

Improving Efficiency and Local Control in Texas Education: Home-rule Districts and Campus Charters



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Improving Efficiency and Local Control in Texas Education: *Home-rule Districts and Campus Charters*

by James Golsan & Bill Peacock

Executive Summary

Home-rule districts were authorized by the Texas Legislature as a way to empower parents, citizens, and local administrators to govern schools in a manner that best suits the needs of students in their district. However, none have been created since they were authorized in 1995 because there are too many roadblocks to their creation and too many of the same mandates on traditionally-run school districts are imposed on home-ruled districts.

The Education Code also allows for the creation of campus charter schools or charter programs if a majority of both parents and teachers at a campus petition a school board. However, much like with home-rule districts, this attempt to foster innovation has been largely ignored by the public education system, and barriers stand in the way of parents who might desire to take advantage of this opportunity.

Poor quality, changing technology, repeated lawsuits, and high costs make change within the Texas public education system necessary and inevitable. The recommendations in this paper revamping home-rule districts and campus charters will foster change that increases quality and efficiency by giving parents, citizens, and local educators a greater role in the education process. Through freeing schools from costly, inefficient mandates and empowering parents to better guide their children's education, home-rule districts and campus charters can increase educational quality while reducing educational costs.

Recommendations

- Encourage the creation and increase the effectiveness of home-rule districts and campus charters.
- Enhance the ability of citizens and parents to transform a traditional ISD into a home-rule school district.
- Reduce state mandates in the education code that apply to home-rule districts.
- Establish a "parent trigger" allowing the parents of a majority of students at a campus to create a campus charter.

Home-rule Schools: A Missed Opportunity

Home-rule districts were authorized in Texas in 1995 as a part of the state's rewrite of the Texas Education Code. They are school districts that can operate under a locally adopted charter, free of many state requirements, and designed to increase local control and accountability in public education. Numerous state mandates, as spelled out in Sec. 12.012, Education Code, still apply to home-rule districts, such as class size caps, graduation rates, and attendance requirements. Additionally, they are not exempt from federal education laws, such as those pertaining to special education and non-discrimination.

Texas' home-rule school districts were envisioned as a way to empower parents, citizens, and local administrators to govern schools in a manner that best suits the needs of students in their district.

Texas' home-rule school districts were envisioned as a way to empower parents, citizens, and local administrators to govern schools in a manner that best suits the needs of students in their district. This governance path would be voted into place by the local electorate, and would in theory be exempt from many fiscal, academic, and governance regulations that pertain to traditional ISDs. However, none have been created since they were authorized in 1995 because:

- There are too many roadblocks in the existing law. School boards, rather than parents, control the charter process; voter turnout requirements are too high.
- The law imposes many of the same mandates on home-ruled districts that traditionally run school districts face. Texas could make a number of changes to the home-rule code to make the home-rule district a much more inviting alternative to traditional ISD.

Under current law, a district's board of trustees can create a charter commission to draft a home-rule district charter. However, the board can do this only if one of two things happens first, per the Texas Education Code:

- 1) the board receives a petition requesting the appointment of a charter commission to frame a home-rule school district charter signed by at least 5 percent of the registered voters of the district; or
- 2) at least two-thirds of the total membership of the board adopt a resolution ordering that a charter commission be appointed.¹

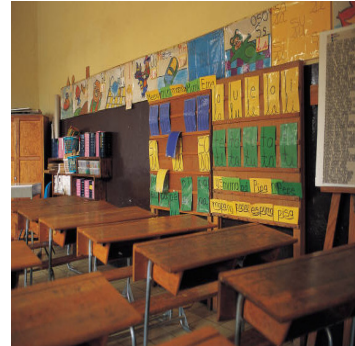
Once one of these occurs, Sec. 12.015, Education Code, lays out the requirements for the creation and operation of a charter commission:

- a) Not later than the 30th day after the date of receipt of a petition or adoption of a resolution under Section 12.014, the board of trustees of the school district shall appoint 15 residents of the district to serve on the commission to frame a charter for the district.

