



State of Tennessee
PUBLIC CHAPTER NO. 962

SENATE BILL NO. 2208

By Norris, Gresham, Johnson

Substituted for: House Bill No. 2346

By McCormick, Harry Brooks

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1, Part 6 and Title 49, Chapter 13, relative to school accountability and the Achievement School District.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-601, is amended by deleting the section in its entirety.

SECTION 2. Tennessee Code Annotated, Section 49-1-602, is amended by deleting the section in its entirety and substituting instead the following:

(a)(1) The state board of education, in consultation with the commissioner, shall establish appropriate performance goals and measures. By September 1 of each year, the commissioner shall present to the state board for approval annual measurable objectives for achievement and achievement gap closures for the state and LEAs. Every LEA shall be evaluated based on the combination of overall student achievement data and achievement gap closure targets as set by the state board.

(2) If an LEA achieves both the achievement and achievement gap closure targets set by the state board, it shall:

(A) Be identified by the department as an exemplary LEA;

(B) Be permitted to develop and maintain school improvement plans at the LEA level without approval by the department; and

(C) When permissible by law, rule or regulation, be granted increased latitude in funding flexibility by the department.

(3) If an LEA misses the achievement target, achievement gap closure target or both, the LEA shall be subject to at least one (1) of the following, subject to the rules, regulations and performance standards of the state board:

(A) Placement on a public list of LEAs in need of improvement;

(B) Creation of an aggressive plan for corrective action and submission of such plan to the commissioner for approval; and

(C) Preparation and submission of a detailed analysis of its student achievement results to the commissioner, along with a plan to achieve its annual measurable objectives, subject to the approval of the commissioner.

(b)(1) By September 1, 2012, and at a minimum every three (3) years thereafter, based on an evaluation of all schools' achievement data, the commissioner of education shall recommend for approval to the state board a listing of all schools to be placed in priority, focus or reward status pursuant to the rules, regulations and performance standards of the state board. Once approved by the state board, priority, focus and reward schools shall be publicly identified by the commissioner.

(2) Schools identified as priority schools shall represent the bottom five percent (5%) of schools in overall achievement as determined by the performance standards and other criteria set by the state board and shall be subject to one (1) of the following interventions as determined by the commissioner:

(A) Turnaround through LEA adoption of an identified school improvement grant (SIG) intervention model or other LEA-led school improvement process, subject to approval by the commissioner;

(B) School turnaround under the governance of an LEA innovation zone pursuant to § 49-1-602(c); or

(C) Placement in the achievement school district as defined in § 49-1-614.

(3) An LEA with a school or schools identified as focus schools shall submit a plan to the commissioner, subject to the commissioner's approval, outlining how the LEA shall address the factors leading the school or schools to be placed in focus status.

(4) Reward schools shall be recognized by the department for outstanding achievement or progress and provided opportunities to serve as strategic partners with the department to raise student achievement levels throughout the state by analyzing and sharing best practices.

(c) An LEA may develop a plan for the creation of an LEA innovation zone for the purpose of monitoring, overseeing and improving schools within the LEA that are designated as priority schools pursuant to subsection (b) and approved for inclusion in the innovation zone by the commissioner. Upon approval of such plan by the commissioner, an LEA innovation zone may be established. Notwithstanding any other provision to the contrary, an LEA creating an LEA innovation zone shall:

(1) Establish an innovation zone office; appoint a leader for such office; and provide such leader with sufficient management authority to appoint and dismiss staff for the office as well as appoint a leader for each school placed in the innovation zone; and

(2) Allow schools under the governance of the innovation zone office to have maximum autonomy over financial, programmatic and staffing decisions.

SECTION 3. Tennessee Code Annotated, Section 49-13-106(b)(1)(C)(i), is amended by deleting the language "failing to make adequate yearly progress" and substituting instead the language "identified as a priority school".

SECTION 4. Tennessee Code Annotated, Section 49-13-122(a)(2), is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) Received identification as a priority school, as defined by the state's accountability system; or

SECTION 5. Tennessee Code Annotated, Section 49-13-122(d), is amended by deleting the language "or failure to make adequate yearly progress for two (2) consecutive years" and substituting instead the language "or failure to remain out of priority status".

