

SENATE AMENDMENTS

2nd Printing

By: Huberty, Turner of Harris, Cook, Miles,
et al.

H.B. No. 866

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration to public school students in certain
3 grades of state-administered assessment instruments.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 39.023, Education Code, is amended by
6 amending Subsections (a), (a-1), (a-2), (b), (c-1), (c-3), (e),
7 (l), (m), (n), and (p) and adding Subsections (a-3), (a-4), (a-5),
8 (a-6), (a-7), (a-8), and (a-9) to read as follows:

9 (a) The agency shall adopt or develop appropriate
10 criterion-referenced assessment instruments designed to assess
11 essential knowledge and skills in reading, writing, mathematics,
12 social studies, and science. Except as provided by Subsection
13 (a-2), all students, other than students assessed under Subsection
14 (b) or (l) or exempted under Section 39.027, shall be assessed in:

15 (1) mathematics, [~~annually~~] in grades three and five
16 [~~through seven~~] without the aid of technology and in grade eight
17 with the aid of technology on any assessment instrument that
18 includes algebra;

19 (2) reading, [~~annually~~] in grades three, five, and
20 [~~through~~] eight;

21 (3) [~~writing, including spelling and grammar, in~~
22 ~~grades four and seven,~~

23 [~~(4)~~] social studies, in grade eight; and

24 (4) [~~(5)~~] science, in grades five and eight [~~, and~~

1 ~~[(6) any other subject and grade required by federal~~
2 ~~law].~~

3 (a-1) The agency shall develop assessment instruments
4 required under Subsections (a), (a-4), (a-5), and (a-6) ~~[Subsection~~
5 ~~(a)]~~ in a manner that allows, to the extent practicable:

6 (1) the score a student receives to provide reliable
7 information relating to a student's satisfactory performance for
8 each performance standard under Section 39.0241; and

9 (2) an appropriate range of performances to serve as a
10 valid indication of growth in student achievement.

11 (a-2) A student is not required to be assessed in a subject
12 otherwise assessed at the student's grade level under Subsection
13 (a) if the student:

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

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

23 (a-3) For each assessment instrument administered under
24 Subsection (a) or (a-5), the agency shall determine, based on
25 available information for that assessment instrument, the minimum
26 satisfactory adjusted scale score. The minimum satisfactory
27 adjusted scale score is the sum of the scale score that indicates

1 satisfactory performance on that assessment instrument, as
2 determined by the commissioner under Section 39.0241(a), plus the
3 minimum number of points that when added to the scale score produces
4 a score that, within a three percent margin of error, is predictive
5 that a student achieving that score would achieve satisfactory
6 performance on an assessment instrument in the same subject
7 administered to the student during the following school year.

8 (a-4) A student shall be assessed in grade four in a subject
9 for which an assessment instrument is administered under Subsection
10 (a) in grade three if, on the final assessment instrument in that
11 subject administered under Subsection (a) to the student in grade
12 three during the preceding school year, the student did not achieve
13 a score equal to or greater than the minimum satisfactory adjusted
14 scale score for that assessment instrument, as determined under
15 Subsection (a-3).

16 (a-5) A student shall be assessed in grade six in a subject
17 for which an assessment instrument is administered under Subsection
18 (a) in grade five if, on the final assessment instrument in that
19 subject administered under Subsection (a) to the student in grade
20 five during the preceding school year, the student did not achieve a
21 score equal to or greater than the minimum satisfactory adjusted
22 scale score for that assessment instrument, as determined under
23 Subsection (a-3).

24 (a-6) A student shall be assessed in grade seven in a
25 subject for which an assessment instrument was administered under
26 Subsection (a-5) to the student in grade six if, on the final
27 assessment instrument in that subject administered to the student

1 in grade six during the preceding school year, the student did not
2 achieve a score equal to or greater than the minimum satisfactory
3 adjusted scale score for that assessment instrument, as determined
4 under Subsection (a-3).

5 (a-7) A student assessed in mathematics under Subsection
6 (a-4), (a-5), or (a-6) shall be assessed without the aid of
7 technology.