- b) The membership of the charter commission must reflect the racial, ethnic, socioeconomic, and geographic diversity of the district. A majority of the members appointed to the commission must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by the representatives of the professional staff pursuant to Section 11.251(e).
- c) The charter commission must complete a proposed charter not later than the first anniversary of the date of its appointment. After that date, the commission expires and the appointment under Section 12.014 is void.

As far as content goes, a home-rule charter must include:

- 1) describe the educational program to be offered;
- 2) provide that continuation of the home-rule school district charter is contingent on:
 - a) acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39; and
 - b) compliance with other applicable accountability provisions under Chapter 39;
- 3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be placed on probation or revoked;
- 4) describe the governing structure of the district and campuses;
- 5) specify any procedure or requirement, in addition to those under Chapter 38, that the district will follow to ensure the health and safety of students and employees;
- 6) describe the process by which the district will adopt an annual budget, including a description of the use of program-weight funds;
- 7) describe the manner in which an annual audit of financial and programmatic operations of the district is to be conducted, including the manner in which the district will provide information necessary for the district to participate in the Public Education Information Management System (PEIMS) to the extent required by this subchapter; and
- 8) include any other provision the charter commission considers necessary.²



Once the charter itself is created, it is subject to legal review by the Texas education commissioner. If the commissioner determines that the charter is in keeping with state law, the district must hold an election on the first uniform election date no sooner than 45 days after the charter is approved. Prior to the election, the district must make three copies of the charter (with summaries) available at each school, as well as in its central administrative office.³

Section 12.022, Texas Education Code, lays out the requirements for a charter election:

Fewer than 10 percent of voters often turn out for mayoral elections in major cities in Texas—and mayoral elections tend to draw more turnout than public school specific referendums.

- a) An election on the adoption of a proposed home-rule school district charter has no effect unless at least 25 percent of the registered voters of the district vote in the election in which the adoption of the charter is on the ballot.
- b) An election on the adoption of a proposed amendment to a home-rule school district charter has no effect unless at least 20 percent of the registered voters of the district vote in the election in which the adoption of the amendment is on the ballot.
- c) If the required number of voters prescribed by Subsection (a) or (b) do not vote in the election, the board of trustees shall order an election on the issue to be held on the first uniform election date: (1) that occurs at least 45 days after the date the election is ordered; and (2) on which one or more elections are to be held, the combination of which covers all of the territory of the school district.
- d) If the required number of voters prescribed by Subsection (a) or (b) do not vote at an election ordered as required by Subsection (c), the board of trustees may continue to order elections on the issue in accordance with Subsection (c) until the required minimum voter turnout is achieved.

These numbers represent especially high voter turnout requirements. Fewer than 10 percent of voters often turn out for mayoral elections in major cities in Texas—and mayoral elections tend to draw more turnout than public school specific referendums. According to The Center for Voting and Democracy, Dallas' average voter turnout for a mayoral election is five percent. In Austin, it's seven percent. Both are decidedly lower than the 25 percent needed to have the results of a home-rule charter election count.⁴ The result could be a never-ending stream of elections held specifically on the question of home-rule status.

Reduced State Mandates

As the Texas Education Code is written today, home-rule districts are freed from many state mandates. These include:

State Minimum Salary Schedule

Home-rule districts are not required to compensate teachers according to the state's

minimum salary schedule, which requires that teachers have their salary increase the longer they stay in the profession, rather than based on their ability as an educator. Home-rule districts have license to compensate an educator as they see fit.

Governance

Chapter 11 of the Texas Education Code outlines a broad swath of laws pertaining to how an Independent School District in Texas must be governed, particularly in regards to how trustees are selected. Home-rule districts are not, according to Section 12.013 of the Texas Education Code, subject to these restrictions, which include specifics for qualifications to serve on a board of trustees, as well as specifically outlined powers and duties.

Curriculum Requirements

Chapter 31, Texas Education Code specifies that public schools and open-enrollment charter schools must furnish instructional materials for their students that clearly match the curriculum standards in core areas set forth by the State Board of Education. However, home-rule districts are only subject to the funding requirements tied to Chapter 31—meaning they must abide by the policies that govern traditional ISDs if they wish to receive their textbook funds. However, their curriculum selection would still need to meet STAAR testing standards, even if it was not officially sanctioned by the SBOE.

