

BILL ANALYSIS

C.S.H.B. 2824
By: Ratliff
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation enacted the Texas High Performance Schools Consortium for the purpose of informing the governor, legislature, and commissioner of education about methods for transforming public schools in the state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

According to interested parties, the commissioner invited a number of applicant school districts to participate in the consortium, which then provided a report to policymakers containing recommendations that identified changes in law that would allow the consortium districts the ability to innovate and the flexibility to meet student needs. C.S.H.B. 2824 seeks to implement those recommendations as it relates to the Texas High Performance Schools Consortium, among other related changes.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2824 amends the Education Code to replace references to consortium participants as it relates to the Texas High Performance Schools Consortium with references to participant campuses and districts, as applicable, and to define "participant campus" as a school district campus or open-enrollment charter school that has been selected for and is participating in the consortium and "participant district" as a school district that has one or more campuses participating in the consortium. The bill specifies that the cap on the number of students enrolled in participant campuses is based on initial enrollment and authorizes a participant district, with approval of the commissioner of education, to add one or more district campuses to the consortium. The bill authorizes the commissioner to charge a fee to a participating school district or charter school for use of state-provided assessment items or other costs associated with evaluating participant campuses and to collect and use that fee for purposes of administering the consortium.

C.S.H.B. 2824, in temporary provisions that expire January 1, 2018, requires the school districts and charter schools participating in the consortium, rather than the commissioner, to submit reports concerning the performance and progress of the consortium and includes the State Board of Education among the entities the consortium is established to inform and to whom the school districts and charter schools are required to submit the reports. The bill adds temporary provisions, set to expire January 1, 2018, to require such a report to be submitted not later than December 1, 2016, in addition to reports submitted on other specified dates and sets out certain required components of the report submitted not later than December 1, 2014, and the report submitted not later than December 1, 2016.

C.S.H.B. 2824 requires the school board or governing body of each participant district or charter

school, at least annually, to hold a public hearing to discuss its goals and work in the consortium and to provide for parental and community input. The bill requires participant campuses to be evaluated for accountability purposes and to administer certain tests to certain students for purposes and according to a schedule set out by the bill. The bill requires the consortium to receive independent evaluation from one or more external evaluation teams, including an institution of higher education in Texas, and adds a temporary provision, set to expire January 1, 2018, to require such an evaluation to be included in the required reports concerning the performance and progress of the consortium.

C.S.H.B. 2824 includes a student who attends a campus in the high performance schools consortium among those for whom a school district is authorized to apply to the commissioner to provide a flexible school day program. The bill requires the commissioner by rule to adopt one or more alternative nationally recognized norm referenced tests to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate in a public school in Texas that does not participate in the consortium after the student has been enrolled in a public school participating in the consortium during high school.

If legislation is not enacted by the 83rd Legislature, Regular Session, 2013, that allows substitute demonstrations of satisfactory high school level performance for students, or if such legislation does not become law, C.S.H.B. 2824 authorizes a school district or charter school participating in the consortium by policy to allow a student who is enrolled in a participant campus and who demonstrates satisfactory high school level performance in a required subject to be exempt from the requirements that the student take an end-of-course test in that subject and to allow a student who is enrolled in a participant campus to demonstrate satisfactory high school level performance in the manner prescribed under the bill's provisions in lieu of retaking an end-of-course test. The bill authorizes the district to allow the demonstration to substitute for foundation curriculum score requirements or for requirements under any other law. The bill requires the commissioner to allow the demonstration to substitute as an indicator of student achievement. The bill authorizes a student's satisfactory high school level performance and student achievement level to be demonstrated by satisfactory performance, at levels determined by the commissioner, on certain tests or by successful completion of a dual-credit course, an international baccalaureate course, or an advanced placement course.

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. 2824 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 7.0561, Education Code, is amended by amending Subsections (a), (b), (d), and (j) and adding Subsections (k), (l), and (m) to read as follows:

(a) In this section:

(1) "College readiness standards" mean the college readiness standards established under Section 28.008 as part of the essential

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 7.0561, Education Code, is amended by amending Subsections (a), (b), (d), (i), and (j) and adding Subsections (j-1), (j-2), (j-3), (j-4), (k), (l), (m), and (m-1) to read as follows:

(a) In this section:

knowledge and skills of the foundation curriculum and assessed under Section 39.023.