8 (a-8) A school district or open-enrollment charter school
9 may, for its own use in determining whether students are performing
10 at a satisfactory level, administer to a student at the appropriate
11 grade level, other than a student required to be assessed, an
12 assessment instrument developed for purposes of Subsection (a-4),
13 (a-5), or (a-6). At the request of a district or open-enrollment
14 charter school, the agency shall provide, allow for the
15 administration of, and score each assessment instrument
16 administered under this subsection in the same manner and at the
17 same cost as for assessment instruments required to be administered
18 under the applicable subsection. The results of an assessment
19 instrument administered under this subsection may not be included
20 as an indicator of student achievement under Section 39.053 or any
21 other provision.

22 (a-9) If there is a conflict between this section and a
23 federal law or regulation as a result of forgoing under this section
24 certain administration of assessment instruments to students who
25 have recently performed successfully on assessment instruments
26 assessing the same subject, the commissioner shall seek a waiver
27 from the application of the conflicting federal law or regulation.

1 In seeking a waiver, the commissioner shall submit all relevant
2 data, including data relating to:

3 (1) the likelihood that a student who achieves a score
4 on an assessment instrument equal to or greater than the minimum
5 satisfactory adjusted scale score for that assessment instrument,
6 as determined under Subsection (a-3), will, in subsequent years,
7 perform satisfactorily on assessment instruments in the same
8 subject;

9 (2) the costs associated with ongoing assessment of
10 students who have proven likely to perform successfully on
11 subsequent assessment instruments; and

12 (3) the benefit of redirecting resources from
13 assessment of students who have proven likely to perform
14 successfully on subsequent assessment instruments toward enabling
15 lower performing students to perform successfully on assessment
16 instruments after one school year.

17 (b) The agency shall develop or adopt appropriate
18 criterion-referenced alternative assessment instruments to be
19 administered to a a ~~[each]~~ student in a special education program
20 under Subchapter A, Chapter 29, for whom an assessment instrument
21 adopted under Subsection (a) or, to the extent applicable,
22 Subsection (a-4), (a-5), or (a-6), even with allowable
23 accommodations, would not provide an appropriate measure of student
24 achievement, as determined by the student's admission, review, and
25 dismissal committee.

26 (c-1) To the greatest extent practicable, the ~~[The]~~ agency
27 shall develop any assessment instrument required under this section

1 in a manner that allows for the measurement of annual improvement in
2 student achievement as required by Sections 39.034(c) and (d).

3 (c-3) In adopting a schedule for the administration of
4 assessment instruments under this section, the State Board of
5 Education shall require:

6 (1) assessment instruments administered under
7 Subsections (a), (a-4), (a-5), and (a-6) [~~Subsection (a)~~] to be
8 administered on a schedule so that the first assessment instrument
9 is administered at least two weeks later than the date on which the
10 first assessment instrument was administered under Subsection (a)
11 during the 2006-2007 school year; and

12 (2) the spring administration of end-of-course
13 assessment instruments under Subsection (c) to occur in each school
14 district not earlier than the first full week in May, except that
15 the spring administration of the end-of-course assessment
16 instruments in English I, English II, and English III must be
17 permitted to occur at an earlier date.

18 (e) Under rules adopted by the State Board of Education,
19 every third year, the agency shall release the questions and answer
20 keys to each assessment instrument administered under Subsection
21 (a), (a-4), (a-5), (a-6), (b), (c), (d), or (l), excluding any
22 assessment instrument administered to a student for the purpose of
23 retaking the assessment instrument, after the last time the
24 instrument is administered for that school year. To ensure a valid
25 bank of questions for use each year, the agency is not required to
26 release a question that is being field-tested and was not used to
27 compute the student's score on the instrument. The agency shall

1 also release, under board rule, each question that is no longer
2 being field-tested and that was not used to compute a student's
3 score.

