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**TESTIMONY OF ERIC HARTMAN
ON BEHALF OF TEXAS AFT
REGARDING SB 3
BEFORE THE SENATE EDUCATION COMMITTEE
MARCH 8, 2011**

Working with members of this committee and the Senate Finance Committee in recent weeks, Texas AFT and the other statewide teacher organizations have found it possible to support a separate bill affording some flexibility for school districts in light of the current fiscal crisis. We supported that bill because it was temporary in effect, because it was appropriately limited in scope to the crisis at hand, and because it balanced the interests of teachers and districts. It is in this context that our opposition to SB 3 should be understood. SB 3 violates these principles. It makes multiple permanent changes in law in response to an urgent fiscal crisis—a bad way to make policy; the bill is not balanced; and it is overbroad.

Salary reduction

The permanent repeal of the salary floor established in Section 21.402(d) of the Education Code is not justified by a temporary fiscal crisis and is not necessary to provide desired flexibility to deal with that crisis.

The salary floor in current Section 21.402(d) is nothing exotic or unreasonable. It is similar to one used in previous pay-raise bills. The legislature in each case included this provision to ensure that a state-directed teacher pay raise would be passed through to teachers, not used to supplant local effort and thus to nullify the intended raise.

Furloughs

The seven-day furlough authorized for the next two school years in this bill would translate into an average annual cut in pay of \$1,832, based on the latest TASB salary survey. (The average teacher salary according to TASB's survey is an estimated \$48,950 per year.)

Providing a furlough option should be a true last resort for the state, after the exhaustion of every alternative available short of layoffs. Authorizing furloughs should not be an up-front justification for reducing state funding; it should be a response to real funding constraints remaining after better alternatives have run out.

The furlough option should be a true last resort for the district as well, after the exhaustion of every local alternative short of layoffs. At a minimum:

--The district should have to experience an actual reduction in formula funding before availing itself of this option.

--The district contemplating furloughs in lieu of layoffs should hold a public hearing to address the availability and proposed use (or not) of other options to avoid layoffs due to a shortfall in state aid, including use of the district's fund balance and an increase in the local property-tax rate.

--The number of furlough days should be limited to those actually demonstrated to be necessary due to a reduction in state aid.

--Furloughs should apply uniformly to all contract personnel, including administrators.

--Districts should be required to use site-based decision-making or other procedures for employee involvement in decision-making as authorized under Section 11.251 to determine which of the 187 days on the school calendar will be proposed as furlough days.

--As a final step, a majority vote of approval by the professional employees of the district who are potentially subject to the proposed furlough should be required as a prerequisite for implementation. The result of this vote should be announced before the penalty-free resignation date (45 days prior to start of new school year).

Even a carefully designed, temporary, limited furlough option along these lines would run into a separate problem that also must be addressed. Reducing a teacher's salary in this fashion would create an unintended incentive to retire, with an adverse impact on the TRS pension fund. Teachers eligible for retirement are acutely aware that their TRS pension benefit amount depends on their average salary for the last few years they are employed. If they see a salary reduction coming in the next school year, they will have an incentive to retire to avoid a negative impact on their annuity amount.

Deadline for notice of proposed contract non-renewal

SB 3 would permanently move the date for notice of proposed non-renewal of a teacher's term contract to the last day of the school year. This would disadvantage teachers, who now are entitled to notice 45 days before the end of the school year. Teachers deserve more timely notice that their job is in jeopardy, so that they can make alternative plans for their future.

There is no substantial evidence for the claim by some administrators that teachers quit doing their best once notified of non-renewal. It is not in the teachers' interest to neglect their duties and thereby hurt their case for contract renewal in a contested hearing or hurt their reputation and their ability to negotiate favorable terms of departure. It adds bitter insult to injury to teachers who face the possibility of mass layoffs to suggest that they must be kept in the dark about their fate until the end of the school year lest they fail to carry out their duties toward their students. These professionals, who devote their careers to helping children succeed in school and in life, deserve better from this legislature.

The current 45-day notice requirement is part of a carefully balanced set of provisions in Chapter 21 of the Education Code, and this change would upset that balance. (For example, the teacher has a corresponding deadline of 45 days before the start of the new school year to give notice of resignation without penalty. The 45-day notice of proposed non-renewal and the 45-day deadline for resignation without penalty represent a balancing of employee and employer interest in timely notification of intentions.)

No salary or contract safeguards for rehired retirees

Providing no salary or contract standards for rehired retirees will effectively undermine the safeguards of pay and contract rights for all teachers under the Education Code. This permanent change in law could also provide a new incentive for employees to retire early and begin drawing TRS benefits prematurely instead of continuing to contribute to the pension fund, adversely affecting the actuarial soundness of the fund. This proposal has been considered and rejected by the Senate in previous years. We urge you not to resurrect it.

Appropriate accelerated instruction for students who fail state exams

Removing the 10-to-1 student/teacher ratio for instruction of students who have failed state exams and are at risk of grade-level retention would eliminate an important quality standard. This provision was instituted to ensure that students at risk of retention receive more individualized attention. If this standard is to be altered permanently, an effective alternative means of assuring needed services for at-risk students should be put forward in its place.

Voiding teachers' contracts when certification lapses

Automatically voiding teachers' contracts for not maintaining certification is not necessary. Section 21.0031 already addresses this situation adequately, setting up a simple process requiring notice to the employee and the board's action to void the contract. The proposed language would cause confusion, because it leaves the status of the teacher's employment up to a third party, SBEC. The board is the entity with which the teacher contracts and the board needs to take action to sever that relationship so that the parties know the status of the teacher's employment and the date of severance. This permanent change is not worth the uncertainty it will create, particularly given the ease with which the current law allows the board to act.