Home-rule districts are not required to compensate teachers according to the state's minimum salary schedule, which requires that teachers have their salary increase the longer they stay in the profession, rather than based on their ability as an educator.

Mandates that Still Apply

Sec. 12.013 (b), Education Code, list the provisions of the code that apply to home-rule districts. They include:

Educator Certification

Many talented, knowledgeable individuals are interested in teaching, but are inhibited by certification requirements. Traditional ISDs and home-rule school districts have identical teacher certification requirements under Chapter 21 of the Texas Education Code, specifically sections 21.407 and 21.408. There is also a provision in the home-rule code that mandates a district allow its educators to pay dues to a professional organization.⁵

Bilingual Education

Federal law mandates that students who use English as a second language cannot be placed in a learning environment that fails to educate them due to their lack of proficiency in English. It does not, however, say that these students must be placed in bilingual, immersion, or any specific program. Rather than let districts, including home-rule districts, decide which approach to use, Texas mandates bilingual education as the default approach.⁶

Texas should make numerous changes to the home-rule code for it to become an instrument that empowers parents and local administrators, and also enables greater efficiency at the district level.

Elementary Class-size Caps

Current state law mandates that K-4 classes not exceed a 22:1 student-teacher ratio. This measure ties the hands of school administrators when it comes to staffing decisions. At times, they are forced to add instructors to a specific grade-level that has experienced growth, even though they may believe there are more cost-effective ways to improve student achievement. Though the Texas Education Agency has made it relatively easy for school districts to get waivers, the requirement still serves as a cost-driver for many districts, including any home-rule districts that might be created.

Other Restrictions

Home-rule districts are treated as identical to traditional ISDs under regulations governing teacher certification, bilingual education, and class size. They are also treated as identical by the following regulations:

- Participation in the Public Education Information Management System (PEIMS)
- Pre-Kindergarten requirements
- Extra-curricular activities requirements
- Seat-time requirements
- School attendance regulations⁷

The inclusion of many of these restrictions in the home-rule code fail to differentiate home-rule districts from traditional ISDs and thus give them the needed flexibility to adopt innovative education practices. Texas should make numerous changes to the home-rule code for it to become an instrument that empowers parents and local administrators, and also enables greater efficiency at the district level.

Campus Charters and Campus Program Charters: the Parent Trigger

The Education Code also allows for the creation of campus charter schools or charter programs if a majority of both parents and teachers at a campus petition a school board—these are different than the local charter schools that districts can create on their own. However, much like with home-rule districts, this attempt to foster innovation has been largely ignored by the public education system, and barriers stand in the way of parents who might desire to take advantage of this opportunity.

Traditional ISDs and home-ruled districts may grant charters to a campus or a campus program in their district. The creation of these campus charters or campus program charters are governed by Sec. 12.052, Education Code:

- a) In accordance with this subchapter, the board of trustees of a school district or the governing body of a home-rule school district may grant a charter to parents and teachers for a campus or a program on a campus if the board is presented with a petition signed by:
 - 1) the parents of a majority of the students at that school campus; and
 - 2) a majority of the classroom teachers at that school campus.
- b) For purposes of Subsection (a)(1), the signature of only one parent of a student is required.
- c) The board of trustees may not arbitrarily deny a charter under this section.

Campus charters can be run semi-independently from its parent ISD, as well as from the state education system. This provision is the closest thing Texas has to a “parent-trigger.”

Parent-trigger laws are at their core designed to give parents of public school students more control over the educational process. The trigger allows for parents in a given school to, in essence, take over the school. The rules regarding implementation can vary, but perhaps the most visible example of a parent-trigger law is the one California enacted in 2010.