4 (1) The State Board of Education shall adopt rules for the
5 administration of the assessment instruments adopted under
6 Subsection (a) and, to the extent applicable, the assessment
7 instruments adopted under Subsection (a-4) in Spanish to students
8 in grades three, four, and [~~through~~] five who are of limited English
9 proficiency, as defined by Section 29.052, whose primary language
10 is Spanish, and who are not otherwise exempt from the
11 administration of an assessment instrument under Section
12 39.027(a)(1) or (2). Each student of limited English proficiency
13 whose primary language is Spanish, other than a student to whom
14 Subsection (b) applies, may be assessed using assessment
15 instruments in Spanish under this subsection for up to three years
16 or assessment instruments in English under Subsection (a) and, as
17 applicable, Subsection (a-4). The language proficiency assessment
18 committee established under Section 29.063 shall determine which
19 students are administered assessment instruments in Spanish under
20 this subsection.

21 (m) The commissioner by rule shall develop procedures under
22 which the language proficiency assessment committee established
23 under Section 29.063 shall determine which students are exempt from
24 the administration of the assessment instruments under Section
25 39.027(a)(1) or (2). The rules adopted under this subsection shall
26 ensure that the language proficiency assessment committee provides
27 that the exempted students are administered the assessment

1 instruments under Subsections (a) and (c) and, to the extent
2 applicable, Subsections (a-4), (a-5), and (a-6) at the earliest
3 practical date.

4 (n) This subsection applies only to a student who is
5 determined to have dyslexia or a related disorder and who is an
6 individual with a disability under 29 U.S.C. Section 705(20) and
7 its subsequent amendments. The agency shall adopt or develop
8 appropriate criterion-referenced assessment instruments designed
9 to assess the ability of and to be administered to each student to
10 whom this subsection applies for whom the assessment instruments
11 adopted under Subsection (a) and, to the extent applicable, the
12 assessment instruments adopted under Subsections (a-4), (a-5), and
13 (a-6), even with allowable modifications, would not provide an
14 appropriate measure of student achievement, as determined by the
15 committee established by the board of trustees of the district to
16 determine the placement of students with dyslexia or related
17 disorders. The committee shall determine whether any allowable
18 modification is necessary in administering to a student an
19 assessment instrument required under this subsection. The
20 assessment instruments required under this subsection shall be
21 administered on the same schedule as the assessment instruments
22 administered under Subsections (a), (a-4), (a-5), and (a-6), as
23 applicable [~~Subsection (a)~~].

24 (p) On or before September 1 of each year, the commissioner
25 shall make the following information available on the agency's
26 Internet website for each assessment instrument administered under
27 Subsection (a), (a-4), (a-5), (a-6), (c), or (l):

1 (1) the number of questions on the assessment
2 instrument;

3 (2) the number of questions that must be answered
4 correctly to achieve satisfactory performance as determined by the
5 commissioner under Section 39.0241(a);

6 (3) the number of questions that must be answered
7 correctly to achieve satisfactory performance under the college
8 readiness performance standard as provided by Section 39.0241; and

9 (4) the corresponding scale scores.

10 SECTION 2. (a) This Act takes effect on any date not later
11 than September 1, 2015, on which the commissioner of education:

12 (1) obtains any necessary waiver from the application
13 of federal law or regulation conflicting with Section 39.023,
14 Education Code, as amended by this Act, as required by Section
15 39.023(a-9), Education Code, as added by this Act; or

16 (2) receives written notification from the United
17 States Department of Education that a waiver is not required.

18 (b) This Act applies beginning with the first school year
19 that begins after the date on which this Act takes effect under
20 Subsection (a) of this section.

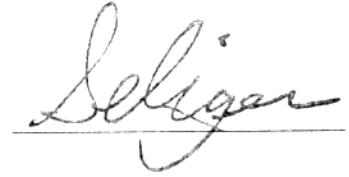
21 (c) If the commissioner of education obtains any necessary
22 waiver or receives written notification as described by Subsection
23 (a) of this section, the commissioner shall certify that the
24 commissioner has obtained the waiver or received notification that
25 a waiver is not required, as applicable, and shall publish notice of
26 that fact in the Texas Register as soon as practicable after
27 obtaining the waiver or receiving notification.

ADOPTED

MAY 21 2013

FLOOR AMENDMENT NO. 1

BY: 
Secretary of the Senate



1 Amend H.B. No. 866 (senate committee printing) as follows:

2 (1) In the recital to SECTION 1 of the bill (page 1, line
3 25), strike "and (a-9)" and substitute "(a-9), and (a-10)".

