

BILL ANALYSIS

Senate Research Center
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S.B. 42
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

All school districts must provide bilingual education in elementary schools with 20 or more English language learners (ELLs) who share the same first language. School districts currently use the Texas Education Agency's (TEA) monitoring system, Performance-Based Monitoring Analysis System (PBMAS), to report the number of students served by special language programs, basic demographic information, and the program model in which the students are enrolled. TEA, however, does not currently monitor program compliance or the accuracy of dropout rates through this system.

In 2008 the United States District Court for the Eastern District of Texas ruled that PBMAS masks campus-level problems because it focuses on the district level; underidentifies ELLs; utilizes arbitrary achievement standards for comparing student academic performance; and collapses the high school dropout rate with the middle school dropout rate. In 2010 the U.S. Court of Appeals for the 5th Circuit overturned the district court's decision, finding that the state was not at fault for the students' failure because standardized tests administered in English—the main benchmark used to judge student performance—may not accurately reflect a non-native speaker's grasp of the state curriculum. Moreover, since the state currently does not track students who have "graduated" from limited English proficiency programs, a district's success rate with these pupils may be underreported. While the decision acquitted the state in this case, it left the door open for lawsuits to be brought against individual school districts where the state could be held liable.

As proposed, S.B. 42 amends current law relating to public school accountability for bilingual education and English as a second language and other special language programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 42.006, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.062, Education Code, as follows:

Sec. 29.062. COMPLIANCE. (a) Requires the Texas Education Agency (TEA), in accordance with the policy of the state, to 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 is required to collect and provide to TEA:

- (1) the student achievement indicators adopted under Section 39.053 (Performance Indicators: Student Achievement), 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) (relating to TEA adopting or developing appropriate criterion-referenced assessment instruments designed to assess essential knowledge in certain areas), (c) (relating to the adoption of end-of-course assessment instruments for certain secondary-level courses), and (l) (relating to the rulemaking ability of the State Board of Education for the administration of assessment instruments in certain circumstances), 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 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) Requires TEA to evaluate information specified under Subsection (a) only at the district level, 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 (program), notwithstanding Subsection (a).

(b-1) Creates this subsection from existing text. Authorizes TEA to combine but prohibits TEA from replacing evaluations under this section with federal accountability measures concerning students of limited English proficiency.

(b-2) Requires each person considered by TEA to be the lead monitor evaluating the effectiveness of programs under this subchapter to be appropriately certified by the State Board for Educator Certification as provided for under Section 29.061 (Bilingual Education and Special Language Program Teachers) for teaching English as a second language. Provides that an emergency endorsement issued under Section 29.061(a) (relating to the issuance of teaching certificates appropriate for bilingual education to teachers who possess certain abilities) is not considered appropriate certification for purposes of this subsection. Deletes existing Subsection (b) requiring certain areas to be monitored.

(c) Requires TEA to intervene in a program, if, as a result of an evaluation under Subsection (a), TEA determines that a school district, campus, or open-enrollment charter school program under this subchapter is ineffective. Deletes existing text requiring TEA to report its findings to the school district or open-enrollment charter school and to the division of accreditation not later than the 30th day after the date of an on-site monitoring inspection.

(d) Requires TEA to notify a school district, any appropriate campus, or an open-enrollment charter school, rather than a school district or 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 of the intervention, rather than not later than the 30th day after the date of the on-site monitoring. Deletes existing text requiring the district or open-enrollment charter school to take immediate corrective action. Makes conforming changes.

(d-1) Requires the school district, campus, or open-enrollment charter school with a program determined under this section to be ineffective to immediately review certain procedures, provisions, and instructional staff certifications, among other criterion, to evaluate program effectiveness further.

(d-2) Requires the campus, district, or open-enrollment charter school, on completion of the review under Subsection (d-1), to designate annual program improvement goals that meet certain criteria.

(d-3) Requires TEA to review annual improvement in a program under this subchapter as measured by the goals designated under Subsection (d-2). Requires TEA to 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) Requires TEA to apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both, if a campus, school district, or open-enrollment charter school program under this subchapter fails to satisfy appropriate standards adopted by the commissioner of education (commissioner) for purposes of Subsection (d-3). Makes nonsubstantive changes.

SECTION 2. Amends Section 42.006, Education Code, by adding Subsection (e), to require the commissioner to adopt rules to ensure that, through the Public Education Information Management System, TEA collects and maintains certain data on students.

SECTION 3. Provides that this Act applies beginning with the 2014-2015 school year.

SECTION 4. Effective date: upon passage, or September 1, 2013.