

Suspending limitations on conference committee
jurisdiction, H.B. No. 5 (Aycock/Patrick)

By: Aycock

H.R. No. 3012

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 83rd Legislature, Regular Session, 2013, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on House Bill 5 (public school
6 accountability, including assessment, and curriculum requirements;
7 providing a criminal penalty) to consider and take action on the
8 following matters:

9 (1) House Rule 13, Section 9(a)(1), is suspended to permit
10 the committee to amend text not in disagreement in SECTION 13 of the
11 bill, in amended Section 28.0212(a), Education Code, to read as
12 follows:

13 (a) A principal of a junior high or middle school shall
14 designate a school [~~guidance~~] counselor, teacher, or other
15 appropriate individual to develop and administer a personal
16 graduation plan for each student enrolled in the [~~a~~] junior high
17 or [~~7~~] middle [~~7~~, ~~or high~~] school who:

18 (1) does not perform satisfactorily on an assessment
19 instrument administered under Subchapter B, Chapter 39; or

20 (2) is not likely to receive a high school diploma
21 before the fifth school year following the student's enrollment in
22 grade level nine, as determined by the district.

23 Explanation: The change is necessary to conform to other
24 references to school counselor in the Education Code.

1 (2) House Rule 13, Section 9(a)(3), is suspended to permit
2 the committee to add text on a matter not in disagreement in SECTION
3 14 of the bill, in added Section 28.02121(b), Education Code, to
4 read as follows:

5 (b) A school district shall publish the information
6 provided to the district under Subsection (a) on the Internet
7 website of the district and ensure that the information is
8 available to students in grades nine and above and the parents or
9 legal guardians of those students in the language in which the
10 parents or legal guardians are most proficient. A district is
11 required to provide information under this subsection in the
12 language in which the parents or legal guardians are most
13 proficient only if at least 20 students in a grade level primarily
14 speak that language.

15 Explanation: The change is necessary to establish
16 procedures for providing information to parents or legal guardians
17 of students in the language in which the parent or legal guardian is
18 most proficient.

19 (3) House Rule 13, Section 9(a)(1), is suspended to permit
20 the committee to change text not in disagreement in SECTION 14 of
21 the bill, in added Section 28.02121(c), Education Code, to read as
22 follows:

23 (c) A principal of a high school shall designate a school
24 counselor or school administrator to review personal graduation
25 plan options with each student entering grade nine together with
26 that student's parent or guardian. The personal graduation plan
27 options reviewed must include the distinguished level of

1 achievement described by Section 28.025(b-15) and the endorsements
2 described by Section 28.025(c-1). Before the conclusion of the
3 school year, the student and the student's parent or guardian must
4 confirm and sign a personal graduation plan for the student.

5 Explanation: The change is necessary to conform to other
6 references to school counselor in the Education Code.

7 (4) House Rule 13, Section 9(a)(4), is suspended to permit
8 the committee to add text on a matter not included in either the
9 house or senate version of the bill by adding the following text in
10 SECTION 16 of the bill, in amended Section 28.025, Education Code,
11 to read as follows:

12 (c-3) In adopting rules under Subsection (c-1), the State
13 Board of Education shall adopt criteria to allow a student
14 participating in the arts and humanities endorsement under
15 Subsection (c-1)(4), with the written permission of the student's
16 parent or a person standing in parental relation to the student, to
17 comply with the curriculum requirements for science required under
18 Subsection (c-2)(1)(B) by substituting for an advanced course
19 requirement a course related to that endorsement.

20 Explanation: The addition is necessary to require parental
21 permission to substitute certain curriculum requirements.

22 (5) House Rule 13, Section 9(a)(4), is suspended to permit
23 the committee to add text on a matter not included in either the
24 house or senate version of the bill by adding the following text in
25 SECTION 16 of the bill, in amended Section 28.025, Education Code,
26 to read as follows:

27 (h-2) This subsection applies only to a student

1 participating in the minimum, recommended, or advanced high school
2 program who is completing the fourth year of high school during the
3 2013-2014 school year. The commissioner by rule shall permit a
4 student who does not satisfy the curriculum requirements of the
5 high school program in which the student is participating to
6 graduate if the student satisfies the curriculum requirements
7 established for the foundation high school program under this
8 section as amended by H.B. No. 5, 83rd Legislature, Regular
9 Session, 2013, and any other requirement required for graduation.
10 This subsection expires September 1, 2015.

11 Explanation: The addition is necessary to provide
12 flexibility in implementation of changes to curriculum
13 requirements.

14 (6) House Rule 13, Sections 9(a)(1) and (3), are suspended
15 to permit the committee to change and add text on a matter not in
16 disagreement in SECTION 16 of the bill to read as follows:

17 (b) Except as provided by Subsection (c) of this section,
18 this section applies beginning with the 2014-2015 school year.

19 (c) Section 28.025(h-2), Education Code, as added by this
20 section, applies during the 2013-2014 school year.

21 Explanation: The change is necessary to provide flexibility
22 in implementation of changes to curriculum requirements.