(2) "Consortium" [~~,"consortium"~~] means the Texas High Performance Schools Consortium established under this section.

(3) "Participant campus" means a school district campus or open-enrollment charter school that has been selected for and is participating in the consortium.

(4) "Participant district" means a school district that has one or more campuses participating in the consortium.

(b) The Texas High Performance Schools Consortium is established to inform the governor, legislature, State Board of Education, and commissioner concerning methods for transforming public schools in this state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

(d) The number of students initially enrolled in participant campuses [~~consortium participants~~] may not be greater than a number equal to five percent of the total number of students enrolled in public schools in this state according to the most recent agency data. With approval of the commissioner, a participant district may add one or more district campuses to the consortium.

(j) ~~With the assistance of the~~ school districts and open-enrollment charter schools participating in the consortium, ~~the commissioner~~ shall submit reports concerning the performance and progress of the consortium to the governor, ~~and~~ the legislature, and the State Board of Education not later than December 1, 2012, not later

(1) "Consortium" [~~,"consortium"~~] means the Texas High Performance Schools Consortium established under this section.

(2) "Participant campus" means a school district campus or open-enrollment charter school that has been selected for and is participating in the consortium.

(3) "Participant district" means a school district that has one or more campuses participating in the consortium.

(4) "Readiness standards" means the standards identified by the agency that are essential for success.

(b) The Texas High Performance Schools Consortium is established to inform the governor, legislature, State Board of Education, and commissioner concerning methods for transforming public schools in this state by improving student learning through the development of innovative, next-generation learning standards and assessment and accountability systems.

(d) The number of students initially enrolled in participant campuses [~~consortium participants~~] may not be greater than a number equal to five percent of the total number of students enrolled in public schools in this state according to the most recent agency data. With approval of the commissioner, a participant district may add one or more district campuses to the consortium.

(i) ~~To cover the costs of administering the consortium, the commissioner may charge a fee to a school district or open-enrollment charter school participating in the consortium. The commissioner may also charge a fee to a participating school district or open-enrollment charter school for use of state-provided assessment items or other costs associated with Subsection (1), and the commissioner may collect and use that fee for purposes of administering the consortium.~~

(j) ~~The~~ ~~With the assistance of the~~ school districts and open-enrollment charter schools participating in the consortium, ~~the commissioner~~ shall submit reports concerning the performance and progress of the consortium to the governor, ~~and~~ the legislature, the State Board of Education, and the commissioner not later than

than December 1, 2014, and not later than December 1, 2016 [2014].

(1) The report submitted not later than December 1, 2012, must include any recommendation by the commissioner concerning legislative authorization for the commissioner to waive a prohibition, requirement, or restriction that applies to a [consortium] participant. That report must also include a plan for an effective and efficient accountability system for participant campuses and districts [consortium participants] that balances academic excellence and local values to inspire learning and, at the state level, contingent on any necessary waiver of federal law, may incorporate use of a stratified random sampling of students or other objective methodology to hold participant campuses and districts [consortium participants] accountable while attempting to reduce the number of state assessment instruments that are required to be administered to students. The commissioner shall seek a federal waiver, to any extent necessary, to prepare for implementation of the plan if enacted by the legislature.

(2) The report submitted not later than December 1, 2014, must include an update on the effectiveness with which participant campuses are closing gaps in achievement on college readiness standards, an evaluation of teaching fewer, high-priority learning standards in depth, and any recommendations for legislation. The report must address the effectiveness of the use of methods, including focus on high-priority standards; digital learning, such as blended learning, personalized learning, flipped classrooms, adaptive learning, and virtual learning; the use of multiple assessments that provide more precise, useful, and timely information; and reliance on local control that enables greater community and parental involvement.

(3) The report submitted not later than December 1, 2016, must include an update on the effectiveness with which participant campuses are addressing closing gaps in achievement on college readiness standards, an evaluation of teaching fewer, high-priority learning standards in depth, and any recommendations for legislation.

