

BILL ANALYSIS

C.S.H.B. 2923
By: Huberty
State Sovereignty, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Various provisions of federal law place restrictions on the authority of the federal government over education or acknowledge state and local responsibilities with respect to support and maintenance of systems of public education. Even where the federal government provides funds for public education to states and local governments, many funding provisions still limit the extent to which the federal government can exercise direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system. The federal No Child Left Behind Act, for example, prohibits funds appropriated through the act from being used to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school or from being used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject unless specifically and explicitly authorized by law.

Interested parties have asserted that, despite the fact that the 10th Amendment of the U.S. Constitution clearly reserves the responsibility for education to the states and despite the explicit intentions of federal education laws, the executive branch of the federal government appears to be increasing its authority over education by using stimulus funding to promote the adoption of national education standards and national tests.

C.S.H.B. 2923 seeks to address this apparent overreach by the federal government.

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. 2923 amends the Education Code to prohibit the commissioner of education from adopting or developing a recommended appraisal process and criteria on which to appraise the performance of teachers based on any federally enacted or nationally applicable appraisal criteria incorporating the results of student performance on assessment instruments. The bill prohibits the State Board of Education (SBOE) from adopting national curriculum standards to comply with a duty imposed under provisions relating to the designation of subjects in the public school curriculum and the identification of essential knowledge and skills in each such subject. The bill prohibits a school district from using national curriculum standards to comply with an SBOE requirement that each school district, as a condition of accreditation, provide instruction in the essential knowledge and skills at appropriate grade levels. The bill prohibits a school district or open-enrollment charter school from being required to offer any aspect of a national curriculum. The bill prohibits the Texas Education Agency (TEA) from adopting or developing a criterion-referenced assessment instrument based on national curriculum standards.

C.S.H.B. 2923 defines, "national curriculum standards," for purposes the bill's provisions, to include any curriculum standards endorsed, approved, sanctioned, or promoted by the United

States Department of Education, the National Governors Association, or the Council of Chief State School Officers.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2923 contains a provision not included in the original prohibiting the commissioner of education from adopting or developing a recommended appraisal process and criteria on which to appraise the performance of teachers based on any federally enacted or nationally applicable appraisal criteria incorporating the results of student performance on assessment instruments.

C.S.H.B. 2923 omits a specification included in the original making the definition of the term "national curriculum standards" applicable to any section of the Education Code.

C.S.H.B. 2923 omits a provision included in the original prohibiting data collected through the Public Education Information Management System (PEIMS) from being provided to support or inform a national database of student information and prohibiting any entity other than the Texas Education Agency and its contractors from using individual student data collected through PEIMS for any purpose without the prior written consent of the student's parent, guardian, or person standing in parental relation for that student's data to be used for that purpose.

C.S.H.B. 2923 differs from the original in nonsubstantive ways.