4 (2) In SECTION 1 of the bill, amending Section 39.023(a),
5 Education Code (page 1, lines 38 - 39) strike "~~writing,~~
6 ~~including spelling and grammar, in grades four and seven,~~" and
7 substitute "writing, including spelling and grammar, in grades
8 four and seven;".

9 (3) In SECTION 1 of the bill, amending Section 39.023(a),
10 Education Code (page 1, line 40), strike "~~[(4)]~~" and substitute
11 "(4)".

12 (4) In SECTION 1 of the bill, amending Section 39.023(a),
13 Education Code (page 1, line 41), strike "(4) ~~[(5)]~~" and
14 substitute "(5)".

15 (5) In SECTION 1 of the bill, immediately following
16 Section 39.023(a-9), Education Code (page 3, between lines 8 and
17 9), insert the following:

18 (a-10) This subsection and Subsections (a-3), (a-4), (a-
19 5), (a-6), (a-7), (a-8), and (a-9) expire September 1, 2017.

20 (6) Add the following appropriately number SECTION to the
21 bill and renumber subsequent SECTIONS of the bill accordingly:

22 SECTION ____ Effective September 1, 2017, Sections
23 39.023(a), (a-1), (a-2), (b), (c-1), (c-3), (e), (l), (m), (n),
24 and (p), Education Code, are amended to read as follows:

25 (a) The agency shall adopt or develop appropriate
26 criterion-referenced assessment instruments designed to assess
27 essential knowledge and skills in reading, writing, mathematics,
28 social studies, and science. Except as provided by Subsection
29 (a-2), all students, other than students assessed under

1 Subsection (b) or (1) or exempted under Section 39.027, shall be
2 assessed in:

3 (1) mathematics, annually in grades three through
4 seven without the aid of technology and in grade eight with the
5 aid of technology on any assessment instrument that includes
6 algebra;

7 (2) reading, annually in grades three through eight;

8 (3) writing, including spelling and grammar, in
9 grades four and seven;

10 (4) social studies, in grade eight;

11 (5) science, in grades five and eight; and

12 (6) any other subject and grade required by federal
13 law.

14 (a-1) The agency shall develop assessment instruments
15 required under Subsection (a) in a manner that allows, to the
16 extent practicable:

17 (1) the score a student receives to provide reliable
18 information relating to a student's satisfactory performance for
19 each performance standard under Section 39.0241; and

20 (2) an appropriate range of performances to serve as
21 a valid indication of growth in student achievement.

22 (a-2) A student is not required to be assessed in a
23 subject otherwise assessed at the student's grade level under
24 Subsection (a) if the student:

25 (1) is enrolled in a course in the subject intended
26 for students above the student's grade level and will be
27 administered an assessment instrument adopted or developed under
28 Subsection (a) that aligns with the curriculum for the course in
29 which the student is enrolled; or

30 (2) is enrolled in a course in the subject for which
31 the student will receive high school academic credit and will be

1 administered an end-of-course assessment instrument adopted
2 under Subsection (c) for the course.

3 (b) The agency shall develop or adopt appropriate
4 criterion-referenced alternative assessment instruments to be
5 administered to each student in a special education program
6 under Subchapter A, Chapter 29, for whom an assessment
7 instrument adopted under Subsection (a), even with allowable
8 accommodations, would not provide an appropriate measure of
9 student achievement, as determined by the student's admission,
10 review, and dismissal committee.

11 (c-1) The agency shall develop any assessment instrument
12 required under this section in a manner that allows for the
13 measurement of annual improvement in student achievement as
14 required by Sections 39.034(c) and (d).

15 (c-3) In adopting a schedule for the administration of
16 assessment instruments under this section, the State Board of
17 Education shall require:

18 (1) assessment instruments administered under
19 Subsection (a) to be administered on a schedule so that the
20 first assessment instrument is administered at least two weeks
21 later than the date on which the first assessment instrument was
22 administered under Subsection (a) during the 2006-2007 school
23 year; and

24 (2) the spring administration of end-of-course
25 assessment instruments under Subsection (c) to occur in each
26 school district not earlier than the first full week in May,
27 except that the spring administration of the end-of-course
28 assessment instruments in English I, English II, and English III
29 must be permitted to occur at an earlier date.