The California law was designed to allow parents to take action if their children’s school was not performing academically. If a school does not meet the state’s academic standards and fails to improve over the course of a 4-year state-implemented improvement plan, then the trigger becomes a possibility. It can take one of a few shapes, called “transformational options:”

- **Bargaining power:** If parents want changes but the school district is not responsive, they can organize, get a majority agreement, and use their signatures as bargaining power.
- **Turnaround:** If parents want big changes but want to leave the school district in charge, this option may be for them. It forces the school district to push the reset button by bringing in a new staff and giving the local school community more control over staffing and budget.
- **Transformation:** This is the least radical change. It forces the school district to find a new principal, and make a few other small changes.
- **Charter conversion:** If there is a nearby charter school that is outperforming the failing school, parents can bring in that charter school’s management to transform

Parent-trigger laws are at their core designed to give parents of public school students more control over the educational process.

the failing school. That charter school operator, not the school district, will then run the school, which will continue to serve all the same students that have always attended the school.

As it currently stands, the California parent-trigger law is decidedly broader in scope than what Texas currently has. This law demonstrates high flexibility by the degree to which it allows multiple approaches for parents to take charge of and reform a failing school.

The California law does have two limitations. The first is the time constraint. Four years of consistent non-performance, plus weeks or months of waiting for the state to act, is a long time for frustrated parents. A student could move all the way through middle or high school during the course during that time.

The second constraint is the requirement that the school be not just unsatisfactory, but in dire academic straits for the parent trigger to take effect. Just because a school is technically meeting the academic standards of the state does not automatically mean that school is meeting the demands of the parents. What if academically acceptable is not good enough in their eyes? What if they want a chance to push their school beyond satisfactory into the range of excellence? These are considerations that should be taken into account when lawmakers consider Texas' own trigger laws.⁸

Recommendations: Enhancing Local Control, Improving Educational Quality and Efficiency

The previous sections have shown that there is a much room for improvement in Texas' schools through the use of home-rule districts and campus charters. The remainder of this paper will provide recommendations as to how Texas can use these to increase educational quality and efficiency by giving parents, citizens, and local educators a greater role in the education process.

Keep Home-rule Districts Accountable to the State

While increasing the accountability of Texas public education to parents is extremely important, it is also important to hold school districts (or any other state-run organization) responsible for the tax dollars they do receive. Therefore, some of the top-down accountability measures currently in the home-rule school code should remain in place.

Maintain Participation in the Public Education Information Management System

All public schools in Texas submit information to the state's Public Information Management System (PEIMS). According to the Texas Education Agency, PEIMS "... encompasses all data requested and received by TEA about public education,



including student demographic and academic performance, personnel, financial, and organizational information.”

It is the state’s central data collection point for public education, and serves as an important driver in accountability systems. PEIMS data is useful for determining whether a home-rule school district is a good steward of its charter. It also should be incorporated into any review process for determining whether a district will continue to hold its charter.

Require Home-Rule Schools to Participate in STAAR Testing

The purpose of home-rule is to create a school system that empowers parents and local administrators and improves cost efficiency and academic performance. It is not to give schools complete and total autonomy.

Therefore, home-rule school districts should still require their students to participate in the state-mandated test known as STAAR, to ensure that they are delivering an educational product that meets the state’s standards. STAAR testing is designed to be more rigorous than its predecessor, the TEKS test. While the TEKS was set up to cover a general subject area, the STAAR tests have a more course-specific, “end of course exam” format. Additionally, where the TEKS test did not count against a student’s grade in any given course, the STAAR test should, if the original accountability plan holds, count as 15 percent of a student’s final grade in the relevant course.⁹

STAAR is a substantial improvement over the previous system, and is specifically designed to get more Texas students college-ready. It is extremely important that any flexibility granted to home-rule school districts not free them from their obligation to perform well on the STAAR test. More flexibility in how the district prepares its students for the test, however, is entirely acceptable.