23 (7) House Rule 13, Section 9(a)(4), is suspended to permit
24 the committee to add text on a matter which is not included in
25 either the house or senate version of the bill by adding the
26 following text to SECTION 20 of the bill, in amended Section 29.081,
27 Education Code, to read as follows:

1 (d) For purposes of this section, "student at risk of
2 dropping out of school" includes each student who is under 26 [~~21~~]
3 years of age and who:

4 (1) was not advanced from one grade level to the next
5 for one or more school years;

6 (2) if the student is in grade 7, 8, 9, 10, 11, or 12,
7 did not maintain an average equivalent to 70 on a scale of 100 in two
8 or more subjects in the foundation curriculum during a semester in
9 the preceding or current school year or is not maintaining such an
10 average in two or more subjects in the foundation curriculum in the
11 current semester;

12 (3) did not perform satisfactorily on an assessment
13 instrument administered to the student under Subchapter B, Chapter
14 39, and who has not in the previous or current school year
15 subsequently performed on that instrument or another appropriate
16 instrument at a level equal to at least 110 percent of the level of
17 satisfactory performance on that instrument;

18 (4) if the student is in prekindergarten,
19 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
20 a readiness test or assessment instrument administered during the
21 current school year;

22 (5) is pregnant or is a parent;

23 (6) has been placed in an alternative education
24 program in accordance with Section 37.006 during the preceding or
25 current school year;

26 (7) has been expelled in accordance with Section
27 37.007 during the preceding or current school year;

1 (8) is currently on parole, probation, deferred
2 prosecution, or other conditional release;

3 (9) was previously reported through the Public
4 Education Information Management System (PEIMS) to have dropped out
5 of school;

6 (10) is a student of limited English proficiency, as
7 defined by Section 29.052;

8 (11) is in the custody or care of the Department of
9 Protective and Regulatory Services or has, during the current
10 school year, been referred to the department by a school official,
11 officer of the juvenile court, or law enforcement official;

12 (12) is homeless, as defined by 42 U.S.C. Section
13 11302, and its subsequent amendments; or

14 (13) resided in the preceding school year or resides
15 in the current school year in a residential placement facility in
16 the district, including a detention facility, substance abuse
17 treatment facility, emergency shelter, psychiatric hospital,
18 halfway house, or foster group home.

19 Explanation: This addition is necessary to expand the
20 definition of "student at risk of dropping out of school" to include
21 a student who is at least 21 years of age and under 26 years of age.

22 (8) House Rule 13, Section 9(a)(4), is suspended to permit
23 the committee to add text on a matter which is not included in
24 either the house or senate version of the bill by adding the
25 following text to SECTION 31 of the bill, in amended Section 39.023,
26 Education Code, to read as follows:

27 (a-2) Except as required by federal law, a [A] student is

1 not required to be assessed in a subject otherwise assessed at the
2 student's grade level under Subsection (a) if the student:

3 (1) is enrolled in a course in the subject intended for
4 students above the student's grade level and will be administered
5 an assessment instrument adopted or developed under Subsection (a)
6 that aligns with the curriculum for the course in which the student
7 is enrolled; or

8 (2) is enrolled in a course in the subject for which
9 the student will receive high school academic credit and will be
10 administered an end-of-course assessment instrument adopted under
11 Subsection (c) for the course.

12 Explanation: This addition is necessary to ensure
13 compliance with federal law.

14 (9) House Rule 13, Section 9(a)(2), is suspended to permit
15 the committee to omit text not in disagreement in amended Section
16 39.025, Education Code, which reads as follows:

17 (a-2) This subsection applies only to a student who, before
18 entering the ninth grade in the 2011-2012 or 2012-2013 school year,
19 completed a course before the 2011-2012 school year in a subject for
20 which the student received high school credit and for which an
21 end-of-course assessment instrument under Section 39.023 is
22 required during the 2013-2014 school year or a later school year,
23 such as Algebra I. The commissioner shall determine a method by
24 which a student's satisfactory performance on an end-of-course
25 assessment instrument for a course in the same general subject area
26 in which the student is enrolled during or after the ninth grade,
27 such as geometry, shall be used to satisfy the requirements for the

1 end-of-course assessment instrument for the course completed
2 before entering the ninth grade and before the 2011-2012 school
3 year. The commissioner shall adopt rules as necessary for the
4 administration of this section. This subsection expires September
5 1, 2016 [~~In addition to the cumulative score requirements under~~
6 ~~Subsection (a), a student must achieve a score that meets or exceeds~~
7 ~~the score determined by the commissioner under Section 39.0241(a)~~
8 ~~for English III and Algebra II end-of-course assessment instruments~~
9 ~~to graduate under the recommended high school program].~~

10 Explanation: This omission of text is necessary to provide
11 flexibility in implementation of changes to end-of-course
12 assessment instrument requirements.

13 (10) House Rule 13, Section 9(a)(1), is suspended to permit
14 the committee to change text not in disagreement in SECTION 40 of
15 the bill, in added Section 39.038, Education Code, to read as
16 follows:

17 Sec. 39.038. RESTRICTION ON APPOINTMENTS TO ADVISORY
18 COMMITTEES. The commissioner may not appoint a person to a
19 committee or panel that advises the commissioner or agency
20 regarding state accountability systems under this title or the
21 content or administration of an assessment instrument if the person
22 is retained or employed by an assessment instrument vendor.

