



State of Tennessee

PUBLIC CHAPTER NO. 493

SENATE BILL NO. 623

By Bell, Johnson, Kelsey, Pody, Stevens, Bowling

Substituted for: House Bill No. 580

By Ragan, White, Cepicky, Sherrell, Smith, Darby, Zachary, Grills, Howell, Helton, Lamberth, Rudd, Terry, Casada, Littleton, Warner, Carr, Carringer, Griffey, Crawford, Weaver, Bricken, Gillespie, Wright, Rudder, Calfee, Williams, Halford, Tim Hicks, Alexander, Cochran, Russell, Moody, Hawk, Hulse, Todd, Jerry Sexton, Garrett, Moon, Holsclaw, Doggett, Sparks, Powers, Hurt, Reedy, Gant, Faison, Kumar, Eldridge, Leatherwood, Marsh, Vaughan, Boyd, Hall, Haston, Ogles, Lynn

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 49, relative to education.

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

SECTION 1. Tennessee Code Annotated, Section 49-1-102, is amended by deleting subsections (a) and (b) and substituting:

(a) The system of public education in this state is governed in accordance with laws enacted by the general assembly and under rules, policies, standards, and guidelines adopted by the state board of education that are necessary for the proper operation of public education in pre-kindergarten through grade twelve (pre-K-12). The state board shall formulate the rules, policies, standards, and guidelines with assistance from the commissioner of education, as the state board may request.

(b) The commissioner shall perform the duties assigned to the commissioner by law and is responsible for the administration, implementation, supervision, and enforcement of the rules, policies, standards, and guidelines of the state board of education.

SECTION 2. Tennessee Code Annotated, Section 49-1-201(c)(14), is amended by deleting the subdivision.

SECTION 3. Tennessee Code Annotated, Section 49-1-201(c), is amended by deleting subdivision (19) and substituting:

(19) Inspect, approve, and classify private schools in accordance with the rules of the state board of education;

SECTION 4. Tennessee Code Annotated, Section 49-1-201(c), is amended by deleting subdivision (20) and substituting:

(A) Prepare and present to the state board of education for its approval, disapproval, or amendment rules that are necessary to implement the policies, standards, or guidelines of the state board or the education laws of the state;

(B) In the absence of the state board, the commissioner shall have, if necessary, the emergency rulemaking authority provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(C) The commissioner may prepare and promulgate, without board approval, rules that are solely necessary for the internal administrative operation and functions of the department. The department's authority does not supersede the powers of the state board and may be used only in performance of the commissioner's administrative responsibilities;

SECTION 5. Tennessee Code Annotated, Section 49-1-211, is amended by deleting subsection (a) and substituting instead the following:

(a) The commissioner of education shall annually publish information on the department's website, including, but not limited to:

(1) The results of state-conducted compliance and performance audits of LEAs;

(2) Value-added assessment organized by grade band, school, and LEA;

(3) School performance indicators including performance on the Tennessee comprehensive assessment program (TCAP), dropout rates, the number of waivers granted pursuant to § 49-1-201(d), local financial contribution to education, attendance rates, and other indicators of school performance adopted by the state board of education;

(4) School and LEA performance designations pursuant to § 49-1-602;

(5) A comparison of expenditures by category and program for each LEA with statewide averages;

(6) Student dropout rates organized by school and LEA, disaggregated by sex and race;

(7) Student suspension and expulsion rates organized by school and LEA, disaggregated by sex and race;

(8) High school graduation rates organized by high school and LEA, disaggregated by sex and subgroup pursuant to applicable federal law. The high school graduation information must be placed on the annual state, LEA, and school-level report cards posted on the department's website;

(9) Alternative school performance indicators as reported to the department by LEAs pursuant to § 49-6-3405;

(10) A list of the advanced placement (AP) courses offered in each LEA and a list of the AP courses offered in each of the LEA's schools serving grades in which AP courses may be taken;

(11) The number of students taking AP courses and the percentage of students scoring three (3) or above on AP exams organized by each school and LEA serving grades in which AP courses may be taken;