SECTION 6. Tennessee Code Annotated, Section 49-1-614, is amended by deleting the section in its entirety and substituting instead the following:

(a) The "achievement school district" or "ASD" is an organizational unit of the Department of Education, established and administered by the commissioner for the purpose of providing oversight for the operation of schools assigned to or authorized by the ASD.

(b) The commissioner shall have the authority to directly operate or contract with one (1) or more individuals, governmental entities or nonprofit entities to manage the day-to-day operations of any or all schools placed in the ASD, including, but not limited to, providing direct services to students.

(c) The commissioner shall have the authority to assign any school or grade configuration within a school to the ASD at any time such school is designated to be in priority status pursuant to § 49-1-602.

(d)(1) The ASD may receive, control, and expend local and state funding for schools placed under its jurisdiction, and shall have the authority to seek, receive, expend, manage, and retain federal funding and grant funding and to otherwise seek, obtain, expend, manage, and retain funding with the same authority as an LEA. The ASD shall receive from the department or LEA, as appropriate, an amount equal to the per

student state and local funds received by the department or LEA for the students enrolled in the ASD school. ASD schools shall also receive all appropriate allocations of federal funds as other LEAs under federal law or regulation, including, but not limited to, Title I and ESEA funds. All funding allocations and disbursements shall be in accordance with procedures developed by the department.

(2) The ASD shall have the authority to receive donations of money, property or securities from any source for the benefit of the ASD and schools within the ASD. All such funds shall, in good faith, be disbursed in accordance with the conditions of the gifts.

(3) To the extent that any state and local funds allocated to the ASD are not used to support a school or LEA in the ASD, they shall be allocated to a state reserve fund to be distributed to the appropriate LEA upon approval of the commissioner and upon the removal of the school from the ASD.

(e) The ASD may require any LEA to provide school support or student support services for a school transferred from the LEA's jurisdiction including, but not limited to, student transportation, school food service, alternative schools or student assessment for special education eligibility that are compliant with all laws and regulations governing such services. In such cases, the ASD shall reimburse the actual cost to the LEA providing such services.

(f) The ASD shall have the right to use any school building and all facilities and property otherwise part of the school and recognized as part of the facilities or assets of the school prior to its placement in the ASD and shall have access to such additional facilities as were typically available to the school, its students, faculty and staff prior to its placement in the ASD. Such use shall be unrestricted and free of charge, except that the ASD shall be responsible for and obligated to provide for routine maintenance and repair such that the facilities and property are maintained in as good order as when the right of use was acquired by the ASD. The ASD shall also be responsible for paying all utilities in use at ASD-utilized facilities. Extensive repairs to buildings or facilities considered capital expenses shall be the responsibility of the LEA and not the ASD. Any fixtures, improvements or tangible assets added to a school building or facility by the ASD shall remain at the school building or facility upon its return to the LEA.

(g)(1) If it is determined that the ASD shall directly operate a school within the ASD, the employees hired to work in schools directly operated by the ASD may be deemed employees of the ASD and such employees shall be under the exclusive control of the ASD. The ASD shall develop written procedures, subject to the approval of the commissioner, for employment and management of personnel as well as the development of compensation and benefit plans. Within the limits of the budget, staffing needs of any school within the ASD shall be exclusively determined by the ASD with approval of the commissioner.

(2) The ASD, or the entity under contract to operate schools within the ASD, shall have the authority to determine whether any teacher who was assigned to such school prior to the school's transfer into the ASD shall have the option of continuing to teach at that school as an employee of either the ASD or the operating entity. Any teacher not given that option shall remain an employee of the LEA, subject to the provisions of § 49-5-511. Moreover, any teacher who accepts that option may, at the discretion of the LEA, return as an employee of the LEA, should the ASD or operating entity later determine not to continue to employ such teacher.

(3) With the exception of the provisions protecting teachers' rights to accumulated sick leave, retirement benefits, pension and tenure status within an LEA, the provisions of § 49-5-203, and the Education Professional Negotiations Act, compiled in Chapter 5, Part 6 of this title, prior to June 1, 2011, shall not apply to teachers who accept the option of continuing to teach at a school placed in the ASD.

(h) Notwithstanding any provision of law to the contrary, the ASD shall, at a minimum, have the same authority and autonomy afforded to LEAs under state law regarding the procurement of property, goods and services, including, but not limited to, personal, professional, consulting, and social services. The ASD shall develop written procedures for the procurement of all goods and services in compliance with the expenditure thresholds for competitive bidding outlined or permitted in § 49-2-203. Such procedures shall be submitted to and approved by the commissioner.

