

BILL ANALYSIS

C.S.H.B. 79
By: Guillen
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern over the evaluation of school districts partially on the basis of the number of district students with disabilities who take alternative tests for assessment purposes and contend that this evaluation may result in an improper limitation on the number of students who are allowed to take the alternative tests. C.S.H.B. 79 seeks to remove this limitation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 79 amends the Education Code to prohibit the Texas Education Agency (TEA) from limiting the percentage of students in a public school district's special education program who are appropriately assessed through alternative tests based on state eligibility criteria. The bill requires the commissioner of education to ensure that, in adopting any performance indicator for evaluating school district performance, the performance rating of a school district with, as determined by the commissioner, a disproportionately high percentage of enrolled students with disabilities appropriately assessed through alternative assessment tests would not be adversely affected on the basis of the district's participation in a shared services arrangement, the district's operation of a multidistrict classroom for students with significant cognitive disabilities, or the district's providing special services to a disproportionately high percentage of enrolled students with significant cognitive disabilities, as determined by the commissioner. The bill establishes that for purposes of a special accreditation investigation conducted when excessive numbers of students in special education programs are assessed through alternative assessment tests, a school district does not assess excessive numbers of students in special education programs through alternative assessments if the district appropriately assesses those students under the bill's provisions. The bill applies beginning with the 2017-2018 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 79 may differ from the original in minor or nonsubstantive ways, the following

comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02316 to read as follows:

Sec. 39.02316. REQUIREMENTS RELATING TO ALTERNATIVE ASSESSMENT DESIGNATION FOR STUDENTS IN SPECIAL EDUCATION PROGRAM; CERTAIN USE OF INFORMATION PROHIBITED.

The agency may not:

(1) limit the percentage of students in a special education program of a school district under Subchapter A, Chapter 29, who are appropriately assessed through alternative assessment instruments based on state eligibility criteria; and

(2) use the reported percentage of students in a special education program of a school district under Subchapter A, Chapter 29, who are assessed through the alternative assessment instruments for performance, compliance, or accountability purposes.

SECTION 2. Section 39.053(c), Education Code, is amended to read as follows:

(c) School districts and campuses must be evaluated based on five domains of indicators of achievement adopted under this section that include:

(1) in the first domain, the results of~~[-~~ ~~(A)]~~ assessment instruments required under Sections 39.023(a), (c), and (1), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02316 to read as follows:

Sec. 39.02316. REQUIREMENTS RELATING TO ALTERNATIVE ASSESSMENT DESIGNATION FOR STUDENTS IN SPECIAL EDUCATION PROGRAM.

(a) The agency may not limit the percentage of students in a special education program of a school district under Subchapter A, Chapter 29, who are appropriately assessed through alternative assessment instruments based on state eligibility criteria.

(b) The commissioner shall ensure that, in adopting any indicator under Section 39.053 for evaluating school district performance, the performance rating of a school district with, as determined by the commissioner, a disproportionately high percentage of enrolled students with disabilities appropriately assessed through alternative assessment instruments would not be adversely affected on the basis of:

(1) the district's participation in a shared services arrangement under Section 29.007;

(2) the district's operation of a multidistrict classroom for students with significant cognitive disabilities; or

(3) the district's providing special services to a disproportionately high percentage of enrolled students with significant cognitive disabilities, as determined by the commissioner.

No equivalent provision.

by subject area, including:

(A) [(†)] for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(B) [(†)] for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area [; and

~~[(B) assessment instruments required under Section 39.023(b), aggregated across grade levels by subject area, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area];~~

(2) in the second domain, [; and

~~[(A) for assessment instruments under Subdivision (1) [(†)(A)]:~~

(A) [(†)] for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area; and

(B) [(†)] for the college readiness performance standard as determined under Section 39.0241, the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area [; and

~~[(B) for assessment instruments under Subdivision (1)(B), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area];~~

(3) in the third domain, the student academic achievement differentials among

students from different racial and ethnic groups and socioeconomic backgrounds;

(4) in the fourth domain:

(A) for evaluating the performance of high school campuses and districts that include high school campuses:

(i) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(ii) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act [~~No Child Left Behind Act of 2001~~] (20 U.S.C. Section 6301 et seq.);

(iii) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;

(iv) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1);

(v) the percentage of students who completed a coherent sequence of career and technical courses;

(vi) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c);

(vii) the percentage of students who earn at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(viii) the percentage of students who have completed an advanced placement course;

(ix) the percentage of students who enlist in the armed forces of the United States; and

(x) the percentage of students who earn an industry certification;

(B) for evaluating the performance of middle and junior high school and elementary school campuses and districts that include those campuses:

(i) student attendance; and

(ii) for middle and junior high school campuses:

(a) dropout rates, computed in the manner described by Paragraph (A)(i); and

(b) the percentage of students in grades seven and eight who receive instruction in preparing for high school, college, and a career that includes information regarding the creation of a high school personal graduation plan under Section 28.02121, the distinguished level of achievement described by Section 28.025(b-15), each endorsement described by Section 28.025(c-1), college readiness standards, and potential career choices and the education needed to enter those careers; and

(C) any additional indicators of student achievement not associated with performance on standardized assessment instruments determined appropriate for consideration by the commissioner in consultation with educators, parents, business and industry representatives, and employers; and

(5) in the fifth domain, three programs or specific categories of performance related to community and student engagement locally selected and evaluated as provided by Section 39.0546.

SECTION 3. Section 39.057(a), Education Code, is amended to read as follows:

(a) The commissioner may authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements

SECTION 2. Section 39.057, Education Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) The commissioner may authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements

under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through alternative assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

(11) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(12) when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement under Section 28.025(c-1);

(13) when an excessive number of students is graduating with a particular endorsement under Section 28.025(c-1);

(14) in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter; or

under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) subject to Subsection (b-1), when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through alternative assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section;

(9) when a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily as determined by the commissioner under Section 39.0241(a) on assessment instruments administered under Section 39.023(a), (c), or (l);

(10) when excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

(11) when resource allocation practices as evaluated under Section 39.0821 indicate a potential for significant improvement in resource allocation;

(12) when a disproportionate number of students of a particular demographic group is graduating with a particular endorsement under Section 28.025(c-1);

(13) when an excessive number of students is graduating with a particular endorsement under Section 28.025(c-1);

(14) in response to a complaint submitted to the agency with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public school accountability, including accreditation, under this chapter; or

(15) as the commissioner otherwise determines necessary.

(15) as the commissioner otherwise determines necessary.

(b-1) For purposes of Subsection (a)(7), a school district does not assess excessive numbers of students in special education programs under Subchapter A, Chapter 29, through alternative assessments if the district appropriately assesses those students as provided by Section 39.02316.

SECTION 4. This Act applies beginning with the 2017-2018 school year.

SECTION 3. Same as introduced version.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 4. Same as introduced version.