

The Texas Education Agency (TEA) proposes an amendment to §62.1072, concerning options and procedures for local revenue in excess of entitlement. The proposed amendment would adopt as a part of the Texas Administrative Code (TAC) the official TEA publications *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2023-2024 School Year* and *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2024-2025 School Year*. The manuals contain the processes and procedures that TEA will use in the administration of the provisions of Texas Education Code (TEC), Chapter 49, and the fiscal, procedural, and administrative requirements that school districts subject to TEC, Chapter 49, must meet.

BACKGROUND INFORMATION AND JUSTIFICATION: The procedures contained in each yearly manual for districts determined to have local revenue in excess of entitlement are proposed as part of the TAC. The intent is to biennially update §62.1072 to refer to the most recently published manuals for the current and upcoming school years. Manuals adopted for previous school years will remain in effect with respect to those school years.

The proposed amendment to §62.1072 would adopt in rule the official TEA publications *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2023-2024 School Year* as Figure: 19 TAC §62.1072(a) and *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2024-2025 School Year* as Figure: 19 TAC §62.1072(b). The section title would be updated to reflect the manuals adopted in the rule.

Each school year's options and procedures for districts determined to have local revenue in excess of entitlement explain how districts subject to excess local revenue are identified; the fiscal, procedural, and administrative requirements those districts must meet; and the consequences for not meeting requirements. The options and procedures also provide information on using the online Foundation School Program (FSP) System to fulfill certain requirements.

The following significant changes are addressed in the updated publications.

In *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2023-2024 School Year*, dates would be changed throughout the manual, and a new date would be added to the calendar to reflect when the agency will provide official notification to districts with local revenue in excess of entitlement after review notification for the 2022-2023 school year in accordance with TEC, §49.0041. Non-substantive, technical edits would also be made.

In *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2024-2025 School Year*, information related to TEC, §48.278, Equalized Wealth Transition Grant, would be removed since the statute expires on September 1, 2024.

FISCAL IMPACT: Mike Meyer, deputy commissioner of finance, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would limit an existing regulation by removing references to TEC, §48.278, Equalized Wealth Transition Grant, in the publication

that applies to the 2024-2025 school year since the statute expires on September 1, 2024. The proposed rulemaking would also expand an existing regulation by adopting new publications for the 2023-2024 and 2024-2025 school years.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Meyer has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to inform the public of the existence of annual publications specifying the processes, procedures, and requirements used in the manuals for school districts with local revenue in excess of entitlement that are established biennially by the commissioner of education and communicated to all school districts. There is no anticipated economic cost to persons who are required to comply with this proposal.

DATA AND REPORTING IMPACT: The proposal would place the specific procedures contained in the publications *Options and Procedures for Local Revenue in Excess of Entitlement 2023-2024 School Year* and *Options and Procedures for Local Revenue in Excess of Entitlement 2024-2025 School Year* in the TAC. TEA administers the options for local revenue in excess of entitlement of TEC, Chapter 49, according to the procedures specified in each yearly manual for districts with excess local revenue. Data reporting requirements are addressed primarily through the online FSP System.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins November 3, 2023, and ends December 4, 2023. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on November 3, 2023. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §49.006, which authorizes the commissioner of education to adopt rules necessary for the implementation of TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §49.006.

<rule>

§62.1072. Options and Procedures for Local Revenue in Excess of Entitlement, 2023-2024 [~~2021-2022~~] and 2024-2025 [~~2022-2023~~] School Years.

- (a) For the 2023-2024 [~~2021-2022~~] school year, the processes and procedures that the Texas Education Agency (TEA) will use in the administration of the provisions of the Texas Education Code (TEC), Chapter 49, and the fiscal, procedural, and administrative requirements that school districts subject to the TEC, Chapter 49, must meet are described in the official TEA publication *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2023-2024* [~~2021-2022~~] School Year, provided in this subsection.

Figure: 19 TAC §62.1072(a) [~~Figure: 19 TAC §62.1072(a)~~]

- (b) For the 2024-2025 [~~2022-2023~~] school year, the processes and procedures that the TEA will use in the administration of the provisions of the TEC, Chapter 49, and the fiscal, procedural, and administrative requirements that school districts subject to the TEC, Chapter 49, must meet are described in the official TEA publication *Options and Procedures for Districts with Local Revenue in Excess of Entitlement 2024-2025* [~~2022-2023~~] School Year, provided in this subsection.

Figure: 19 TAC §62.1072(b) [~~Figure: 19 TAC §62.1072(b)~~]

- (c) The specific processes, procedures, and requirements used in the manuals for districts with local revenue in excess of entitlement are established biennially by the commissioner of education and communicated to all school districts.
- (d) School district actions and inactions in previous school years and data from those school years will continue to be subject to the annual manual for districts with local revenue in excess of entitlement with respect to those years.