30 (e) Under rules adopted by the State Board of Education,
31 every third year, the agency shall release the questions and
32 answer keys to each assessment instrument administered under

1 Subsection (a), (b), (c), (d), or (l), excluding any assessment
2 instrument administered to a student for the purpose of retaking
3 the assessment instrument, after the last time the instrument is
4 administered for that school year. To ensure a valid bank of
5 questions for use each year, the agency is not required to
6 release a question that is being field-tested and was not used
7 to compute the student's score on the instrument. The agency
8 shall also release, under board rule, each question that is no
9 longer being field-tested and that was not used to compute a
10 student's score.

11 (1) The State Board of Education shall adopt rules for the
12 administration of the assessment instruments adopted under
13 Subsection (a) in Spanish to students in grades three through
14 five who are of limited English proficiency, as defined by
15 Section 29.052, whose primary language is Spanish, and who are
16 not otherwise exempt from the administration of an assessment
17 instrument under Section 39.027(a)(1) or (2). Each student of
18 limited English proficiency whose primary language is Spanish,
19 other than a student to whom Subsection (b) applies, may be
20 assessed using assessment instruments in Spanish under this
21 subsection for up to three years or assessment instruments in
22 English under Subsection (a). The language proficiency
23 assessment committee established under Section 29.063 shall
24 determine which students are administered assessment instruments
25 in Spanish under this subsection.

26 (m) The commissioner by rule shall develop procedures
27 under which the language proficiency assessment committee
28 established under Section 29.063 shall determine which students
29 are exempt from the administration of the assessment instruments
30 under Section 39.027(a)(1) or (2). The rules adopted under this
31 subsection shall ensure that the language proficiency assessment
32 committee provides that the exempted students are administered

1 the assessment instruments under Subsections (a) and (c) at the
2 earliest practical date.

3 (n) This subsection applies only to a student who is
4 determined to have dyslexia or a related disorder and who is an
5 individual with a disability under 29 U.S.C. Section 705(20) and
6 its subsequent amendments. The agency shall adopt or develop
7 appropriate criterion-referenced assessment instruments designed
8 to assess the ability of and to be administered to each student
9 to whom this subsection applies for whom the assessment
10 instruments adopted under Subsection (a), even with allowable
11 modifications, would not provide an appropriate measure of
12 student achievement, as determined by the committee established
13 by the board of trustees of the district to determine the
14 placement of students with dyslexia or related disorders. The
15 committee shall determine whether any allowable modification is
16 necessary in administering to a student an assessment instrument
17 required under this subsection. The assessment instruments
18 required under this subsection shall be administered on the same
19 schedule as the assessment instruments administered under
20 Subsection (a).

21 (p) On or before September 1 of each year, the
22 commissioner shall make the following information available on
23 the agency's Internet website for each assessment instrument
24 administered under Subsection (a), (c), or (l):

25 (1) the number of questions on the assessment
26 instrument;

27 (2) the number of questions that must be answered
28 correctly to achieve satisfactory performance as determined by
29 the commissioner under Section 39.0241(a);

30 (3) the number of questions that must be answered
31 correctly to achieve satisfactory performance under the college

1 readiness performance standard as provided by Section 39.0241;
2 and

3 (4) the corresponding scale scores.

4 (7) In SECTION 2 of the bill, in Subsection (a) (page 4,
5 line 41), strike "This Act" and substitute "Except as otherwise
6 provided by this Act, this Act".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB866 by Huberty (Relating to the administration to public school students in certain grades of state-administered assessment instruments.), **As Passed 2nd House**

<p>The fiscal implications of the bill cannot be determined at this time because conditions established in the bill required for the bill to take effect have not been met; and it is not known at this time whether or when those conditions may be met in the future.</p>

The bill would make state assessments optional for students in grades 4, 6, and 7 who achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment in grades 3, 5, and 6. The bill would require that students who do not meet the minimum satisfactory adjusted scale score requirement on any assessments in grades 3 through 7 and who are promoted to the next grade be assessed in those subjects in the following grade.