Maintain the State Board’s Ability to Revoke a Home-rule Charter

The strongest measure by which home-rule districts may be held accountable for their performance is for the state to revoke a home-rule charter under certain circumstances. Sec. 12.027, Education Code, clearly outlines the rules by which this may happen:

BASIS FOR PLACEMENT ON PROBATION OR REVOCATION OF CHARTER. (a) The State Board of Education may place on probation or revoke a home-rule school district charter of a school district if the board determines that the district:

- (1) committed a material violation of the charter;
- (2) failed to satisfy generally accepted accounting standards of fiscal management; or

PEIMS data is useful for determining whether a home-rule school district is a good steward of its charter. It also should be incorporated into any review process for determining whether a district will continue to hold its charter.

(3) failed to comply with this subchapter or other applicable federal or state law or rule.

(b) The action the board takes under Subsection (a) shall be based on the best interest of district students, the severity of the violation, and any previous violation the district has committed.

(c) A district whose home-rule school district charter is revoked or rescinded under this subchapter shall operate under the other provisions of Title 1 and this title that apply to school districts.

A home-rule school district should not be obligated to hold to its charter indefinitely if for some reason local voters determine that they are no longer satisfied.

These standards are reasonably flexible and do not need to be altered. The first cause for charter revocation is determined, at least in part, by the school district when it creates its own charter. The second holds to the STAAR accountability standards discussed earlier in this paper. The third stands to reason; if a home-rule school district cannot follow basic state or federal laws, the state must step in and remove its charter.

Maintain Ability of a District to Rescind its Own Charter

A home-rule school district should not be obligated to hold to its charter indefinitely if for some reason local voters determine that they are no longer satisfied. Fortunately, the current home-rule code does provide a process by which a charter can be rescinded and a school district returned to traditional ISD status. According to Texas Education Code Section 12.030:

- a) A home-rule school district charter may be rescinded as provided by this section.
- b) The governing body of the district shall order an election on the question of rescinding a home-rule school district charter if:
 - 1) the governing body receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or
 - 2) at least two-thirds of the total membership of the governing body adopt a resolution ordering that a rescission election be held.
- c) As soon as practicable after the date of receipt or adoption of a resolution under Subsection (b), the governing body shall order an election.

From there, removing the home-rule charter is much like creating one in the first place: A 25 percent voter turnout is necessary to consider revocation of home-rule status. There is room for change within this law (which will be explored in more detail later), but the general principle behind it—that a school district is not forever bound to a charter it has created, and that voters have the ability to overturn the charter if they see fit—should absolutely remain a part of the home-rule code. This will ensure that local control of the school district remains maximized.

Increase Accountability to Parents and Taxpayers: Change Process of Creating Home-rule Districts and Campus Charters

To maximize the degree to which local schools are instrument of local and parental empowerment, a number of changes must be made in how home-rule districts and parent-teacher charters are created.

Eliminate the Voter Turnout Requirements for Home-rule Charter Elections

The 25 percent voter turnout in a charter adoption or rescission election is an extremely high number. Not only do many local elections not meet this standard, but few other elections have such a requirement. Currently, a 20 percent voter turnout is also required to amend a home-rule charter. The turnout requirements should be removed entirely.

Empower Citizens to Drive the Home-rule District Charter Process

While citizens and parents who desire change in their public schools can start the charter process, they quickly lose control of it since the local school board is currently empowered to appoint the charter commission. This may be one reason why local citizens have lacked the motivation to begin the home-rule district process.

To improve the incentives for creating a home-rule district, the charter petition process should be driven by citizens—much like the ability citizens currently have to amend the charters of home-rule municipalities. They should be able to join together, draft a home-rule district charter, and then collect signatures in its support. Once at least five percent of the qualified voters of the school district or 20,000, whichever number is the smaller, has signed the petition, the petitioners can then submit the charter (or charter amendment) to the school board, which must then send the proposed charter directly to the voters for approval.

School boards should also be allowed, as under current law, to begin the home-rule district charter process. However, since school boards consist of elected officials, they should be able to propose a charter themselves, without going through a charter commission, as is currently the case. Voters will still have the opportunity to approve or disapprove a proposed charter, as well as approve or disapprove of the school board members who proposed the charter at subsequent school board elections.

