

BILL ANALYSIS

C.S.H.B. 4545
By: Dutton
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that the grade placement committee process, currently required for the promotion of a student who does not perform satisfactorily on certain statewide standardized tests, may not be functioning as intended and that the current system of accelerated instruction, intended to assist students in achieving satisfactory grade-level performance, is ineffective. C.S.H.B. 4545 seeks to address these concerns by eliminating grade promotion that is reliant on passage of standardized tests and providing for accelerated instruction standards, including establishing a related outcomes bonus. The bill also establishes the strong foundations grant program to assist the implementation of high-quality instruction, materials, and support structures.

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 rulemaking authority is expressly granted to the commissioner of education in SECTIONS 3 and 9 of this bill.

ANALYSIS

C.S.H.B. 4545 amends the Education Code to provide for the redesignation and revision of grade placement committees as accelerated learning committees, standards for accelerated instruction, an accelerated learning and sustainment outcomes bonus, and the strong foundations grant program, among other provisions.

Accelerated Learning Committee and Accelerated Instruction

C.S.H.B. 4545 removes the prohibition against a student being promoted to a sixth-grade or ninth-grade program if the student does not perform satisfactorily on the fifth-grade or eighth-grade mathematics or reading statewide standardized test, as applicable. The bill requires a public school district to establish instead an accelerated learning committee for each student who does not perform satisfactorily on any of those tests or on the third-grade mathematics or reading statewide standardized test. The bill removes and repeals requirements relating to the repeated administration of an applicable test to a student who fails to perform satisfactorily and the consequences of a student's failure on a second or third attempt of the same test.

C.S.H.B. 4545 renames a grade placement committee as an accelerated learning committee and revises related provisions. The bill requires the committee, not later than the start of the subsequent school year, to develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level

by the conclusion of the school year for which the plan is developed. The bill requires the educational plan to be documented in writing and provided to the student's parent or guardian and requires each district board to adopt a policy consistent with statutory grievance procedures to allow a parent to contest the content or implementation of the plan.

C.S.H.B. 4545 authorizes the parent or guardian of a student who fails to perform satisfactorily on a third-grade, fifth-grade, or eighth-grade mathematics or reading standardized test to choose the classroom teacher who will provide instruction to the student in the failed subject area for the subsequent school year, if there is more than one appropriate teacher available. The bill requires such a student to be assigned, in that subsequent school year and in each failed subject, to an appropriately certified teacher who meets specified qualifications. If the student also fails in the subsequent school year to perform satisfactorily on a test in the same subject, the district superintendent or superintendent's designee must meet with the student's accelerated learning committee to identify the reason the student did not perform satisfactorily and determine whether the educational plan must be modified and whether any additional resources are required for that student. The superintendent's designee, if applicable, may not have served on the student's accelerated learning committee and may be an employee of a regional education service center.

C.S.H.B. 4545 requires a district to provide accelerated instruction during the subsequent summer or school year to any student who fails to perform satisfactorily on any statewide standardized test administered in the third through eighth grades and either to provide the student supplemental instruction or to allow the student to be assigned, in the applicable subject area for the subsequent school year, a classroom teacher who is certified as a master, exemplary, or recognized teacher. The bill prohibits a district, in providing accelerated instruction, from removing a student from grade-level foundation curriculum or enrichment curriculum instruction or from recess or other physical activity available to other students enrolled in the same grade level unless a student in that grade level, but not receiving accelerated instruction, would be removed under the same circumstances. The bill authorizes the commissioner of education to provide resources to districts to assist in the provision of an accelerated instruction program.

C.S.H.B. 4545 requires supplemental instruction to meet the following criteria:

- include targeted instruction according to state curriculum standards for the applicable grade levels and subject area;
- be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
- be provided for a minimum of 30 total hours during the subsequent summer or school year and, if applicable, at a minimum frequency of once per week during the school year;
- be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
- include effective instructional materials designed for supplemental instruction;
- be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;
- be provided by a person with training in the applicable instructional materials and under the oversight of the district; and
- to the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

C.S.H.B. 4545 changes the requirement for the commissioner to adopt rules as necessary to implement provisions relating to accelerated instruction and certain test performance to an authorization. The bill authorizes the commissioner, on the request of a district, to waive the requirement for a student who fails to perform satisfactorily on a third-grade, fifth-grade, or eighth-grade standardized test in mathematics or reading to be assigned to an appropriately certified teacher in the applicable subject and grade.

C.S.H.B. 4545 repeals provisions that do the following:

- require the commissioner to determine and certify annually whether sufficient funds have been appropriated for purposes of accelerated instruction, including accelerated instruction for high school students;
- prohibit the commissioner from considering foundation school program funds other than the compensatory education allotment for that purpose; and
- make the implementation of applicable provisions in a given school year contingent on the commissioner's certification that sufficient funds have been appropriated to administer the accelerated instruction programs.

Accelerated Learning and Sustainment Outcomes Bonus

C.S.H.B. 4545 establishes an annual outcomes bonus under the foundation school program that entitles a district or open-enrollment charter school to a bonus amount for each successfully accelerated student above a threshold number of qualifying students set by the commissioner and a bonus amount for each sustained accelerated student. The bill establishes the conditions under which a student is considered a successfully accelerated or sustained accelerated student as follows:

- a successfully accelerated student performs satisfactorily or better on a statewide standardized test administered in the third through eighth grades after not having performed satisfactorily on the test administered in the same subject at the preceding grade level; and
- a sustained accelerated student meets the criteria for a successfully accelerated student and, additionally, at the second subsequent grade level after the student's failure to perform satisfactorily on an applicable test, performs at a college readiness level or a level indicating preparedness for the next grade level or better on a statewide standardized test administered in the third through eighth grades.