The bill would allow school districts and charter schools to assess students who meet the exemption requirements for assessments in grades 4, 6, and 7 at their discretion and would require the Texas Education Agency to provide all the support provided for mandatory assessments.

The bill would require the Commissioner of Education to seek federal waivers in any case in which the provisions of the bill violate requirements of federal law.

The bill would take effect on any date not later than September 1, 2015, on which the Commissioner of Education obtains any necessary waiver application of federal law or regulation conflicting with the bill, or receives written notification from the United States Department of Education that a waiver is not required.

The bill would apply beginning with the first school year after the effective date of the bill.

The bill would revert back to current law beginning in fiscal year 2018.

The fiscal implications of this bill cannot be determined at this time because it is unknown whether the United States Department of Education would issue a waiver of the federal law or regulation conflicting with the bill, or notification that a waiver is not required.

If a waiver or notification that a waiver is not required is received, there would be an estimated General Revenue savings to the state of \$6.1 million in the first fiscal year following the waiver or notification receipt, \$4.1 million General Revenue savings in the second year, and \$5.4 million General Revenue savings in subsequent years.

If no such waiver or notification is received, the bill would not take effect; therefore there would be no fiscal impact to the state.

Local Government Impact

If the bill were to take effect, school districts could experience savings associated with reduced assessments. Savings would vary depending on the number of students scoring at levels required for exemption and the degree to which school districts opt not to assess students on a discretionary basis.

Source Agencies: 701 Central Education Agency

LBB Staff: UP, JBi, JSc, AH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Dan Patrick, Chair, Senate Committee on Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB866 by Huberty (Relating to the administration to public school students in certain grades of state-administered assessment instruments.), **As Engrossed**

The fiscal implications of the bill cannot be determined at this time because conditions established in the bill required for the bill to take effect have not been met; and it is not known at this time whether or when those conditions may be met in the future.

The bill would make state assessments optional for students in grades 4, 6, and 7 who achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment in grades 3, 5, and 6. The bill would require that students who do not meet the minimum satisfactory adjusted scale score requirement on any assessments in grades 3 through 7 and who are promoted to the next grade be assessed in those subjects in the following grade.

The bill would eliminate required writing assessments in grade 4 and 7.

The bill would allow school districts and charter schools to assess students who meet the exemption requirements for assessments in grades 4, 6, and 7 at their discretion and would require the Texas Education Agency to provide all the support provided for mandatory assessments.

The bill would require the Commissioner of Education to seek federal waivers in any case in which the provisions of the bill violate requirements of federal law.

The bill would take effect on any date not later than September 1, 2015, on which the Commissioner of Education obtains any necessary waiver application of federal law or regulation conflicting with the bill, or receives written notification from the United States Department of Education that a waiver is not required.

The bill would apply beginning with the first school year after the effective date of the bill.

The fiscal implications of this bill cannot be determined at this time because it is unknown whether the United States Department of Education would issue a waiver of the federal law or regulation conflicting with the bill, or notification that a waiver is not required.

If a waiver or notification that a waiver is not required is received, there would be an estimated General Revenue savings to the state of \$6.1 million in the first fiscal year following the waiver or notification receipt, \$4.1 million General Revenue savings in the second year, and \$5.4 million General Revenue savings in subsequent years.

If no such waiver or notification is received, the bill would not take effect; therefore there would be no fiscal impact to the state.

Local Government Impact

If the bill were to take effect, school districts could experience savings associated with reduced assessments. Savings would vary depending on the number of students scoring at levels required for exemption and the degree to which school districts opt not to assess students on a discretionary basis.

