

## **BILL ANALYSIS**

Senate Research Center  
85R24462 KJE-D

H.B. 2223  
By: Giddings; White (Zaffirini)  
Higher Education  
5/13/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties suggest that developmental education programs offered by public institutions of higher education under the Texas Success Initiative are in need of improvement with regard to guiding students to postsecondary success without posing a financial burden on families. H.B. 2223 seeks to provide for this improvement by overhauling the developmental education programs and phasing in a corequisite model under which a student concurrently enrolls in a developmental education course and a freshman-level course in the same subject area for each subject area for which the student is referred to developmental coursework.

H.B. 2223 amends current law relating to developmental coursework offered by public institutions of higher education under the Texas Success Initiative.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board (THECB) is rescinded in SECTION 1.13 (Section 51.342, Education Code) of this bill.

Rulemaking authority previously granted to THECB is modified in SECTION 1.15 (Section 51.344, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of higher education is rescinded in SECTION 1.15 (Section 51.344, Education Code) of this bill.

Rulemaking authority is expressly granted to THECB in SECTION 1.15 (Section 51.344, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. TEXAS SUCCESS INITIATIVE

SECTION 1.01. Amends Chapter 51, Education Code, by adding Subchapter F-1, and adds a heading to that subchapter to read as follows:

#### SUBCHAPTER F-1. TEXAS SUCCESS INITIATIVE

SECTION 1.02. Transfers Sections 51.3062(a) and (a-1), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.331, Education Code, and amends them, as follows:

Sec. 51.331. DEFINITIONS. (a) Provides that the definitions provided by Section 61.003 (Definitions) apply to this subchapter, rather than section.

(b) Redesignates existing Subsection (a-1) as Subsection (b) and makes a conforming change.

SECTION 1.03. Transfers Section 51.3062(r), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.332, Education Code, and amends it, as follows:

Sec. 51.332. APPLICABILITY. Deletes designation as Subsection (r) and provides that this subchapter, rather than section, does not apply to certain students.

SECTION 1.04. Transfers Section 51.3062(b), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.333, Education Code, and amends it, as follows:

Sec. 51.333. COLLEGE READINESS ASSESSMENT REQUIRED. (a) Redesignates existing Subsection (b) as Subsection (a). Requires an institution of higher education (IHE), using an assessment instrument designated by the Texas Higher Education Coordinating Board (THECB) under Section 51.334, to assess the academic skills of each entering undergraduate student to determine the student's readiness to enroll in freshman-level academic coursework.

(b) Creates this subsection from existing text. Prohibits an IHE from using the required assessment, rather than prohibits an institution from using the assessment, or the results of the assessment as a condition of admission to the IHE.

SECTION 1.05. Transfers Sections 51.3062(c), (f), and (f-1), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.334, Education Code, and amends them as follows:

Sec. 51.334. ASSESSMENT INSTRUMENTS. (a) Redesignates existing Subsection (c) as Subsection (a). Changes a reference to this section to this subchapter.

(b) and (c) Redesignates existing Subsections (f) and (f-1) as Subsections (b) and (c) and makes conforming changes.

SECTION 1.06. Transfers Sections 51.3062(g) and (h), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.335, Education Code, and reorders and amends them as follows:

Sec. 51.335. COLLEGE READINESS ADVISING. (a) Redesignates existing Subsection (h) as Subsection (a). Requires the IHE, if a student fails to meet the assessment standards described by Section 51.334(b), rather than Subsection (f), to work with the student to develop a plan to assist the student in becoming ready to perform freshman-level academic coursework.

(b) Redesignates existing Subsection (g) as Subsection (b).

SECTION 1.07. Transfers Sections 51.3062(i), (i-2), and (t), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.336, Education Code, and amends them, as follows:

Sec. 51.336. DEVELOPMENTAL EDUCATION. (a) Redesignated from existing Subsection (i). Changes a reference to Subsection (q-1) to Section 51.338(d) and makes nonsubstantive changes.

(b) Creates this subsection from existing text and changes a reference to an institution to an IHE.

(c) Requires each IHE to develop and implement for developmental coursework, other than adult basic education or basic academic skills education, developmental education using a corequisite model under which a student concurrently enrolls in a developmental education course and a freshman-level course in the same subject area for each subject area for which the student is referred to developmental coursework. Requires each IHE to ensure that at least 75 percent of the IHE's students enrolled in developmental coursework other than

adult basic education or basic academic skills education are enrolled in developmental coursework described by this subsection.

