

By: Olivo, Raymond, Veasey, Mowery, Dutton,
et al.

H.B. No. 136

Substitute the following for H.B. No. 136:

By: Branch

C.S.H.B. No. 136

A BILL TO BE ENTITLED

AN ACT

relating to the promotion of students to certain grade levels in
public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.0211, Education Code, is amended by
amending Subsections (a), (c), and (f) and adding Subsections
(c-1), (c-2), (c-3), (c-4), and (p) to read as follows:

(a) Except as provided by Subsection (c-3) [~~(b) or (e)~~], a
student may not be promoted to:

(1) the fourth grade program to which the student
would otherwise be assigned if the student does not perform
satisfactorily on the third grade reading assessment instrument
under Section 39.023;

(2) the sixth grade program to which the student would
otherwise be assigned if the student does not perform
satisfactorily on the fifth grade mathematics and reading
assessment instruments under Section 39.023; or

(3) the ninth grade program to which the student would
otherwise be assigned if the student does not perform
satisfactorily on the eighth grade mathematics and reading
assessment instruments under Section 39.023.

(c) The first [~~Each~~] time a student fails to perform
satisfactorily on an assessment instrument specified under
Subsection (a), the school district in which the student attends

1 school shall provide the student with an opportunity to take the
2 assessment instrument a second time. Before administering the
3 assessment instrument to the student a second time, the district
4 shall establish a grade placement committee to prescribe [to] the
5 [student] accelerated instruction that must be provided by the
6 district to the student in the applicable subject area, including
7 reading instruction for a student who fails to perform
8 satisfactorily on a reading assessment instrument, and establish an
9 educational plan for the student. The educational plan must be
10 designed to enable the student to perform at the appropriate grade
11 level by the conclusion of the school year. An accelerated
12 instruction group administered by a school district under this
13 section may not have a ratio of more than 10 students for each
14 teacher.

15 (c-1) The grade placement committee established under
16 Subsection (c) shall be composed of the principal or the
17 principal's designee, the student's parent or guardian, and the
18 teacher of the subject of an assessment instrument on which the
19 student failed to perform satisfactorily. The district shall
20 notify the parent or guardian of the time and place for convening
21 the grade placement committee and the purpose of the committee.

22 (c-2) In addition to providing accelerated instruction to a
23 student and establishing an educational plan for a student under
24 Subsection (c), the district shall notify the student's parent or
25 guardian of:

26 (1) the student's failure to perform satisfactorily on
27 the assessment instrument;

1 (2) the accelerated instruction program to which the
2 student is assigned;

3 (3) the educational plan developed for the student;

4 (4) the opportunity for the student to take the
5 assessment instrument a second time; and

6 (5) the possibility that the student might be retained
7 at the same grade level for the next school year if the student
8 fails to perform satisfactorily after taking the assessment
9 instrument a second time.

10 (c-3) If [~~After~~] a student fails to perform satisfactorily
11 on an assessment instrument a second time, the [a] grade placement
12 committee shall determine whether the student should be promoted.

13 The grade placement committee may promote the student if the
14 committee determines that the student has demonstrated an overall
15 competency in the essential knowledge and skills of the student's

16 grade level. If the grade placement committee determines that the
17 student should not be promoted, the grade placement committee shall
18 provide the student with an opportunity to take the assessment

19 instrument a third time. If the student's parent or guardian
20 declines the opportunity for the student to take the assessment
21 instrument a third time or if the student takes the assessment

22 instrument a third time and fails to perform satisfactorily on the
23 assessment instrument, the student may not be promoted to the next
24 grade level unless the grade placement committee determines that

25 the student has demonstrated an overall competency in the essential
26 knowledge and skills of the student's grade level. A student may
27 not be retained on the basis of the grade placement committee's

1 decision under this subsection unless that decision is unanimous.
2 The commissioner by rule shall establish a time line for making the
3 placement determination. This subsection does not create a
4 property interest in promotion [~~be established to prescribe the~~
5 ~~accelerated instruction the district shall provide to the student~~
6 ~~before the student is administered the assessment instrument the~~
7 ~~third time. The grade placement committee shall be composed of the~~
8 ~~principal or the principal's designee, the student's parent or~~
9 ~~guardian, and the teacher of the subject of an assessment~~
10 ~~instrument on which the student failed to perform satisfactorily.~~
11 ~~The district shall notify the parent or guardian of the time and~~
12 ~~place for convening the grade placement committee and the purpose~~
13 ~~of the committee. An accelerated instruction group administered by~~
14 ~~a school district under this section may not have a ratio of more~~
15 ~~than 10 students for each teacher].~~

16 (c-4) In determining whether a student has demonstrated an
17 overall competency in the essential knowledge and skills of the
18 student's grade level under Subsection (c-3) the grade placement
19 committee shall consider:

20 (1) evidence of the student's satisfactory
21 performance, including grades, portfolios, work samples, local
22 assessments, and individual reading and mathematics diagnostic
23 tests or inventories;

24 (2) the student's grades in language arts,
25 mathematics, science, and social studies for the grade level from
26 which the student seeks promotion;

27 (3) the student's performance on the individual

1 assessment instruments administered to the student under Section
2 39.023;

3 (4) the student's total scores on the assessment
4 instrument or instruments specified by Subsection (a); and

5 (5) extenuating circumstances that have adversely
6 affected the student's participation in the required assessments.

7 (f) A school district shall provide to a student who, after
8 two [~~three~~] attempts, has failed to perform satisfactorily on an
9 assessment instrument specified under Subsection (a) accelerated
10 instruction during the next school year as prescribed by the [~~an~~]
11 educational plan developed for the student by the student's grade
12 placement committee [~~established~~] under Subsection (c). The
13 district shall provide that accelerated instruction regardless of
14 whether the student has been promoted or retained. [~~The~~
15 ~~educational plan must be designed to enable the student to perform~~
16 ~~at the appropriate grade level by the conclusion of the school~~
17 ~~year.~~] During the school year, the student shall be monitored to
18 ensure that the student is progressing in accordance with the
19 educational plan developed for the student under Subsection (c).
20 The district shall administer to the student the assessment
21 instrument for the grade level in which the student is placed at the
22 time the district regularly administers the assessment instruments
23 for that school year.

24 (p) If at any point during the school year a teacher
25 determines that a student who is required to take an assessment
26 instrument specified under Subsection (a) is not performing at
27 grade level, the teacher shall notify the student's parent or

1 guardian in writing and by telephone and request a conference with
2 the parent or guardian. The teacher must request the conference not
3 later than the 30th day before the first day on which the assessment
4 instrument specified under Subsection (a) is administered to the
5 student.

6 SECTION 2. Sections 28.0211(b), (d), and (e), Education
7 Code, are repealed.

8 SECTION 3. This Act applies beginning with the 2007-2008
9 school year.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2007.