Increase the Ability of Parents to Receive a Campus Charter or a Program on a Campus Charter

Sec. 12.052, Education Code, should be changed to require a board of trustees of a school district or the governing body of a home-rule school district to grant a campus charter or a program on a campus charter to the parents of a majority of students on the campus. This should be in addition to the current charter that can be granted to a majority of the parents and teachers working together, which should remain as an option.

To improve the incentives for creating a home-rule district, the charter petition process should be driven by citizens—much like the ability citizens currently have to amend the charters of home-rule municipalities.

Increase Local Control and Efficiency of Home-rule Districts

Remove Seat-Time Requirements to Encourage Blended and Online Learning

The Texas Education Code is explicit: students must be provided a minimum of 180 days of instruction. To receive credit for the school year (or a given course if the student attends a higher grade level), the student must attend at least 90 percent of the days the class meets.

The lone exception to this rule is that if a student has a plan in place, approved by the principal of his or her school, for meeting the requirements of the given course, the student may then attend 75 percent of the school days. Any other exception requires the consent of the school board on a case by case basis. Students who exceed the absence limits can appeal to the board of trustees in their district, but in all likelihood, excessive absences will result in a failure of the course.

These are restrictions that home-rule school districts should not be subject to. With the number of learning technologies now available, there is no need to mandate that students sit in a classroom for 90 percent of 180 days. While some students need as much time in the classroom as possible, others can self-pace and work through a course much faster, especially if they use online and blended learning approaches.

Attendance requirements are a somewhat more complicated matter, as public schools currently receive the bulk of their funding based upon weighted average daily attendance, which is to say, the number of students physically sitting in the given school during the school day.¹⁰ Allowing home-rule districts to receive their state funding based on the number of students enrolled in their district, rather than the number that are physically in the classroom on a day to day basis, would generate a great deal more flexibility regarding seat time. It is unlikely, given the timetable for the five school finance lawsuits currently making their way through the courts, that the state will see significant school finance reform during the 83rd Texas Legislature.

Removing seat-time and class-size requirements from Texas home-rule districts and schools should run hand in hand with encouraging them to increase their use of learning technologies. While not necessarily appropriate for every classroom setting, these technologies could be powerful tools for Texas educators.

It should be made clear that in the case of blended learning (that is to say, learning that takes place in a classroom setting but incorporates learning technologies), nothing in the technology limits the growth of its use in Texas classrooms. But technology costs money, and the funding that school districts receive in the existing funding formula tends to be tightly restricted for one education task or another. Removing as many fiscal mandates as possible from the home-rule code will give administrators more flexibility in their budgets, and could potentially encourage them to invest in more technology infrastructure.

Removing seat-time and class-size requirements from Texas home-rule districts and schools should run hand in hand with encouraging them to increase their use of learning technologies.

Blended-learning models, which encourage self-pacing and self-teaching, could have a very direct impact on class-size, and thus education costs for a district.¹¹ For example, rather than hire a new teacher to accommodate a few students as a school's population grows, a principal could allow class sizes to increase slightly, and invest in more technology for classrooms to aid their existing staff.

Shift Control and Funding of Virtual Education to Encourage Blended and Online Learning

Funding online and distance learning is a slightly more complex issue. If the state is going to encourage the expansion of these technologies in home-rule districts (or any public school setting) it must change the way it funds and administers its online learning efforts. Currently, the primary system for providing digital learning in Texas is the Texas Virtual School Network (TxVSN). Though it does not provide the courses directly, TxVSN plays a key role. By law, it must approve all online courses offered in the state. More importantly, schools receive money for their online students only through a separate funding allotment for the TxVSN. The Texas Education Agency explains:

Home-rule districts should be allowed to run their own virtual education programs, free from the Texas Virtual School Network (TxVSN).

The TxVSN allotment provides funding to school districts and charter schools that provide TxVSN courses (provider districts) as well as to districts and charter schools whose students receive instruction through TxVSN courses (resident districts). Funding for students in grades 9 through 12 is based on successful course completion (a provider district receives \$400 for each successfully completed course, and a resident district receives \$80). Funding for students in grades 3 through 8 is based on Average Daily Attendance (ADA). Provider districts that provide TxVSN courses that exceed a student's normal course load may be entitled to additional funding. Any school district, including a district subject to the provisions of the Texas Education Code, Chapter 41, may receive the benefit of the allotment.