(12) A list of the dual enrollment courses offered in each school and LEA and the number of dual enrollment courses taken by students enrolled in each of the LEA's schools serving grades in which dual enrollment courses may be taken;

(13) The percentage of students successfully completing dual enrollment courses, which must be reported by the LEA and by the school serving grades in which dual enrollment courses may be taken;

(14) ACT academic achievement data, including the number and percentage of students with a twenty-one (21) composite score or higher and the number and percentage of students meeting the college readiness benchmark in English, mathematics, reading, and science for each LEA and high school with at least ten (10) students taking the exam. The data shall not contain private or individual student information. The data must be included on the department's website; provided, that it is received by the department from ACT; and

(15) SAT college-bound seniors district profile for each LEA with at least twenty-five (25) students taking the SAT. The data shall not contain private or individual student information. The data must be included on the department's website; provided, that it is received by the department from the college board.

SECTION 6. Tennessee Code Annotated, Section 49-1-211, is amended by deleting subsections (b) and (c) and substituting instead the following:

(b) TCAP scores reported pursuant to subdivision (a)(3), or otherwise, must be disaggregated by subgroup.

SECTION 7. Tennessee Code Annotated, Section 49-1-302(a)(13), is amended by deleting the subdivision.

SECTION 8. Tennessee Code Annotated, Section 49-1-303, is amended by deleting the section.

SECTION 9. Tennessee Code Annotated, Section 49-1-1007, is amended by deleting the language "By July 1, 2017, and each July 1 thereafter," and substituting instead the language "By October 1, 2021, and each October 1 thereafter,".

SECTION 10. Tennessee Code Annotated, Section 49-2-116(d), is amended by deleting the last sentence.

SECTION 11. Tennessee Code Annotated, Section 49-2-406, is amended by deleting the section and substituting instead the following:

Each director of schools or local board of education shall make all reports required by the commissioner of education.

SECTION 12. Tennessee Code Annotated, Section 49-6-5001(a), is amended by deleting the language ", subject to the approval of the public health council,".

SECTION 13. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following as a new section:

(a) The governing body of the University of Tennessee system, the state university and community college system, or a state university may lease public lands under the governing body's jurisdiction to fraternities and sororities for a nominal consideration for a term not to exceed ninety-nine (99) years. A majority of the governing body may direct the chancellor, president, or chair of the governing body to execute the leases on behalf of the public institution of higher education; provided, that the leases are approved by the governor and the attorney general and reporter. A governing body shall consent in writing before a lease under this section is assigned or the premises are sublet or subleased. Prior to the commencement of the construction or installation of any improvement, the governing body shall approve the plans and specifications pertaining to the improvement. The governing body shall approve material alterations and all additions to the improvements constructed or installed on the premises prior to the commencement of the alterations or additions. The governing body shall promulgate rules for the operation and maintenance of the leased properties. At the end of the term of any lease, and in the event that any lessee violates the lessee's lease agreement or any rule adopted pursuant to this section, or violates this section, the lease terminates and the improved premises become the exclusive property of the governing body. The governing body shall take possession of the property. The lease may contain a provision for an option to renew the lease when the lease expires upon the conditions that the premises are not needed for use for other purposes in connection with the state's educational program and the building and improvements are suitable for occupancy without major repairs, remodeling, or alterations in accordance with the generally accepted standards for housing prevailing at public institutions of higher education. If the governing body does not renew a lease at the end of the term, then the governing body may pay the lessee the reasonable value of the improvements; however, in the event that the lease is not renewed, the title to the improvements vests in the state, and the state shall take possession of the premises, including the improvements, upon the expiration of the term.

(b) Any construction or installation of any improvements upon the property of a public institution of higher education by a fraternity or sorority pursuant to a lease agreement with the governing body is exempt from § 4-15-102(c), and from the Prevailing Wage Act for State Highway Construction Projects, compiled in title 12, chapter 4, part 4; provided, that the fraternity or sorority shall solicit competitive bids for the construction or installation and shall award the construction or installation contract to the lowest qualified bidder unless the fraternity or sorority can secure the work from alumni or supporters at a lesser cost than the lowest qualified bid.