(d) Requires the IHE, if a student fails to satisfactorily complete a freshman-level course described by Subsection (c), to review the plan developed for the student under Section 51.335(a) and, if necessary, work with the student to revise the plan and offer to the student a range of competency-based education programs to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject area.

(e) Redesignated from existing Subsection (i-2). Requires an IHE to base developmental coursework on research-based best practices that include certain components, including, subject to the requirements of Subsection (c), course pairing of developmental education courses with credit-bearing courses.

(f) Redesignated from existing Subsection (t). Changes a reference to Subsection (f) to Section 51.334. Authorizes the types of developmental coursework to include certain programs, including, subject to the requirements of Subsection (c), programs under which the student is pairing or taking concurrently a developmental education course and another course in the same subject area for which course credit may be earned.

SECTION 1.08. Transfers Sections 51.3062(j) and (k), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.337, Education Code, and amends them as follows:

Sec. 51.337. REEVALUATION OF COLLEGE READINESS. (a) Redesignated from existing Subsection (j). Authorizes a student to retake an assessment instrument designated by THECB for use under this subchapter at any time to determine readiness to perform freshman-level academic coursework.

(b) Redesignated from existing Subsection (k) and makes no further changes to this subsection.

SECTION 1.09. Transfers Sections 51.3062(p), (q), (q-1), (q-2), and (s), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.338, Education Code, and reorders and amends them as follows:

Sec. 51.338. EXEMPTIONS. (a) Redesignated from existing Subsection (s). Changes a reference to this section to this subchapter.

(b) Redesignated from existing Subsection (p) and makes nonsubstantive and conforming changes.

(c) and (d) Redesignated from existing Subsections (q) and (q-1) and makes conforming changes.

(e) Redesignated from existing Subsection (q-2). Provides that a student who successfully completes a college preparatory course under Section 28.014 is exempt from the requirements of this subchapter, rather than this section, with respect to the content area of the course, provided that the student satisfies the requirements of Subsection (f) of this section. Deletes existing text requiring the student to enroll in the student's first college-level course in the exempted content area in the student's first year of enrollment in an IHE. Deletes existing text requiring the IHE, if the student earns less than a C in the student's first college-level course in the exempted content area, to advise the student of non-course-based options for becoming college ready, such as tutoring or accelerated learning. Provides that the exemption applies only at a certain IHE, except that the commissioner of higher education, rather than the commissioner, by rule, is

authorized to determine the manner in which the exemption may be applied to IHEs other than the partnering IHE.

(f) Requires a student receiving an exemption under Subsection (e) to enroll in a college-level course in the exempted content area during the student's first year of enrollment at an IHE occurring after the student qualifies for the exemption. Requires the IHE, if the student earns a grade below a "C" for the course, to advise the student of non-course-based options for attaining college readiness, such as tutoring or accelerated learning.

(g) Creates this subsection from existing text. Requires the board (defined as THECB), rather than the Texas Higher Education Coordinating Board, to:

(1) collect and analyze data regarding the effectiveness of college preparatory courses provided under Section 28.014 (College Preparatory Courses) in assisting students to become ready to perform freshman-level academic coursework, as measured by the rate at which students receiving an exemption under Subsection (e) successfully complete the course described by Subsection (f), rather than as measured by students' successful completion of the first college-level course in the exempted content area. Creates this subdivision from existing text; and

(2) in November of each even-numbered year, submit a report of THECB's findings to the governor, the lieutenant governor, the speaker of the house of representatives, the standing legislative committees with primary jurisdiction over higher education, and each IHE and school district that offers a college preparatory course under Section 28.014, rather than to all partnering IHEs and independent school districts of each college preparatory course evaluated, as well as the governor, lieutenant governor, speaker of the house of representatives, and the members of the House and Senate Committees on Higher Education.

SECTION 1.10. Transfers Section 51.3062(i-4), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.339, Education Code, and amends it as follows:

Sec. 51.339. PROFESSIONAL DEVELOPMENT FOR DEVELOPMENTAL EDUCATION. Deletes existing designation as Subsection (i-4) and makes no further changes to this section.

