

BILL ANALYSIS

C.S.H.B. 1328
By: Villarreal
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current public school accountability system protocols for students who are English language learners allow for significant problems to remain hidden. Such problems reportedly include underidentification of English language learners, excessive parental denials of approval for student placements, and continuous waivers of, or exceptions to, the bilingual program under the Performance-Based Monitoring Analysis System. The parties assert that past legislative efforts have not provided these students an equal opportunity to learn English in compliance with federal law and have not allowed for sufficient transparency of the system or flexibility for students who fail certain tests. C.S.H.B. 1328 seeks to ensure that the Texas Education Agency has the necessary tools to provide support to Texas school districts for the education of these students.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1328 amends the Education Code to expand the data that the Texas Education Agency (TEA) is required to use to evaluate the effectiveness of bilingual education and other special language programs to include, in addition to student achievement indicators, the following: the difference in grade-level retention rates between students of limited English proficiency and students who are not students of limited English proficiency; any significant difference in performance on statewide standardized tests, including those administered in Spanish, and end-of-course tests, as applicable, between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average performance on those tests of students who are not students of limited English proficiency; and any significant difference in the dropout rate for grade levels 9 through 12 between students of limited English proficiency at the campus or in the district or charter school being evaluated and the state average dropout rate of students who are not students of limited English proficiency. The bill requires TEA to evaluate the data disaggregated by campus and school district or open-enrollment charter school and requires each district and charter school to collect and provide TEA with the data.

C.S.H.B. 1328 requires TEA to evaluate the data provided for a school district campus with fewer than 30 students enrolled in bilingual education or English as a second language or other special language programs only at the district level. The bill requires TEA to also use the data provided to evaluate the effectiveness of bilingual education and other special language programs based on comparisons between students who, while enrolled in public school in Texas, have ever been classified as students of limited English proficiency and students who have never been classified as students of limited English proficiency. The bill prohibits TEA from replacing an evaluation of bilingual or other special language programs of a district, campus, or charter school with federal accountability measures concerning students of limited English proficiency.

The bill requires each person considered by TEA to be the lead monitor evaluating the effectiveness of bilingual education and special language programs to be appropriately certified by the State Board for Educator Certification for teaching English as a second language and specifies that an emergency endorsement is not considered appropriate certification for purposes of this requirement. The bill repeals a provision setting out the areas of a bilingual education or other special language program for required TEA monitoring.

C.S.H.B. 1328 requires the commissioner to adopt rules to ensure that, through the Public Education Information Management System, TEA collects and maintains data regarding the following: whether a student is or while enrolled in a public school in Texas has ever been classified as a student of limited English proficiency; the school year in which such a student first entered ninth grade; and the status of such a student as a continuing student, a high school graduate, a recipient of a high school equivalency certificate, or a dropout. The bill's provisions apply beginning with the 2014-2015 school year.

C.S.H.B. 1328 repeals Section 29.062(b), Education Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1328 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 29.062, Education Code, is amended to read as follows:

Sec. 29.062. COMPLIANCE. (a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, in accordance with the policy of the state, the agency shall evaluate the effectiveness of programs under this subchapter based on the following data, disaggregated by campus and school district or open-enrollment charter school, which each district and open-enrollment charter school shall collect and provide to the agency:

- (1) the student achievement indicators adopted under Section 39.053, including the results of assessment instruments;
- (2) the difference in grade-level retention rates between students of limited English proficiency and students who are not students of limited English proficiency;
- (3) any significant difference in performance on assessment instruments required under Sections 39.023(a), (c), and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 29.062, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (b-1), and (b-2) to read as follows:

(a) The legislature recognizes that compliance with this subchapter is an imperative public necessity. Therefore, in accordance with the policy of the state, the agency shall evaluate the effectiveness of programs under this subchapter based on the following data, disaggregated by campus and school district or open-enrollment charter school, which each district and open-enrollment charter school shall collect and provide to the agency:

- (1) the student achievement indicators adopted under Section 39.053, including the results of assessment instruments;
- (2) the difference in grade-level retention rates between students of limited English proficiency and students who are not students of limited English proficiency;
- (3) any significant difference in performance on assessment instruments required under Sections 39.023(a), (c), and

(1), as applicable, between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average performance on those assessment instruments of students who are not students of limited English proficiency; and
(4) any significant difference in the dropout rate for grade levels 9 through 12 between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average dropout rate of students who are not students of limited English proficiency.

(b) Notwithstanding Subsection (a), for a school district campus with fewer than 30 students enrolled in bilingual education or English as a second language or other special language programs, the agency shall evaluate information specified under Subsection (a) only at the district level.

No equivalent provision.

(b-1) The agency may combine but may not replace evaluations under this section with federal accountability measures concerning students of limited English proficiency.

(b-2) Each person considered by the agency to be the lead monitor evaluating the effectiveness of programs under this subchapter must be appropriately certified by the State Board for Educator Certification as provided for under Section 29.061 for teaching English as a second language. An emergency endorsement issued under Section 29.061(a) is not considered appropriate certification for purposes of this subsection.

~~[(b) The areas to be monitored shall~~

(1), as applicable, between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average performance on those assessment instruments of students who are not students of limited English proficiency; and
(4) any significant difference in the dropout rate for grade levels 9 through 12 between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average dropout rate of students who are not students of limited English proficiency.