C.S.H.B. 4545 requires the commissioner to establish a threshold percentage of successfully accelerated students who are and are not educationally disadvantaged, using a percentile based on median district and charter school performance on the applicable tests during the 2017-2018 school year. The commissioner must determine annually, for each district and charter school, the minimum number of successfully accelerated students necessary to meet the threshold percentage and may modify threshold percentages once every five years, contingent on a substantial improvement in the median performance of districts and charter schools.

C.S.H.B. 4545 sets the following bonus amounts:

- for each successfully accelerated student in excess of the threshold:
 - \$500 per student who is not educationally disadvantaged; and
 - \$1,000 per student who is educationally disadvantaged; and
- for each sustained accelerated student:
 - \$250 per student who is not educationally disadvantaged; and
 - \$500 per student who is educationally disadvantaged.

Accelerated Learning and Testing for High School Students

C.S.H.B. 4545 revises requirements for accelerated instruction for high school students as follows:

- removes a specification that accelerated instruction is funded through appropriations for that purpose; and
- requires the instruction to comply with the requirements for accelerated instruction in the third through eighth grades.

C.S.H.B. 4545 repeals provisions relating to the adoption and administration of optional statewide standardized tests in Algebra II and English III.

Strong Foundations Grant Program and Intervention

C.S.H.B. 4545 requires the commissioner to establish and administer a strong foundations grant program for campuses or a campus program serving students enrolled in prekindergarten through grade five to implement a rigorous school approach that combines high-quality instruction, materials, and support structures. The bill requires the commissioner to adopt required components for the program, which must include the following:

- the use of high-quality instructional materials, curricula, and curricular tools;
- the use of aligned diagnostic and formative assessments;
- aligned professional supports;
- practices designed to ensure high-quality support for students with disabilities;
- evidence-based practices to increase and maintain parental engagement; and
- measurement of fidelity of program implementation.

Grants may be in the form of funds, in-kind resources, or both. The bill requires the commissioner to use appropriated funds, federal funds, and other available funds to assist districts and charter schools in implementing the program and authorizes the commissioner to accept gifts, grants, and donations from any source for the program. The bill makes a contributing private or nonprofit organization eligible to receive an Employers for Education Excellence award. The bill authorizes a district or charter school to use grant funds to prepare educators and other staff or to pay for agreements with other entities to provide prekindergarten services.

C.S.H.B. 4545 authorizes the commissioner, as an intervention under the public school accountability system, to require a district or charter school to comply with all requirements of the strong foundations grant program at a campus that meets the following conditions:

- includes students at any grade level from prekindergarten through fifth grade;
- is assigned an overall performance rating of D or F; and
- is in the bottom five percent of campuses in the state based on student performance on the third-grade reading standardized test during the previous school year, as determined by the commissioner.

This authorization applies notwithstanding an exception delaying certain interventions for a campus assigned an overall performance rating of D that is ordered to implement a targeted improvement plan. The bill requires the commissioner, subject to appropriations, to award a strong foundations grant to any campus required to implement the grant program requirements for accountability purposes. The bill requires the commissioner to adopt rules to determine whether such a district or charter school is complying adequately with the requirements and subjects a noncompliant district or charter school to other applicable accountability interventions, including the appointment of a conservator. The bill authorizes the commissioner, for a campus that meets the requisite conditions, to impose the strong foundations program requirements either as an alternative to a commissioner hearing or the establishment of a school partnership team or in any combination with those other interventions.

Other Provisions

C.S.H.B. 4545 authorizes the commissioner to purchase instructional tools to provide for use by districts and charter schools, using funds for the purpose or otherwise available to the commissioner in the form of grants. The bill also authorizes the commissioner to contract on behalf of districts and charter schools to purchase any item for instructional purposes, provided that the district or school dedicates local funds for the purpose. The bill applies beginning with the 2021-2022 school year.

C.S.H.B. 4545 repeals the following provisions of the Education Code:

- Sections 28.0211(b), (d), (e), (i-1), (i-2), (m), and (m-1);
- Section 39.0231; and
- Section 39.0238.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4545 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following provisions that did not appear in the original:

- a provision making the commissioner's authority to contract on behalf of a district or charter school for instruction-related purchases contingent on the district's or charter school's dedication of local funds for that purpose;
- an authorization for the commissioner to waive a requirement relating to the assignment of an appropriately certified teacher for students who fail to perform satisfactorily on certain statewide standardized tests; and
- the following provisions relating to the strong foundations grant program:
 - additional required program components relating to the use of certain assessments and practices;
 - provisions relating to the form of grants and relating to authorized uses of grant funds by a district or charter school; and
 - provisions relating to the commissioner's imposition of program requirements as an alternative campus intervention for certain campuses that do not meet performance standards.

The substitute replaces a requirement in the original for a district providing accelerated instruction to ensure the student's participation in and exposure to specified grade-level curriculum content with a prohibition against the district removing a student from instruction in that content. The substitute adds a further prohibition against removing the student from recess or other physical activity available to other students in the student's grade level.

While the original required a person providing supplemental instruction to receive ongoing oversight, the substitute specifies oversight by the school district.

The substitute does not include the following provisions that were in the original:

- a requirement for statewide standardized tests in mathematics administered in the third to eighth grades to align with the technology expectations in the state curriculum standards for the corresponding grade level;
- a provision for a district affected by certain local conditions to apply to the commissioner for a waiver from a requirement that certain statewide standardized tests not be administered on the first instructional day of a week; and
- a clarification regarding the frequency with which the Texas Education Agency must release the questions and answer keys to each standardized test.