Source Agencies: 701 Central Education Agency

LBB Staff: UP, JBi, JSc, AH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 22, 2013

TO: Honorable Jimmie Don Aycock, Chair, House Committee on Public Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB866 by Huberty (Relating to the administration to public school students in certain grades of state-administered assessment instruments.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB866, Committee Report 1st House, Substituted: a positive impact of \$13,380,000 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$7,330,000
2015	\$6,050,000
2016	\$6,690,000
2017	\$6,690,000
2018	\$6,690,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Probable Savings/(Cost) from <i>Fed Health Ed Welf Fd</i> 148
2014	\$7,330,000	(\$12,596,880)
2015	\$6,050,000	(\$12,596,880)
2016	\$6,690,000	(\$12,596,880)
2017	\$6,690,000	(\$12,596,880)
2018	\$6,690,000	(\$12,596,880)

Fiscal Analysis

The bill would make state assessments optional for students in grades 4, 6, and 7 who achieve a

score equal to or greater than the minimum satisfactory adjusted scale score for that assessment in grades 3, 5, and 6. The bill would require that students who do not meet the minimum satisfactory adjusted scale score requirement on any assessments in grades 3 through 7 and who are promoted to the next grade be assessed in those subjects in the following grade.

The bill would eliminate required writing assessments in grade 4 and 7 and the social studies assessment in grade 8.

The bill would allow school districts and charter schools to assess students who meet the exemption requirements for assessments in grades 4, 6, and 7 at their discretion and would require the Texas Education Agency to provide all the support provided for mandatory assessments.

The bill would require the Commissioner of Education to seek federal waivers in any case in which the provisions of the bill violate requirements of federal law.

The bill would apply beginning with the 2013-14 school year.

Methodology

The bill would eliminate the grade 4 and 7 writing assessments at a savings of \$8.0 million per fiscal year.

The bill would eliminate the grade 8 social studies assessment at a savings of \$1.3 million per fiscal year.

Because students who fail to achieve a score equal to or greater than the minimum satisfactory adjusted scale score on science assessments required in grade 5 and who were promoted to grade 6 would be required to be tested in science in grade 6, the bill would necessitate development and administration of a grade 6 science assessment, beginning in fiscal year 2014. School districts would be required to assess students required to take the grade 6 science assessment who continued to fail to achieve a score equal to or greater than the minimum satisfactory adjusted scale score in science in grade 7, necessitating the development and administration of a grade 7 science assessment, beginning in fiscal year 2015.

The cost of developing and administering the grade 6 science assessment is estimated at \$1.9 million in fiscal year 2014 and \$1.3 million in subsequent years. The cost of developing and administering the grade 7 science assessment is estimated at \$1.9 million in fiscal year 2015 and \$1.3 million in subsequent years.

To the extent that school districts opt not to administer discretionary assessments to students meeting the performance thresholds set by the provisions of the bill, the state cost of operating the assessments program could decrease. However, that savings cannot be estimated.

The provisions of the bill could violate requirements in federal law that the state assess students on an annual basis. The bill requires that the Commissioner of Education seek a waiver of these requirements. For purposes of this estimate, it is assumed that no waiver is granted, and it is estimated that TEA would lose \$12.6 million annually in federal Title I administrative funds beginning in fiscal year 2014. If a waiver were granted, no such loss of federal funds would occur.

There could be a further loss to school districts and open-enrollment charter schools in Title I federal funds if a waiver is not received and if the district or open-enrollment charter school chooses to not administer the discretionary assessments.

Local Government Impact

School districts could experience savings associated with reduced assessments. Savings would vary depending on the number of students scoring at levels required for exemption and the degree to which school districts opt not to assess students on a discretionary basis.

Source Agencies: 701 Central Education Agency

LBB Staff: UP, JBi, JSc, AH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 1, 2013

TO: Honorable Jimmie Don Aycock, Chair, House Committee on Public Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB866 by Huberty (Relating to the administration to public school students in certain grades of state-administered assessment instruments.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB866, As Introduced: a negative impact of (\$22,320,000) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$9,700,000)
2015	(\$12,620,000)
2016	(\$10,080,000)
2017	(\$10,080,000)
2018	(\$10,080,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Foundation School Fund</i> 193	Probable Savings/(Cost) from <i>Fed Health Ed Welf Fd</i> 148
2014	(\$9,700,000)	(\$12,596,880)
2015	(\$12,620,000)	(\$12,596,880)
2016	(\$10,080,000)	(\$12,596,880)
2017	(\$10,080,000)	(\$12,596,880)
2018	(\$10,080,000)	(\$12,596,880)

Fiscal Analysis

The bill would make state assessments optional for students in grades 4, 6, and 7 who achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment in grades 3, 5, and 6. The bill would require that students who do not meet the minimum satisfactory

adjusted scale score requirement on any assessments in grades 3 through 7 and who are promoted to the next grade be assessed in those subjects in the following grade.