(a-1) Notwithstanding Subsection (a), for a school district campus with fewer than 30 students enrolled in bilingual education or English as a second language or other special language programs, the agency shall evaluate information specified under Subsection (a) only at the district level.

(a-2) The agency shall also use the data provided to the agency under Subsection (a) to evaluate, in the manner provided by Subsection (a), the effectiveness of programs under this subchapter based on comparisons between:

(1) students who, while enrolled in public school in this state, have ever been classified as students of limited English proficiency; and

(2) students who have never been classified as students of limited English proficiency.

(b-1) The agency may combine but may not replace evaluations under this section with federal accountability measures concerning students of limited English proficiency.

(b-2) Each person considered by the agency to be the lead monitor evaluating the effectiveness of programs under this subchapter must be appropriately certified by the State Board for Educator Certification as provided for under Section 29.061 for teaching English as a second language. An emergency endorsement issued under Section 29.061(a) is not considered appropriate certification for purposes of this subsection.

See SECTION 3 below for the repeal of .

include:

- ~~[(1) program content and design;~~
- ~~[(2) program coverage;~~
- ~~[(3) identification procedures;~~
- ~~[(4) classification procedures;~~
- ~~[(5) staffing;~~
- ~~[(6) learning materials;~~
- ~~[(7) testing materials;~~
- ~~[(8) reclassification of students for either entry into regular classes conducted exclusively in English or reentry into a bilingual education or special education program; and~~
- ~~[(9) activities of the language proficiency assessment committees.]~~

(c) If, as a result of an evaluation under Subsection (a), the agency determines that a school district, campus, or open-enrollment charter school program under this chapter is ineffective, the agency shall intervene in the program ~~[Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district or open enrollment charter school and to the division of accreditation].~~

(d) The agency shall notify a school district, any appropriate campus, or an open-enrollment charter school ~~[found in noncompliance]~~ in writing of an intervention under Subsection (c)[;] not later than the 30th day after the first day [date] of the intervention ~~[on-site monitoring. The district or open enrollment charter school shall take immediate corrective action].~~

(d-1) The school district, campus, or open-enrollment charter school with a program determined under this section to be ineffective shall immediately review the following to evaluate program effectiveness further:

- (1) procedures for identification of students of limited English proficiency;
- (2) procedures for placement of students in a program under this subchapter;
- (3) student assessment procedures, including assessment of:
 - (A) English language proficiency; and
 - (B) academic achievement in, as defined by commissioner rule, core content areas;
- (4) provision of instruction under the program, including assessment of the quality of instruction and whether the program is

Sec. 29.062(b), Education Code.

No equivalent provision.

No equivalent provision.

No equivalent provision.

being implemented as designed;

(5) credentials of instructional staff, including;

(A) appropriate certification of teachers providing English language development or content area instruction to students of limited English proficiency; and

(B) the amount of instruction provided by teachers who hold emergency endorsements or who are teaching outside the teacher's area of specialization;

(6) professional development provided to content area teachers serving students of limited English proficiency;

(7) curricular materials used in providing instruction;

(8) if applicable, district-level program evaluation procedures, including procedures for:

(A) ongoing district-level monitoring to identify program components needing improvement and implementing identified improvements; and

(B) identifying and closing any academic achievement gap between students of limited English proficiency and students who are not students of limited English proficiency;

(9) a rate of parental denial of approval of a student's entry into or placement in a program under this subchapter that is at least 150 percent greater than the state average rate of parental denial;

(10) any variance of greater than 20 percent between the percentage of students identified as students of limited English proficiency and the percentage of students who speak a language other than English at home, as determined by the home language survey administered to all students new to a campus, district, or open-enrollment charter school as provided by Section 29.056(a)(1); and

(11) reclassification of students for either entry into regular classes conducted exclusively in English or reentry into a bilingual education or special education program.

(d-2) On completion of the review under Subsection (d-1), the campus, district, or open-enrollment charter school shall designate annual program improvement goals that:

(1) are designed to improve academic

No equivalent provision.

achievement in the core content areas by students of limited English proficiency; and (2) are based on the extent of any academic achievement gap identified under Subsection (d-1)(8)(B), with incremental improvement goals established according to the size of the achievement gap.

(d-3) The agency shall review annual improvement in a program under this subchapter as measured by the goals designated under Subsection (d-2). The agency shall take appropriate corrective action for a campus, school district, or open-enrollment charter school program that fails to meet one or more annual improvement goals for two or more consecutive school years.

(e) If a campus, school district, or open-enrollment charter school program under this subchapter fails to satisfy appropriate standards adopted by the commissioner for purposes of Subsection (d-3) ~~[(a)]~~, the agency shall apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both.

(f) The commissioner shall adopt rules consistent with this section as necessary to administer this section.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. Section 42.006, Education Code, is amended.

See SECTION 1 above for bracketed and stricken Sec. 29.062(b).

SECTION 3. This Act applies beginning with the 2014-2015 school year.

SECTION 4. 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, 2013.

SECTION 2. Section 42.006, Education Code, is amended.

SECTION 3. Section 29.062(b), Education Code, is repealed.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.