This funding design is complicated, and does not encourage school districts to explore having portions of their student body attend online education full time. Additionally, the approval process, and by default, mandatory participation in the Texas Virtual School Network, does not encourage the growth of online learning at the district level.

Therefore there should be two changes made to the state's virtual education policies for home-rule schools and districts. First of all, the school finance system should allow full-time virtual learners to be funded through the state's mainstream funding formulas, rather than special allotments as they are now. Secondly, home-rule districts should be allowed to run their own virtual education programs, free from the TxVSN. Ideally, both of these changes would eventually take place for all public schools in Texas, but home-rules would be a good breeding ground for locally run virtual education shops.

Remove the 22:1 Class-Size Cap

The K-4 class-size cap raises the costs of public education significantly. The Office of the Comptroller, in its 2010 F.A.S.T. (Financial Allocation Study for Texas), explained clearly the manner in which the cap harms Texas education:

Many school officials believe the “22:1” limit interferes with their ability to staff campuses cost-effectively, asserting that classes with up to 25 students can operate without any loss of instructional effectiveness. Some suggest that the 22:1 requirement be based upon average class size rather than applying to all classes, giving districts more flexibility to set class size, allocate resources and limit costs.

For example, a district with 66 students in second grade currently must have three teachers, but the addition of just one more student would require the hiring of another teacher plus the acquisition of additional classroom space.

The K-4 class-size cap ultimately ends up artificially deflating class-sizes, forcing administrators to hire more teachers than they need for a given grade level. In 2010, the comptroller calculated that, based on average teacher salaries and the number of K-4 students in the state, removing the cap could save Texas as much as \$558 million.¹²

The number of K-4 students who would be affected by removing this cap for home-rule schools would obviously be determined by the number of districts that chose to take that path. Ideally, Texas will eventually do away with the class-size cap for all public schools. Until that happens, removing the cap for home-rule schools will be beneficial, and serve as a test bed for others.

Bilingual Education Requirements

Currently, home-rule school districts in Texas are required to use bilingual education as the default method of teaching English language-learning (ELL) students. This is the same mandate for language learners that traditionally run public schools currently operate under, and it serves as both a cost-driver and an academically problematic approach to teaching English as a second language.

While it is possible that for some English language learners, bilingual education is an effective approach, Dr. Christine Rossell of Boston University suggests that sheltered English immersion would be much stronger and cost effective:

Given that bilingual education is both more costly and less effective than other programs for ELL students, it is recommended that Texas follow the lead of other states and adopt sheltered English immersion as the default assignment for ELL students. At the very least, Texas should consider giving schools a choice as to the program that elementary ELL students receive, particularly in light of the fact that only three other states mandate bilingual education.

The K-4 class-size cap ultimately ends up artificially deflating class-sizes, forcing administrators to hire more teachers than they need for a given grade level.

Research indicates that sheltered English immersion is the most successful program for ELL students if one's goal is the highest level of achievement in English that a child is capable of (Rossell and Baker, 1996a, 1996b; Bali, 2001; Rossell, 2002; Rossell and Kuder, 2005). A sheltered English immersion course involves second language learners only, taught by a teacher trained in second language acquisition techniques. Instruction is almost entirely in the second language, but at a pace the child can understand.¹³

It should be clear that in the case of home-rule schools, sheltered immersion should not be a mandatory track. Rather, home-rules should be able to select the approach they feel best meets their needs, from both an academic and a financial standpoint.

Pre-Kindergarten

Texas does not require schools to offer pre-kindergarten programs. But some funding streams within the school finance system do encourage them to do so. There are also campaigns from various advocacy groups to make pre-kindergarten mandatory.

Though it seems unlikely that pre-kindergarten would become a requirement for all school districts, as the state faces an extremely difficult financial situation, it is important that home-rule schools have autonomy on this question. Privately provided pre-k is readily available, and some home-rule districts may determine that it is sufficiently available in their area so that their providing pre-kindergarten is unnecessary.