23 Explanation: The change is necessary to allow persons
24 reimbursed by an assessment instrument vendor to be appointed to a
25 committee or panel described by Section 39.038, Education Code.

26 (11) House Rule 13, Section 9(a)(1), is suspended to permit
27 the committee to change text not in disagreement in SECTION 51 of

1 the bill, in added Section 39.0824(a), Education Code, to read as
2 follows:

3 (a) A school district or open-enrollment charter school
4 assigned the lowest rating under Section 39.082 shall submit to the
5 commissioner a corrective action plan to address the financial
6 weaknesses of the district or school. A corrective action plan must
7 identify the specific areas of financial weaknesses, such as
8 financial weaknesses in transportation, curriculum, or teacher
9 development, and include strategies for improvement.

10 Explanation: The change is necessary to conform to financial
11 accountability rating references.

12 (12) House Rule 13, Sections 9(a)(1) and (3), are suspended
13 to permit the committee to change and add text on a matter not in
14 disagreement in SECTION 56 of the bill, in amended Section
15 39.235(b), Education Code, to read as follows:

16 (b) Before awarding a grant under this section, the
17 commissioner may require a campus or school district to:

18 (1) obtain local matching funds; or

19 (2) meet other conditions, including developing a
20 personal graduation plan under Section 28.0212 or 28.02121, as
21 applicable, for each student enrolled at the campus or in a district
22 middle, junior high, or high school.

23 Explanation: The change is necessary to conform to
24 appropriately reference a high school personal graduation plan.

25 (13) House Rule 13, Section 9(a)(4), is suspended to permit
26 the committee to add text on a matter which is not included in
27 either the house or senate version of the bill by adding the

1 following text to SECTION 77 of the bill, in amended Section
2 130.008, Education Code, to read as follows:

3 (f) A student described by Subsection (a) may enroll in not
4 more than three courses each school year offered as provided by this
5 section.

6 Explanation: The change is necessary to establish a limit on
7 the number of dual enrollment courses a student may enroll in each
8 school year.

9 (14) House Rule 13, Section 9(a)(3), is suspended to permit
10 the committee to add text on a matter which is not in disagreement
11 by adding text in SECTIONS 78(a)(1) and (5) of the bill to read as
12 follows:

13 (a) Effective September 1, 2013, the following sections of
14 the Education Code are repealed:

- 15 (1) Sections 29.190(b), (d), and (e);
16 (2) Sections 39.024(b), (c), (d), (e), (f), (g), and
17 (h);
18 (3) Section 39.0241(a-2);
19 (4) Section 39.0242;
20 (5) Sections 39.025(a-2) and (a-3); and
21 (6) Section 130.008(d-1).

22 Explanation: The changes are necessary to repeal:

23 (1) Section 29.190(d), a provision granting the
24 commissioner of education authority to adopt rules to implement the
25 existing law; and

26 (2) Section 39.025(a-2), a provision relating to
27 Algebra II and English III end-of-course assessment instruments.

1 (15) House Rule 13, Sections 9(a)(1) and (3), are suspended
2 to permit the committee to change and add text on a matter not in
3 disagreement in SECTIONS 79(b) and (c) of the bill to read as
4 follows:

5 (b) Students who have entered the ninth grade during or
6 after the 2011-2012 school year and before the 2013-2014 school
7 year may be administered only those end-of-course assessment
8 instruments that would have been administered to those students
9 under Section 39.025, Education Code, as amended by Section 35 of
10 this Act, and Section 39.025, Education Code, as amended by Section
11 35 of this Act, is continued in effect for purposes of satisfying
12 those end-of-course testing requirements.

13 (c) The commissioner of education may by rule adopt a
14 transition plan to implement the amendments made by this Act
15 relating to end-of-course testing requirements during the
16 2013-2014 and 2014-2015 school years.

17 Explanation: The change is necessary to provide flexibility
18 in implementation of changes to end-of-course assessment
19 instrument requirements.

20 (16) House Rule 13, Section 9(a)(1), is suspended to permit
21 the committee to change text not in disagreement in SECTION 80 of
22 the bill to read as follows:

23 SECTION 80. Not later than October 1, 2013, the
24 commissioner of education shall adopt rules to administer Section
25 39.025(a-1), Education Code, as amended by this Act.

26 Explanation: The change is necessary to omit a reference to
27 adopting rules to administer amended Section 39.025(a-2),

1 Education Code, which the committee omitted.

2 (17) House Rule 13, Section 9(a)(1), is suspended to permit
3 the committee to change text not in disagreement in SECTION 84 of
4 the bill to read as follows:

5 SECTION 84. Except as otherwise provided by this Act:

6 (1) this Act takes effect immediately if it receives a
7 vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution; and

9 (2) if this Act does not receive the vote necessary for
10 immediate effect, this Act takes effect September 1, 2013.

11 Explanation: The change is necessary to clarify the
12 effective dates of the bill.