SECTION 14. Tennessee Code Annotated, Section 49-1-305, is amended by deleting subsection (b) and substituting:

(b) The state board's staff is subject to personnel rules and policies that are applicable to state employees in general, including leave, compensation, classification, and travel rules and policies. The state board controls the work of the executive director and may terminate the executive director's employment. The state board and the executive director, in accordance with subsection (a), have the sole authority to appoint, terminate, and control staff employees. The board's employees do not have preferred service status.

SECTION 15. Tennessee Code Annotated, Section 49-1-607, is amended by deleting the section and substituting:

A person found to have violated security guidelines for administration of the Tennessee comprehensive assessment program (TCAP) test, or a successor test, including making or distributing unauthorized copies of the test, altering a grade or answer sheet, providing copies of answers or test questions, or otherwise compromising the integrity of the testing process must be placed on immediate suspension, and such actions constitute grounds for dismissal, including dismissal of tenured employees. Such actions are grounds for revocation of state licensure.

SECTION 16. Tennessee Code Annotated, Section 49-1-703, is amended by deleting the language "state board of education" and substituting the language "department of education".

SECTION 17. Tennessee Code Annotated, Section 49-2-202(a)(4), is amended by deleting the language "GED®" wherever it appears and substituting the language "GED® or HiSET®".

SECTION 18. Tennessee Code Annotated, Section 49-5-108(c)(5), is amended by deleting the language "supervisor, principal, or" wherever it appears.

SECTION 19. Tennessee Code Annotated, Section 49-5-108, is amended by deleting subsection (e) and substituting:

(e) Institutions with authorized teacher training programs shall ensure that persons seeking licensure in this state receive appropriate instruction in the teaching of reading.

SECTION 20. Tennessee Code Annotated, Section 49-5-111, is amended by deleting subsection (a) and substituting:

(a) Educational assistants shall have, at a minimum, a high school diploma, GED®, or HiSET®, and shall show demonstrable proficiency in reading and writing skills.

SECTION 21. Tennessee Code Annotated, Section 49-5-411(b), is amended by deleting subdivision (4) and substituting:

(4) If the state board of education finds that a teacher has broken the teacher's contract, then the state board may suspend the teacher's license for no less than thirty (30) days and no more than three hundred sixty-five (365) days;

SECTION 22. Tennessee Code Annotated, Section 49-6-108, is amended by deleting subdivision (7).

SECTION 23. Tennessee Code Annotated, Section 49-6-3001, is amended by deleting subsections (a) and (b) and substituting:

(a) The public schools are free to all persons residing within the state who are above five (5) years of age, or who will become five (5) years of age on or before August 15.

(b)(1) Any child residing within the state who is five (5) years of age, or who will become five (5) years of age on or before August 15, may enter the public school designated by the local board of education having appropriate jurisdiction at the beginning of the term; provided, that the child enters within thirty (30) days after the opening day of the term.

(2)(A) Any child who will not become five (5) years of age until after December 31 shall not enter school during that school year; provided, that LEAs having semiannual promotions may admit, at the beginning of any semester, children who will become five (5) years of age within sixty (60) days following the opening of the semester.

(B) Notwithstanding subdivision (b)(2)(A), if the director of schools finds through evaluation and testing, at the request of the parent or legal guardian, that a child who is five (5) years of age on or before September 30 is sufficiently mature emotionally and academically, then the child may be permitted to enter kindergarten.

(3) Where a student meets the requirements of the state board of education for transfer or admission purposes, the student may be admitted by a local board of education, notwithstanding any other provision or act to the contrary.

SECTION 24. Tennessee Code Annotated, Section 49-6-3001(c)(2)(B), is amended by deleting the first sentence of the subdivision and substituting:

Is enrolled and making satisfactory progress in a course leading to a GED® or HiSET® from a state-approved institution or organization, or who has obtained a GED® or HiSET®.

SECTION 25. Tennessee Code Annotated, Section 49-6-3001(d), is amended by deleting the subsection.