Loosen Hiring & Firing Requirements

Traditionally run school districts in Texas are subject to a lengthy list of teacher certification and termination standards that narrow the pool from which they can draw employees. These standards also make it extremely difficult to remove ineffective teachers from the classroom. Home-rule districts should be able to cut the bureaucratic red-tape of the current certification system by granting professionals, with college or advanced degrees and years of work experience in their fields, the ability to teach in the classroom. The process could involve filling out an application, attending an intensive six-week course, passing a short test, and interviewing with a principal. The intensive class could include teaching fundamentals, interacting with special needs students, information on pertinent state and federal laws, ideas on handling discipline problems, and student teaching opportunities.

Similarly, lawmakers must make it easier for administrators to remove ineffective teachers from the classroom. Home-rule districts should not be subject to laws that interfere with their ability to deal with personnel matters in the same way as other Texas employers.

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Encourage Home-rule Schools to Pay Competitively

Texas has a state minimum salary schedule that requires schools to pay each teacher a minimum amount every year, based on how many years the teacher has spent in the profession. A great majority of school districts pay well above this schedule, but still use it as a model. That is to say, all teachers in the district are given an annual raise, regardless of their performance.

Though home-rule schools are not subject to the state-minimum salary schedule, they might be inclined to take such a path as it is the Texas norm. Home-rule schools should move toward a model in which teachers are well compensated for excellence and encouraged to improve through the potential to make more money, rather than simply rewarding longevity.

Sustainable school finance reform for Texas will require that lawmakers and citizens rethink how we operate our public schools.

Conclusion: A Question of Efficiency

Texas is constitutionally obligated to “establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”¹⁴ Whether or not it is efficient, the “free” system has become very expensive. After health and human services, public education is the costliest item in the all-funds Texas Budget. The most recent Texas Legislature appropriated nearly \$51 billion for public schools.

Presently, there are five lawsuits moving through the Texas courts, each seeking to change the manner in which the state funds its schools. Districts that are property wealthy, districts that are property poor, frustrated parents, and minority groups have all come forward with a different argument, the commonality being that none of them are satisfied with the existing finance system.

Sustainable school finance reform for Texas will require that lawmakers and citizens rethink how we operate our public schools. The record of the traditional system of public education in Texas makes clear that we cannot provide a high of education with better teachers, competitive salaries, and lower costs without the efficiency, innovation, and productivity that competition and increased accountability provides.

Home-rule schools are not a fix-all for the problems in Texas public education. However, empowering citizens, parents, and educators to move toward a more flexible, locally responsible system of governance will significantly increase efficiency in the state’s education system. When these things occur, Texas should see locally-grown efficiency bloom in its public education system. ★

Endnotes

- ¹ Sec. 12.014, Texas Education Code.
- ² Sec. 12.016, Texas Education Code.
- ³ Sec. 12.019, Texas Education Code.
- ⁴ “FairVote,” The Center for Voting and Democracy, last modified 2011.
- ⁵ Sec. 22.001, Texas Education Code.
- ⁶ Dr. Christine Rossell, “Does Bilingual Education Work?” Texas Public Policy Foundation (Sept. 2009).
- ⁷ Sec. 12.013, Texas Education Code.
- ⁸ “California’s Parent Trigger Law,” Parent Revolution.
- ⁹ Texas Education Agency.
- ¹⁰ TTARA, A Guide to Texas School Finance.
- ¹¹ James Golsan, “Virtual Education and the Future of Texas Education,” Texas Public Policy Foundation (Mar. 2012).
- ¹² Texas F.A.S.T. Report.
- ¹³ Dr. Christine Rossell, “Does Bilingual Education Work?” Texas Public Policy Foundation (Sept. 2009).
- ¹⁴ Chapter 7, Sec. 1, Texas Constitution.

About the Authors

James Golsan is an education policy analyst at the Texas Public Policy Foundation. He joined the Foundation's Center for Education Policy in October 2010 and contributes to the following issues: K-12 education growth; higher education spending; and increasing spending transparency across academia.

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