The bill would move required writing assessments from grades 4 and 7 to grades 5 and 8.

The bill would allow school districts and charter schools to assess students who meet the exemption requirements for assessments in grades 4, 6, and 7 at their discretion and would require the Texas Education Agency to provide all the support provided for mandatory assessments.

The bill would require the Commissioner of Education to seek federal waivers in any case in which the provisions of the bill violate requirements of federal law.

The bill would apply beginning with the 2013-14 school year.

Methodology

The bill would require development of two new writing assessments for grades 5 and 8 to replace current assessments for grades 4 and 7. Because students who fail to achieve a score equal to or greater than the minimum satisfactory adjusted scale score would be required to be tested in writing in grade 6, the bill would necessitate development of a grade 6 writing assessment. Although the bill would eliminate primary administration of the grade 7 writing assessment, that assessment would be required for students who have failed to meet the standards of the bill on the grade 5 and grade 6 writing assessment (contingent administration) and may be administered to any student at school district discretion (discretionary administration). Therefore, changes to the writing assessments requirements would require the development and administration of three new writing assessments for grades 5, 6 and 8, with the grade 5 and 8 assessments beginning in fiscal year 2014 and the grade 6 assessment beginning in fiscal year 2015.

Because students who fail to achieve a score equal to or greater than the minimum satisfactory adjusted scale score on science assessments required in grade 5 and who were promoted to grade 6 would be required to be tested in science in grade 6, the bill would necessitate development and administration of a grade 6 science assessment, beginning in fiscal year 2014. School districts would be required to assess students required to take the grade 6 science assessment who continued to fail to achieve a score equal to or greater than the minimum satisfactory adjusted scale score in science in grade 7, necessitating the development and administration of a grade 7 science assessment, beginning in fiscal year 2015.

The cost of developing and administering the grade 6 science assessment is estimated at \$1.9 million in fiscal year 2014 and \$1.3 million in subsequent years. The cost of developing and administering the grade 7 science assessment is estimated at \$1.9 million in fiscal year 2015 and \$1.3 million in subsequent years.

The cost of developing and administering the grade 5 writing assessment is estimated at \$6.5 million in fiscal year 2014 and \$4.3 million in subsequent years. The cost of developing and administering the grade 6 writing assessment is estimated at \$5.7 million in fiscal year 2015 and \$3.8 million in subsequent years. The cost of developing and administering the grade 8 writing assessment is estimated at \$5.7 million in fiscal year 2014 and \$3.8 million in subsequent years.

The estimated savings of eliminating the grade 4 writing assessment is \$4.4 million per fiscal year.

To the extent that school districts opt not to administer discretionary assessments to students meeting the performance thresholds set by the provisions of the bill, the state cost of operating the

assessments program could decrease. However, that savings cannot be estimated.

The provisions of the bill could violate requirements in federal law that the state assess students on an annual basis. The bill requires that the Commissioner of Education seek a waiver of these requirements. For purposes of this estimate, it is assumed that no waiver is granted, and it is estimated that TEA would lose \$12.6 million annually in federal Title I administrative funds beginning in fiscal year 2014. If a waiver were granted, no such loss of federal funds would occur.

There could be a further loss to school districts and open-enrollment charter schools in Title I federal funds if a waiver is not received and if the district or open-enrollment charter school chooses to not administer the discretionary assessments.

Local Government Impact

School districts could experience savings associated with reduced assessments. Savings would vary depending on the number of students scoring at levels required for exemption and the degree to which school districts opt not to assess students on a discretionary basis.

Source Agencies: 701 Central Education Agency

LBB Staff: UP, JBi, JSc, AH