(4) This subsection expires January 1, 2018.

December 1 of [;] 2012, [~~and not later than December 1,~~] 2014, and 2016.

(j-1) The report submitted under Subsection (j) not later than December 1, 2012, must include any recommendation by the commissioner concerning legislative authorization for the commissioner to waive a prohibition, requirement, or restriction that applies to a [consortium] participant campus or district. That report must also include a plan for an effective and efficient accountability system for participant campuses and districts [consortium participants] that balances academic excellence and local values to inspire learning and, at the state level, contingent on any necessary waiver of federal law, may incorporate use of a stratified random sampling of students or other objective methodology to hold participant campuses and districts [consortium participants] accountable while attempting to reduce the number of state assessment instruments that are required to be administered to students. The commissioner shall seek a federal waiver, to any extent necessary, to prepare for implementation of the plan if enacted by the legislature.

(j-2) The report submitted under Subsection (j) not later than December 1, 2014, must include an update on the effectiveness with which participant campuses are closing gaps in achievement on readiness standards, an evaluation of teaching fewer high-priority learning standards in depth, and any recommendations for legislation. The report must address the effectiveness of the use of methods, including focus on high-priority standards; digital learning, such as blended learning, personalized learning, flipped classrooms, adaptive learning, and virtual learning; the use of multiple assessments that provide more precise, useful, and timely information; and reliance on local control that enables greater community and parental involvement.

(j-3) The report submitted under Subsection (j) not later than December 1, 2016, must include an update on the effectiveness with which participant campuses are addressing closing gaps in achievement on readiness standards, an evaluation of teaching fewer high-priority learning standards in depth, and any recommendations for legislation.

(j-4) Subsections (j), (j-1), (j-2), and (j-3)

(k) At least annually, the school board or governing body of each participant district or open-enrollment charter school shall hold a public hearing to discuss its goals and work in the consortium and to provide for parental and community input.

(l) Notwithstanding Chapter 39 and any other law, participant campuses shall be evaluated for accountability purposes and shall administer assessments only as follows:

(1) beginning in the 2013-14 school year:

(A) for all assessment instruments administered under this Subsection, participant campuses:

(i) shall be evaluated on disaggregated data by student group, with an emphasis on closing achievement gaps; and

(ii) shall be evaluated on a report-only basis and the scores shall not be otherwise used for accountability purposes, including interventions and sanctions under Subchapter E, Chapter 39;

(B) for assessment instruments administered under Chapter 39, participant campuses shall be evaluated on college readiness standards only, to allow the schools to teach with depth and to evaluate the effects of teaching with depth;

(C) students in grades three through eight who are not taking secondary-level courses shall be administered and students in grades three through eight who are taking secondary-level courses may, at the option of the district or charter school participating in the consortium, be administered assessment instruments prescribed by Section 39.023(a)(1), (2), and (5) only and may be administered ACT EXPLORE in eighth grade in lieu of the assessment instruments or may be administered fewer assessment instruments if allowed by federal law or a waiver of federal law; and

(D) students taking secondary-level courses shall be assessed on end-of-course assessment instruments administered under Section 39.023(c) only for the tenth grade courses in English, math, and science in

and this [This] subsection expire [expires] January 1, 2018.

(k) At least annually, the school board or governing body of each participant district or open-enrollment charter school shall hold a public hearing to discuss the district's or school's goals and work in the consortium and to provide for parental and community input.

(l) Notwithstanding Chapter 39 or any other law, a participant campus shall be evaluated for accountability purposes and administer assessment instruments only as follows:

(1) beginning with the 2013-2014 school year:

(A) for each assessment instrument administered under this subsection, a participant campus shall be evaluated:

(i) by the independent evaluation under Subsection (m) on disaggregated data by student group, with an emphasis on closing achievement gaps; and

(ii) by the agency on a report-only basis, with the scores not otherwise used for accountability purposes, including interventions and sanctions under Subchapter E, Chapter 39;

(B) for each assessment instrument administered under Chapter 39, a participant campus shall be evaluated under Subsection (m) on readiness standards to allow teaching with depth and the evaluation of the effects of teaching with depth;