(i) Notwithstanding Title 12, Chapter 7, Part 1, or any other provisions of law to the contrary, the ASD shall have the authority to authorize the preparation and use of publications and other media for the marketing and public education needs of the ASD in order to effectively carry out its mission.

(j) The ASD or any entity the ASD contracts with to operate or manage schools that have been placed in the ASD may apply to the commissioner for a waiver of any state board rule that inhibits or hinders the ability of the school to increase student achievement. Notwithstanding the provisions of this subsection (j), the commissioner shall not waive rules related to the following:

- (1) Federal and state civil rights;
- (2) Federal, state and local health and safety;
- (3) Federal and state public records;
- (4) Immunizations;
- (5) Possession of weapons on school grounds;
- (6) Background checks and fingerprinting of personnel;
- (7) Federal and state special education services;
- (8) Student due process;
- (9) Parental rights;
- (10) Federal and state student assessment and accountability;
- (11) Open meetings; and

(12) At least the same equivalent time of instruction as required in regular public schools.

(k)(1) A school that has been removed from the LEA and placed in the ASD shall remain in the ASD for a minimum of five (5) years. After the school improves student performance for two (2) consecutive years such that the school would no longer be identified as a priority school pursuant to § 49-1-602, the commissioner shall develop a transition plan for the purpose of planning the school's return to the LEA. Implementation of this plan shall begin after the school achieves the required improvements for three (3) consecutive years. The plan shall be fully implemented and the transition shall be completed after the school achieves the required improvements for five (5) consecutive years, unless the LEA is identified as an LEA in need of improvement pursuant to § 49-1-602(a) and the parents of sixty percent (60%) of the children enrolled at the school demonstrate support for remaining in the ASD by signing a petition. Such school shall return to the LEA after the LEA is no longer identified as in need of improvement; provided, that the school is not identified as a priority school pursuant to § 49-1-602.

(2) Notwithstanding the provisions of subdivision (k)(1) or any other provision to the contrary, if a school enters the ASD and is operated as a charter school through authorization by the ASD pursuant to § 49-13-106, the ASD shall remain the chartering authority through the duration of the charter agreement and the school shall remain under the authority of the ASD. Upon expiration of the charter agreement, and provided the conditions set forth in subdivision (k)(1) are met, the school shall return to the LEA and the terms of the charter agreement may be renewed upon submission of a renewal application by the governing body of the charter school to the LEA under the provisions outlined in § 49-13-121.

(3) Notwithstanding the provisions of subdivision (k)(1) or any other provision to the contrary, the commissioner shall have the authority to remove any school from the jurisdiction of the ASD at any time.

(l) Any individuals, governmental entities or nonprofit entities contracting with the commissioner to operate any school under this section shall provide timely information to the LEA and director of schools regarding the operation of such schools, including, but not limited to, matters relating to employment of personnel at the school as provided for in this section. The LEA may continue to support the educational improvement of the school under

the direction and guidance of the commissioner and in accordance with any contracts entered into in accordance with this section. In addition, any individuals, governmental entities or nonprofit entities contracting with the commissioner may voluntarily work with the LEA in providing to the schools professional development or technical assistance, instructional and administrative support and facilitating any other support that may be beneficial to academic progress of the school.

(m) Any contracts to operate schools that have been placed in the ASD shall require expenditure reports for funds received and expended pursuant to such contracts. Such reports shall be provided to the Department of Education and comptroller of the treasury for review.

SECTION 7. The state board of education is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 8. If any provision of this act or the application of it to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to that end, the provisions of this act are declared to be severable.

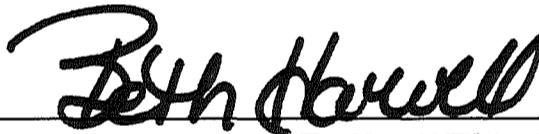
SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2208

PASSED: April 26, 2012

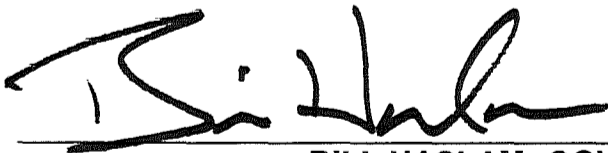


RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 10th day of May 2012



BILL HASLAM, GOVERNOR