SECTION 1.11. Transfers Sections 51.3062(l) and (m), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.340, Education Code, and amends them as follows:

Sec. 51.340. FUNDING. (a) Redesignates existing Subsection (l) as Subsection (a). Requires the legislature to appropriate money for approved non-degree-credit developmental courses, including basic academic skills education, except that legislative appropriations may not be used for developmental coursework taken by a student in excess of:

(1) for a general academic teaching institution:

(A) 9 semester credit hours; or

(B) 18 semester credit hours, if the developmental coursework is English for speakers of other languages, rather than 18 semester credit hours, for a general academic teaching institution; and

(2) for a public junior college, public technical institute, or public state college:

(A) 18 semester credit hours; or

(B) 27 semester credit hours, if the developmental coursework is English for speakers of other languages, rather than 27 semester credit hours, for a public junior college, public technical institute, or public state college.

(b) Redesignated from existing Subsection (m) and makes nonsubstantive and conforming changes.

SECTION 1.12. Transfers Section 51.3062(n), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.341, Education Code, and amends it as follows:

Sec. 51.341. REPORT TO BOARD. Deletes existing Subsection (n) designation and makes a nonsubstantive change.

SECTION 1.13. Transfers Section 51.3062(u), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.342, Education Code, and amends it as follows:

Sec. 51.342. REPORT TO SCHOOL DISTRICTS. Deletes existing Subsection (u) designation and changes a reference from this section to this subchapter. Deletes existing text requiring THECB to adopt rules as necessary to implement this subsection, including rules for implementing this subsection in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Education Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.

SECTION 1.14. Transfers Section 51.3062(o), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates it as Section 51.343, Education Code, and amends it as follows:

Sec. 51.343. EVALUATION OF SUCCESS INITIATIVE. Deletes existing Subsection (o) designation and makes a nonsubstantive change.

SECTION 1.15. Transfers Sections 51.3062(i-1), (i-3), and (t-1), Education Code, to Subchapter F-1, Chapter 51, Education Code, as added by this Act, redesignates them as Section 51.344, Education Code, and amends them as follows:

Sec. 51.344. RULES. (a) Redesignated from existing Subsection (t-1). Authorizes THECB to adopt rules as necessary to implement this subchapter, rather than this section.

(b) Redesignated from existing Subsection (i-1). Authorizes THECB's rules to require an IHE to adopt uniform standards for the placement of a student under this subchapter, rather than authorizes the commissioner of higher education, by rule, to require an IHE to adopt uniform standards for the placement of a student under this section.

(c) Requires THECB to adopt rules to ensure that this subchapter is administered in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.), the Family Education Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information.

(d) Redesignated from existing Subsection (i-3). Requires THECB to adopt rules for the implementation of Section 51.336(e), rather than of Subsection (i-2).

SECTION 1.16. Repealer: the heading to Section 51.3062 (Success Initiative), Education Code.

SECTION 1.17. Requires each public IHE to ensure that the IHE's developmental coursework complies with the requirements of 51.336(c), Education Code, as added by this Act, according to the following schedule:

(1) for the 2018-2019 academic year, at least 25 percent of the IHE's students enrolled in certain developmental coursework must be enrolled in developmental coursework that complies with those requirements;

(2) for the 2019-2020 academic year, at least 50 percent of the IHE's students enrolled in certain developmental coursework must be enrolled in developmental coursework that complies with those requirements; and

(3) for the 2020-2021 academic year and each subsequent academic year, at least 75 percent of the IHE's students enrolled in certain developmental coursework must be enrolled in developmental coursework that complies with those requirements.

SECTION 1.18. Provides that Section 51.340(a), Education Code, as transferred, redesignated, and amended from Section 51.3062(l), Education Code, by this Act, applies beginning with the 2018-2019 academic year.

## ARTICLE 2. CONFORMING AMENDMENTS

SECTIONS 2.01 through 2.10. Makes conforming changes to:

Sections 28.014(a), 29.904(d), 39.0233(a), 39.025(a-1), 39.053(c) and (c-2), 51.406(c), 54.2001(b), 56.3041(a), and 61.07611(a), Education Code; and

Section 315.004, Labor Code.

## ARTICLE 3. EFFECTIVE DATE

SECTION 3.01 Effective date: upon passage or September 1, 2017.