SECTION 26. Tennessee Code Annotated, Section 49-6-3017(b)(1), is amended by deleting the subdivision and substituting:

(1) Enrolled and making satisfactory progress in a course leading to a GED® or HiSET® from a state-approved institution or organization, or has obtained a GED® or HiSET®;

SECTION 27. Tennessee Code Annotated, Section 49-6-3017(d), is amended by deleting the language "GED®" and substituting "GED®, HiSET®".

SECTION 28. Tennessee Code Annotated, Section 49-6-3017(f), is amended by deleting the language "GED®" wherever it appears and substituting "GED® or HiSET®".

SECTION 29. Tennessee Code Annotated, Section 49-6-3050(a)(2), is amended by deleting subdivision (B) and substituting:

(B) Parent-teachers who register with an organization, as defined by § 49-50-801, for conducting a home school for students in grades nine through twelve (9-12) must possess at least a high school diploma, GED®, or HiSET®.

SECTION 30. Tennessee Code Annotated, Section 49-6-3050(b)(4), is amended by deleting the subdivision and substituting:

(4) Possession of a high school diploma, GED®, or HiSET® by the parent-teacher;

SECTION 31. Tennessee Code Annotated, Section 49-6-3110, is amended by deleting the section.

SECTION 32. Tennessee Code Annotated, Section 49-6-5002, is amended by deleting subsection (b).

SECTION 33. Tennessee Code Annotated, Section 49-6-6001(g), is amended by deleting the language "general equivalency development credential (GED®)" and substituting "GED® or HiSET®".

SECTION 34. Tennessee Code Annotated, Section 49-6-8103(c)(2), is amended by deleting the language "eighteen (18) credits" and substituting "seventeen (17) credits".

SECTION 35. Tennessee Code Annotated, Section 49-13-110, is amended by deleting subsection (d) and substituting:

(d) The governing body of the public charter school may petition the authorizer to amend the original charter agreement. The state board of education shall determine the timelines for approval and the appeal process until 11:59 p.m. on June 30, 2021. Beginning July 1, 2021, the commission shall determine the timelines for approval and the appeal process. If the authorizer is the state board of education or the commission, then an appeal shall not be made of the state board of education's or the commission's decision to deny a petition to amend the charter agreement. The governing body of a public charter school may petition the authorizer for voluntary termination of the charter agreement before the charter agreement expires.

SECTION 36. Tennessee Code Annotated, Section 4-5-231, is amended by adding the following language as a new subsection:

(c) Subsection (b) does not apply to the state board of education.

SECTION 37. Tennessee Code Annotated, Section 49-1-1002(b)(1), is amended by deleting the language "Section 49-6-1005(a) and the" and substituting "The".

SECTION 38. Tennessee Code Annotated, Section 49-3-318(b)(1), is amended by deleting the language "The system shall consist of three (3) grant programs as follows:" and substituting instead the language "The system consists of the following grant programs:".

SECTION 39. Tennessee Code Annotated, Section 49-7-2109, is amended by deleting subsection (d).

SECTION 40. Tennessee Code Annotated, Section 49-1-302(a), is amended by deleting subdivision (16) and substituting:

(16) Develop and adopt a uniform grading system to be implemented in all public schools in the state for purposes of calculating the cumulative grade point averages of students who are seeking financial academic assistance provided by the state. The state board may promulgate rules for the administration of this subdivision (a)(16);

SECTION 41. Tennessee Code Annotated, Section 49-1-302(a)(11), is amended by deleting the language "and regulations prepared by the commissioner".

SECTION 42. Tennessee Code Annotated, Section 49-1-302(a)(2), is amended by deleting the word "policies" and substituting the language "rules and policies".

SECTION 43. Tennessee Code Annotated, Section 49-1-302(a)(5)(A), is amended by deleting the word "policies" and substituting the language "rules and policies".

SECTION 44. Tennessee Code Annotated, Section 49-1-302(a)(6), is amended by deleting the word "policies" and substituting the language "rules and policies".

SECTION 45. Tennessee Code Annotated, Section 49-1-302(a)(7), is amended by deleting the word "policies" and substituting the language "rules and policies".

