

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

By: Patrick

S.R. No. 1081

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 83rd
2 Legislature, Regular Session, 2013, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on House
5 Bill 5 (public school accountability, including assessment, and
6 curriculum requirements; providing a criminal penalty) to consider
7 and take action on the following matters:

8 (1) Senate Rule 12.03(1) is suspended to permit the
9 committee to amend text not in disagreement in SECTION 13 of the
10 bill, in amended Section 28.0212(a), Education Code, to read as
11 follows:

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

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

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

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

24 (2) Senate Rule 12.03(3) is suspended to permit the

1 committee to add text on a matter not in disagreement in SECTION 14
2 of the bill, in added Section 28.02121(b), Education Code, to read
3 as follows:

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

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

18 (3) Senate Rule 12.03(1) is suspended to permit the
19 committee to change text not in disagreement in SECTION 14 of the
20 bill, in added Section 28.02121(c), Education Code, to read as
21 follows:

22 (c) A principal of a high school shall designate a school
23 counselor or school administrator to review personal graduation
24 plan options with each student entering grade nine together with
25 that student's parent or guardian. The personal graduation plan
26 options reviewed must include the distinguished level of
27 achievement described by Section 28.025(b-15) and the endorsements

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

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

6 (4) Senate Rule 12.03(4) is suspended to permit the
7 committee to add text on a matter not included in either the house
8 or senate version of the bill by adding the following text in
9 SECTION 16 of the bill, in amended Section 28.025, Education Code,
10 to read as follows:

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

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

21 (5) Senate Rule 12.03(4) is suspended to permit the
22 committee to add text on a matter not included in either the house
23 or senate version of the bill by adding the following text in
24 SECTION 16 of the bill, in amended Section 28.025, Education Code,
25 to read as follows:

26 (h-2) This subsection applies only to a student
27 participating in the minimum, recommended, or advanced high school

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

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

13 (6) Senate Rules 12.03(1) and (3) are suspended to permit
14 the committee to change and add text on a matter not in disagreement
15 in SECTION 16 of the bill to read as follows:

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

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

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

22 (7) Senate Rule 12.03(4) is suspended to permit the
23 committee to add text on a matter which is not included in either
24 the house or senate version of the bill by adding the following text
25 to SECTION 20 of the bill, in amended Section 29.081, Education
26 Code, to read as follows:

27 (d) For purposes of this section, "student at risk of

1 dropping out of school" includes each student who is under 26 [~~21~~]
2 years of age and who:

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

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

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

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

21 (5) is pregnant or is a parent;

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

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

27 (8) is currently on parole, probation, deferred

1 prosecution, or other conditional release;

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

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

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

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

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

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

21 (8) Senate Rule 12.03(4) is suspended to permit the
22 committee to add text on a matter which is not included in either
23 the house or senate version of the bill by adding the following text
24 to SECTION 31 of the bill, in amended Section 39.023, Education
25 Code, to read as follows:

26 (a-2) Except as required by federal law, a [A] student is
27 not required to be assessed in a subject otherwise assessed at the

1 student's grade level under Subsection (a) if the student:

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

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

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

13 (9) Senate Rule 12.03(2) is suspended to permit the
14 committee to omit text not in disagreement in amended Section
15 39.025, Education Code, which reads as follows:

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

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

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

12 (10) Senate Rule 12.03(1) is suspended to permit the
13 committee to change text not in disagreement in SECTION 40 of the
14 bill, in added Section 39.038, Education Code, to read as follows:

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

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

24 (11) Senate Rule 12.03(1) is suspended to permit the
25 committee to change text not in disagreement in SECTION 51 of the
26 bill, in added Section 39.0824(a), Education Code, to read as
27 follows:

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

8 Explanation: The change is necessary to conform to financial
9 accountability rating references.

10 (12) Senate Rules 12.03(1) and (3) are suspended to permit
11 the committee to change and add text on a matter not in disagreement
12 in SECTION 56 of the bill, in amended Section 39.235(b), Education
13 Code, to read as follows:

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

16 (1) obtain local matching funds; or

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

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

23 (13) Senate Rule 12.03(4) is suspended to permit the
24 committee to add text on a matter which is not included in either
25 the house or senate version of the bill by adding the following text
26 to SECTION 77 of the bill, in amended Section 130.008, Education
27 Code, to read as follows:

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

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

7 (14) Senate Rule 12.03(3) is suspended to permit the
8 committee to add text on a matter which is not in disagreement by
9 adding text in SECTIONS 78(a)(1) and (5) of the bill to read as
10 follows:

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

13 (1) Sections 29.190(b), (d), and (e);

14 (2) Sections 39.024(b), (c), (d), (e), (f), (g), and
15 (h);

16 (3) Section 39.0241(a-2);

17 (4) Section 39.0242;

18 (5) Sections 39.025(a-2) and (a-3); and

19 (6) Section 130.008(d-1).

20 Explanation: The changes are necessary to repeal:

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

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

26 (15) Senate Rules 12.03(1) and (3) are suspended to permit
27 the committee to change and add text on a matter not in disagreement

1 in SECTIONS 79(b) and (c) of the bill to read as follows:

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

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

14 Explanation: The change is necessary to provide flexibility
15 in implementation of changes to end-of-course assessment
16 instrument requirements.

17 (16) Senate Rule 12.03(1) is suspended to permit the
18 committee to change text not in disagreement in SECTION 80 of the
19 bill to read as follows:

20 SECTION 80. Not later than October 1, 2013, the
21 commissioner of education shall adopt rules to administer Section
22 39.025(a-1), Education Code, as amended by this Act.

23 Explanation: The change is necessary to omit a reference to
24 adopting rules to administer amended Section 39.025(a-2),
25 Education Code, which the committee omitted.

26 (17) Senate Rule 12.03(1) is suspended to permit the
27 committee to change text not in disagreement in SECTION 84 of the

1 bill to read as follows:

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

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

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

8 Explanation: The change is necessary to clarify the
9 effective dates of the bill.