

By: Olivo

H.B. No. 136

A BILL TO BE ENTITLED

1 AN ACT

2 relating to promotion of students to certain grade levels in public  
3 school.

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

5 SECTION 1. Section 28.0211, Education Code, is amended by  
6 amending Subsections (a), (c), (d), (e), and (f) and adding  
7 Subsections (a-1), (b-1), and (d-1) to read as follows:

8 (a) Except as provided by Subsection (b-1), (d), [~~(b)~~] or  
9 (e), a student may not be promoted to:

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

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

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

22 (a-1) A school district shall establish a grade placement  
23 committee to determine whether to promote or retain a student who  
24 fails to perform satisfactorily on an assessment instrument

1 specified under Subsection (a). The grade placement committee  
2 shall be composed of the student's principal or the principal's  
3 designee, the teacher of the subject of an assessment instrument on  
4 which the student failed to perform satisfactorily, and a counselor  
5 at the student's school, or in the student's school district if the  
6 student's school does not have a counselor. The district shall  
7 notify the student's parent or guardian of:

8 (1) the student's failure to perform satisfactorily on  
9 the assessment instrument;

10 (2) the time and place for convening the grade  
11 placement committee and the purpose of the committee; and

12 (3) the possibility that the student might be retained  
13 at the same grade level for the next school year.

14 (b-1) The grade placement committee may decide to promote a  
15 student who fails to perform satisfactorily on an assessment  
16 instrument specified under Subsection (a) if the committee  
17 concludes, using standards adopted by the board of trustees, that  
18 if promoted and given accelerated instruction as provided by  
19 Subsection (f), the student is likely to perform at grade level.  
20 The standards adopted by the board of trustees may include:

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

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

1           (3) performance on the individual assessment  
2 instruments administered to the student under Section 39.023;

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

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

7           (c) If the grade placement committee decides not to promote  
8 a student under Subsection (b-1), the [~~Each time a student fails to~~  
9 ~~perform satisfactorily on an assessment instrument specified under~~  
10 ~~Subsection (a), the school district in which the student attends~~  
11 ~~school shall provide to the student accelerated instruction in the~~  
12 ~~applicable subject area, including reading instruction for a~~  
13 ~~student who fails to perform satisfactorily on a reading assessment~~  
14 ~~instrument. After a student fails to perform satisfactorily on an~~  
15 ~~assessment instrument a second time, a]~~ grade placement committee  
16 shall [~~be established to~~] prescribe [~~the~~] accelerated instruction  
17 for [~~the district shall provide to~~] the student for the remainder of  
18 the school year and may prescribe accelerated instruction for the  
19 time school is recessed for the summer [~~before the student is~~  
20 ~~administered the assessment instrument the third time~~]. [~~The grade~~  
21 ~~placement committee shall be composed of the principal or the~~  
22 ~~principal's designee, the student's parent or guardian, and the~~  
23 ~~teacher of the subject of an assessment instrument on which the~~  
24 ~~student failed to perform satisfactorily. The district shall~~  
25 ~~notify the parent or guardian of the time and place for convening~~  
26 ~~the grade placement committee and the purpose of the committee.~~] An  
27 accelerated instruction group administered by a school district

1 under this section may not have a ratio of more than 10 students for  
2 each teacher. The accelerated instruction must include reading  
3 instruction for a student who fails to perform satisfactorily on a  
4 reading assessment instrument. The

5 ~~[(d) In addition to providing accelerated instruction to a~~  
6 ~~student under Subsection (c), the]~~ district shall notify the  
7 student's parent or guardian of[+]

8 ~~[(1) the student's failure to perform satisfactorily~~  
9 ~~on the assessment instrument;~~

10 ~~[(2)]~~ the accelerated instruction program to which the  
11 student is assigned[+ and

12 ~~[(3) the possibility that the student might be~~  
13 ~~retained at the same grade level for the next school year].~~

14 (d) The grade placement committee may decide in favor of a  
15 student's promotion after a student has received accelerated  
16 instruction as provided by Subsection (c) if the committee  
17 concludes, using the same standards adopted by the board of  
18 trustees under Subsection (b-1), that if promoted and given  
19 accelerated instruction as provided by Subsection (f), the student  
20 is likely to perform at grade level.

21 (d-1) A student may not be retained on the basis of the grade  
22 placement committee's decision unless that decision is unanimous.  
23 The commissioner by rule shall establish a time line for making the  
24 placement determination.

25 (e) A student who[~~, after at least three attempts,~~] fails to  
26 perform satisfactorily on an assessment instrument specified under  
27 Subsection (a) and is not promoted by the grade placement committee

1 under Subsection (b-1) or (d) shall be retained at the same grade  
2 level for the next school year in accordance with Subsection (a).  
3 The student's parent or guardian may appeal the student's retention  
4 by submitting a request to the grade placement committee  
5 established under Subsection (a-1) to reconsider its decision under  
6 Subsection (d) [(c)]. The school district shall give the parent or  
7 guardian written notice of the opportunity to appeal. Subsections  
8 (b-1) and (d) and this [~~The grade placement committee may decide in~~  
9 ~~favor of a student's promotion only if the committee concludes,~~  
10 ~~using standards adopted by the board of trustees, that if promoted~~  
11 ~~and given accelerated instruction, the student is likely to perform~~  
12 ~~at grade level. A student may not be promoted on the basis of the~~  
13 ~~grade placement committee's decision unless that decision is~~  
14 ~~unanimous. The commissioner by rule shall establish a time line for~~  
15 ~~making the placement determination. This]~~ subsection do [~~does~~] not  
16 create a property interest in promotion. [~~The decision of the grade~~  
17 ~~placement committee is final and may not be appealed.~~]

18 (f) A school district shall provide to a student who [~~, after~~  
19 ~~three attempts,~~] has failed to perform satisfactorily on an  
20 assessment instrument specified under Subsection (a) accelerated  
21 instruction during the next school year as prescribed by an  
22 educational plan developed for the student by the student's grade  
23 placement committee established under Subsection (a-1) [(c)]. The  
24 district shall provide that accelerated instruction regardless of  
25 whether the student has been promoted or retained. The educational  
26 plan must be designed to enable the student to perform at the  
27 appropriate grade level by the conclusion of the school year.

1 During the school year, the student shall be monitored to ensure  
2 that the student is progressing in accordance with the plan. The  
3 district shall administer to the student the assessment instrument  
4 for the grade level in which the student is placed at the time the  
5 district regularly administers the assessment instruments for that  
6 school year.

7 SECTION 2. Section 28.0211(b), Education Code, is repealed.

8 SECTION 3. Section 28.0211, Education Code, as amended by  
9 this Act, applies beginning with the 2007-2008 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.