGERVILLE ISD	841	25,405	3.3%
240903	UNITED ISD	939	43,364	2.2%
246909	ROUND ROCK ISD	2,114	50,387	4.2%
State Total		**194,214**	**5,431,910**	**3.6%**