SECTION 46. Tennessee Code Annotated, Section 49-1-302(a), is amended by deleting subsection (8) and substituting:

(8) Approve all academic standards and adopt rules and policies governing courses of study in the public schools;

SECTION 47. Tennessee Code Annotated, Section 49-1-302(a)(12), is amended by deleting the word "policies" and substituting the language "rules and policies".

SECTION 48. Tennessee Code Annotated, Section 49-1-302(a)(17), is amended by deleting the word "guidelines" and substituting the language "rules, policies, and guidelines".

SECTION 49. Tennessee Code Annotated, Section 49-1-302(d)(2)(A), is amended by deleting the subdivision and substituting:

(A) The committee shall develop and recommend to the board guidelines and criteria for the annual evaluation of all teachers and principals employed by LEAs, including a local level evaluation grievance procedure. This grievance procedure must provide a means for evaluated teachers and principals to challenge only the accuracy of the data used in the evaluation and the adherence to the evaluation policies adopted pursuant to this subdivision (d)(2). Following the development of these guidelines and criteria, the board shall adopt rules and policies. The evaluations must be a factor in employment decisions, including, but not necessarily limited to, promotion, retention, termination, compensation, and the attainment of tenure status; however, this subdivision (d)(2)(A) does not require an LEA to use student achievement data based on state assessments as the sole factor in employment decisions.

SECTION 50. Tennessee Code Annotated, Section 49-5-108(c), is amended by adding the following as a new subdivision:

() Notwithstanding any other law, a public school teacher is not required to take an assessment to reactivate a license from this state that has expired if at the time of application to reactivate the license, the public school teacher possesses an active professional license in a state that has a reciprocal agreement with the state board of education pursuant to § 49-5-109.

SECTION 51. Tennessee Code Annotated, Title 49, Chapter 6, Part 10, is amended by adding the following as a new section:

(a) An LEA or public charter school shall not include or promote the following concepts as part of a course of instruction or in a curriculum or instructional program, or allow teachers or other employees of the LEA or public charter school to use supplemental instructional materials that include or promote the following concepts:

(1) One (1) race or sex is inherently superior to another race or sex;

(2) An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously;

(3) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex;

(4) An individual's moral character is determined by the individual's race or sex;

(5) An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(6) An individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;

(7) A meritocracy is inherently racist or sexist, or designed by a particular race or sex to oppress members of another race or sex;

(8) This state or the United States is fundamentally or irredeemably racist or sexist;

(9) Promoting or advocating the violent overthrow of the United States government;

(10) Promoting division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;

(11) Ascribing character traits, values, moral or ethical codes, privileges, or beliefs to a race or sex, or to an individual because of the individual's race or sex;

(12) The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;

(13) All Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including, life, liberty, and the pursuit of happiness; or

(14) Governments should deny to any person within the government's jurisdiction the equal protection of the law.

(b) Notwithstanding subsection (a), this section does not prohibit an LEA or public charter school from including, as part of a course of instruction or in a curriculum or instructional program, or from allowing teachers or other employees of the LEA or public charter school to use supplemental instructional materials that include:

(1) The history of an ethnic group, as described in textbooks and instructional materials adopted in accordance with part 22 of this chapter;

(2) The impartial discussion of controversial aspects of history;

(3) The impartial instruction on the historical oppression of a particular group of people based on race, ethnicity, class, nationality, religion, or geographic region; or

(4) Historical documents relevant to subdivisions (b)(1) - (3) that are permitted under § 49-6-1011.

(c) If the commissioner of education finds that an LEA or public charter school knowingly violated this section, then the commissioner shall withhold state funds, in an amount determined by the commissioner, from the LEA or public charter school until the LEA or public charter school provides evidence to the commissioner that the LEA or public charter school is no longer in violation of this section.

SECTION 52. If any provision of Section 51 or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of Section 51, or of this act, that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 53. Section 51 of this act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2021-2022 school year and subsequent school years. All other sections of this act take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 623

PASSED: May 5, 2021



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 25th day of May 2021



BILL LEE, GOVERNOR