(C) students in grades three through eight who are not taking secondary-level courses shall be administered and students in grades three through eight who are taking secondary-level courses may, at the option of the district or charter school participating in the consortium, be administered assessment instruments prescribed by Sections 39.023(a)(1), (2), and (5) only, and may be administered an assessment instrument described by Section 39.0261(a)(1) in eighth grade instead of the assessment instruments or may be administered fewer assessment instruments if allowed by federal law or a waiver of federal law; and

(D) students taking secondary-level courses shall be assessed on end-of-course assessment instruments administered under Section 39.023(c) only for the 10th grade level courses in English, mathematics, and

which they are currently enrolled or shall be assessed ACT PLAN for tenth grade in the same subjects if allowed under federal law, at the option of the district or open-enrollment charter school participating in the consortium;

(2) beginning in the 2014-15 school year or as soon as possible following receipt of a waiver from federal law or a change from the federal law that requires annual testing of every student:

(A) students shall be administered:

(i) assessment instruments under Section 39.023(a) for reading in grade three, math in grade four, science in grade five, reading in grade six, and math in grade seven;

(ii) in prekindergarten through twelfth grade, locally approved or developed assessments that are aligned to college readiness standards or high-priority learning standards identified in Subsection (f), that include limited numbers of state provided assessment items, and that have results that can be accessed by the agency for monitoring and reporting purposes, or other satisfactory secondary-level performance demonstrated under Section 39.025(h); and
(iii) ACT EXPLORE at grade eight, ACT PLAN at grade ten, and ACT at grade eleven; and

(B) participant campuses shall be evaluated on community established measures that include academic achievement and college and career readiness;

(3) beginning in the 2013-14 school year, students with disabilities shall be administered appropriate assessments including assessments, approved by the commissioner, that measure growth as determined by the student's individualized education program; and

(4) beginning in the 2013-14 school year, students of limited English proficiency:

(A) shall be administered appropriate assessments including assessments, approved by the commissioner, that measure linguistic and academic growth as determined by the student's language

science in which they are currently enrolled or shall be administered an assessment instrument described by Section 39.0261(a)(2) for 10th grade in the same subjects if allowed by federal law or a waiver of federal law, at the option of the district or open-enrollment charter school participating in the consortium;

(2) beginning with the 2014-2015 school year or as soon as possible following receipt of a waiver from federal law or a change in the federal law that requires annual testing of every student:

(A) students shall be administered:

(i) assessment instruments under Section 39.023(a) for reading in grade three, mathematics in grade four, science in grade five, reading in grade six, and mathematics in grade seven;

(ii) in prekindergarten through 12th grade, locally approved or developed assessment instruments that are aligned to readiness standards or high-priority learning standards under Subsection (f), that may include limited numbers of state-provided assessment items, and that may have results that can be accessed by the agency for monitoring and reporting purposes, or other satisfactory secondary-level performance demonstrated under Section 39.025(h); and
(iii) assessment instruments described by Section 39.0261(a); and

(B) a participant campus shall be evaluated on community-established measures that include academic achievement and college and career readiness;

(3) beginning with the 2013-2014 school year, students in a special education program shall be administered appropriate assessments, including assessments developed or adopted under Section 39.023(b) and, if authorized by an Act of the 83rd Legislature, Regular Session, 2013, that becomes law, other assessments developed or adopted for significantly cognitively disabled students; and

(4) beginning with the 2013-2014 school year, students of limited English proficiency, as defined by Section 29.052:

(A) shall be administered appropriate assessments including assessments approved by the commissioner that measure linguistic and academic growth as determined by the student's language proficiency assessment

proficiency assessment committee established by Section 29.063; and
(B) if a waiver from federal law is obtained, shall participate in appropriate assessments the first five years in schools in the United States as participation only unless the student attains an English proficiency rating equivalent to advanced high performance during this time period, in which case the student's data will be aggregated into campus and district performance reports.

(m) The consortium shall receive independent evaluation from one or more external evaluation teams, including an institution of higher education in this state.

SECTION 2. Section 29.0822(a), Education Code, is amended.

