

## **BILL ANALYSIS**

Senate Research Center  
85R10612 KKA-F

C.S.S.B. 160  
By: Rodríguez  
Education  
4/5/2017  
Committee Report (Substituted)

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

S.B. 160 would prohibit the Texas Education Agency (TEA) from adopting a policy evaluating school districts based on special education enrollment, while still preserving its ability to collect data on children receiving special education services. Several media reports have described the impact of a TEA policy, implemented as part of its Performance-Based Monitoring Analysis System, that set an 8.5 percent performance target for the total number of children receiving special education services in a school district. Numerous parents, advocates, and school districts say the policy effectively serves as a cap, drastically lowering the number of students receiving special education services.

When the target was implemented in 2004, the national special education average was over 13 percent and Texas' statewide average was about 12 percent. By 2015, Texas' average dropped to reach 8.5 percent, the lowest of any state, while the national average remained steady. This decrease came at the same time that more than a million new students enrolled in Texas schools. Of the 100 largest districts in the United States, only 10 have less than 8.5 percent special education enrollment— and all 10 are in Texas.

Advocates say TEA ensured compliance with the performance target by requiring districts to take specific actions to reduce their special education enrollment rate, a view supported by media reports of numerous educators attesting to feeling pressured to deny or remove students from special education services. Advocates say more than a quarter of a million children may have gone without services because of this policy. Media reports found that effected students had a variety of needs, including autism, ADHD, dyslexia, epilepsy, blindness, and deafness.

The 8.5 percent performance target has subjected the state to ongoing scrutiny from the United States Department of Education, which continues to have "serious concerns" about the state's compliance with the federal Individuals with Disabilities Education Act after hosting a series of listening sessions attended by hundreds of Texans. Multiple school districts have called for an end to the target, and advocates threatened to sue the state unless it is eliminated.

S.B. 160 prohibits TEA from adopting a policy evaluating school districts based on the total number of students in that district receiving special education services. The bill also makes clear, however, that TEA is not impaired in its ability to monitor disproportionality or comply with any other state or federal reporting requirements. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 160 amends current law relating to a prohibition of a monitoring system performance indicator based solely on the number or percentage of students receiving special education services.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0011, as follows:

Sec. 29.0011. PROHIBITED PERFORMANCE INDICATOR. (a) Prohibits the commissioner of education (commissioner) or the Texas Education Agency (TEA), notwithstanding Section 29.001(5) (relating to TEA oversight of special education programs), Section 29.010 (Compliance), or any other provision of this code, from adopting or implementing a performance indicator in any TEA monitoring system, including the performance-based monitoring analysis system, that solely measures a school district's or open-enrollment charter school's aggregated number or percentage of enrolled students who receive special education services.

(b) Provides that Subsection (a) does not prohibit or limit the commissioner or TEA from meeting requirements under:

(1) 20 U.S.C. Section 1418(d) and its implementing regulations to collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the state and in the school districts and open-enrollment charter schools in the state with respect to the:

(A) identification of children as children with disabilities, including the identification of children as children with particular impairments;

(B) placement of children with disabilities in particular educational settings; and

(C) incidence, duration, and type of disciplinary actions taken against children with disabilities, including suspensions and expulsions; or

(2) 20 U.S.C. Section 1416(a)(3)(C) and its implementing regulations to address in the statewide plan the percentage of school districts and open-enrollment charter schools with disproportionate representation of racial and ethnic groups in special education and related services and in specific disability categories that results from inappropriate identification.

SECTION 2. Effective date: upon passage or September 1, 2017.