SECTION 3. Section 39.025(d), Education Code, is amended to read as follows:

(d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

- (1) for the first time in a public school in this state; ~~[or]~~
- (2) after an absence of at least four years from any public school in this state; or
- (3) in a public school in this state that does not participate in the consortium under Section 7.0561 after the student has been enrolled in a school participating in the consortium during high school.

SECTION 4. If legislation does not pass in the 83rd Regular Session, Texas Legislature, in 2013, that allows substitute demonstrations of satisfactory secondary-level performance for students, Section 39.025, Education Code, is amended to add Subsection (h) as follows:

committee established by Section 29.063; and
(B) if a waiver from federal law is obtained, shall participate in appropriate assessments the first five years the students are enrolled in schools in the United States as participation-only unless the student attains an English proficiency rating equivalent to advanced high performance during this period, in which case the student's data will be aggregated into campus and district performance reports.

(m) The consortium shall receive independent evaluation from one or more external evaluation teams, including an institution of higher education in this state.

(m-1) An evaluation conducted under Subsection (m) must be included in the reports required under Subsection (j). This subsection expires January 1, 2018.

SECTION 2. Same as introduced version.

SECTION 3. Section 39.025, Education Code, is amended by amending Subsection (d) and adding Subsection (h) to read as follows:

(d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

- (1) for the first time in a public school in this state; ~~[or]~~
- (2) after an absence of at least four years from any public school in this state; or
- (3) in a public school in this state that does not participate in the high performance schools consortium under Section 7.0561 after the student has been enrolled in a public school participating in the consortium during high school.

(h) This subsection applies only if legislation is not enacted by the 83rd Legislature, Regular Session, 2013, that allows substitute demonstrations of satisfactory secondary-level performance for students or if such legislation is enacted but does not become law.

(h) A school district or open-enrollment charter school participating in the consortium established under Section 7.0561 by policy may allow a student who is enrolled in a participant campus and who demonstrates satisfactory secondary-level performance in a subject under this subsection to be exempt from the requirements that the student take an end-of-course assessment instrument in that subject and may allow a student who is enrolled in a participant campus to demonstrate satisfactory secondary-level performance in the manner described by this subsection in lieu of retaking an end-of-course assessment instrument. The district may allow the demonstration to substitute for a score required by this section or by any other law. The commissioner shall allow the demonstration to substitute as an indicator of student achievement under Section 39.053. A student's satisfactory secondary-level performance and student achievement level may be demonstrated by:

(1) satisfactory performance, at levels determined by the commissioner, on:

(A) an advanced placement test;

(B) an international baccalaureate examination;

(C) an SAT Subject Test;

(D) a Preliminary Scholastic Assessment Test (PSAT) assessment;

(E) a preliminary American College Test (ACT) assessment; or

(F) another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c); or

(2) successful completion of:

(A) a dual-credit course;

(B) an international baccalaureate course; or

(C) an advanced placement course.

SECTION 5. 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.

A school district or open-enrollment charter school participating in the high performance schools consortium established under Section 7.0561 by policy may allow a student who is enrolled in a participant campus who demonstrates satisfactory secondary-level performance in a subject under this subsection to be exempt from the requirement that the student take an end-of-course assessment instrument in that subject and may allow a student who is enrolled in a participant campus to demonstrate satisfactory secondary-level performance in the manner described by this subsection in lieu of retaking an end-of-course assessment instrument. The district may allow the demonstration to substitute for a score required by this section or by any other law. The commissioner shall allow the demonstration to substitute as an indicator of student achievement under Section 39.053. A student's satisfactory secondary-level performance and student achievement level may be demonstrated by:

(1) satisfactory performance, at levels determined by the commissioner, on:

(A) an advanced placement test;

(B) an international baccalaureate examination;

(C) an SAT Subject Test;

(D) a Preliminary Scholastic Assessment Test (PSAT) assessment;

(E) a preliminary American College Test (ACT) assessment; or

(F) another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c); or

(2) successful completion of:

(A) a dual credit course;

(B) an international baccalaureate course; or

(C) an advanced placement course.

SECTION 4. Same as introduced version.