

BILL ANALYSIS

Senate Research Center
86R16815 GCB-F

H.B. 2983
By: Huberty (Taylor)
Education
5/13/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2983 amends current law relating to the administration to public school students in certain grades of state-administered assessment instruments.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 1 (Section 39.023, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 1 (Section 39.023, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 39.023, Education Code, by amending Subsections (a), (a-1), (a-2), (b), (c-1), (c-3), (e), (l), (m), (n), and (p) and adding Subsections (a-4), (a-5), (a-6), (a-7), (a-8), (a-9), and (a-10), as follows:

(a) Requires all students, other than students assessed under Subsection (b), (b-1) (relating to requiring the Texas Education Agency (TEA), in conjunction with appropriate interested persons, to redevelop certain assessment instruments for administration to significantly cognitively disabled students in a manner consistent with federal law), or (l) or exempted under Section 39.027 (Exemption), rather than all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, except as provided by Subsection (a-2), to be assessed in:

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

(2) reading, in grades three, five, and eight, rather than annually in grades three through eight;

(3) writing, including spelling and grammar, in grades five and eight, rather than in grades four and seven; and

(4) and (5) makes nonsubstantive changes to these subdivisions. Deletes Subdivision (6) and existing text requiring certain students to be assessed in any other subject and grade required by federal law.

(a-1) Requires TEA to develop assessment instruments required under Subsections (a), (a-5), (a-6), and (a-7), rather than under Subsection (a), in a manner that meets certain criteria, to the extent practicable.

(a-2) Provides that a student, except as required by a provision of federal law that has not been waived, rather than except as required by federal law, is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

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

(2) makes no changes to this subdivision.

(a-4) Requires TEA, for each assessment instrument administered under Subsection (a) or (a-6), to determine, based on available information for that assessment instrument, the minimum satisfactory adjusted scale score. Provides that the minimum satisfactory adjusted scale score is the sum of the scale score that indicates satisfactory performance on that assessment instrument, as determined by the commissioner of education (commissioner) under Section 39.0241(a) (relating to requiring the commissioner to determine the level of performance considered to be satisfactory on the assessment instruments), plus the minimum number of points that when added to the scale score produces a score that, within a three percent margin of error, is predictive that a student achieving that score would achieve satisfactory performance on an assessment instrument in the same subject administered to the student during the following school year.

(a-5) Requires a student to be assessed in grade four in a subject for which an assessment instrument is administered under Subsection (a) in grade three if, on the final assessment instrument in that subject administered under Subsection (a) to the student in grade three during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-4).

(a-6) Requires a student to be assessed in grade six in a subject for which an assessment instrument is administered under Subsection (a)(1) or (2) in grade five if, on the final assessment instrument in that subject administered under Subsection (a)(1) or (2) to the student in grade five during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-4).

(a-7) Requires a student to be assessed in grade seven in a subject for which an assessment instrument was administered under Subsection (a-6) to the student in grade six if, on the final assessment instrument in that subject administered to the student in grade six during the preceding school year, the student did not achieve a score equal to or greater than the minimum satisfactory adjusted scale score for that assessment instrument, as determined under Subsection (a-4).

(a-8) Requires a student assessed in mathematics under Subsection (a-5), (a-6), or (a-7) to be assessed without the aid of technology.

(a-9) Authorizes a school district or open-enrollment charter school to, for its own use in determining whether students are performing at a satisfactory level, administer to a student at the appropriate grade level, other than a student required to be assessed, an assessment instrument developed for purposes of Subsection (a-5), (a-6), or (a-7). Requires TEA, at the request of a district or open-enrollment charter school, to provide, allow for the administration of, and score each assessment instrument administered under this subsection in the same manner and at the same cost as for assessment instruments required to be administered under the applicable subsection. Prohibits the results of an assessment instrument administered under this subsection from being included as an achievement indicator under Section 39.053 (Performance Indicators: Achievement) or any other provision.

(a-10) Requires the commissioner, if there is a conflict between this section and a federal law or regulation as a result of forgoing under this section (Adoption and Administration of Instruments) certain administration of assessment instruments to students who have

recently performed successfully on assessment instruments assessing the same subject, to seek a waiver from the application of the conflicting federal law or regulation. Requires the commissioner, in seeking a waiver, to submit all relevant data, including data relating to:

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

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

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

(b) Makes a nonsubstantive change to this subsection. Requires TEA to develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to a student in a special education program under Subchapter A (Special Education Program), Chapter 29, for whom an assessment instrument adopted under Subsection (a) or, to the extent applicable, Subsection (a-5), (a-6), or (a-7), rather than for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth.

(c-1) Requires TEA, to the greatest extent practicable, rather than requiring TEA, to develop any assessment instrument required under this section in a certain manner.

(c-3) Requires the State Board of Education (SBOE), in adopting a schedule for the administration of assessment instruments under this section, to require:

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

(2) makes no changes to this subdivision.

(e) Requires TEA, under rules adopted by SBOE, every third year, to release the questions and answer keys to each assessment instrument administered under Subsection (a), (a-5), (a-6), (a-7), (b), (c), (d), or (l), rather than administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. Deletes existing text requiring TEA, during the 2014–2015 and 2015–2016 school years, to release the questions and answer keys to assessment instruments as described by this subsection each year.

(l) Requires SBOE to adopt rules for the administration of the assessment instruments adopted under Subsection (a) and, to the extent applicable, the assessment instruments adopted under Subsection (a-5) in Spanish to students in grades three, four, and five, rather than adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five, who are of limited English proficiency, as defined by Section 29.052 (Definitions), whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Authorizes each student of limited English

proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, to be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a) and, as applicable, Subsection (a-5), rather than assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a).

(m) Requires the rules adopted under this subsection to ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) and, to the extent applicable, Subsections (a-5), (a-6), and (a-7), rather than under Subsections (a) and (c), at the earliest practical date.

(n) Makes a conforming change to this subsection. Requires the assessment instruments required under this subsection to be administered on the same schedule as the assessment instruments administered under Subsections (a), (a-5), (a-6), and (a-7), as applicable, rather than under Subsection (a).

(p) Requires the commissioner, on or before September 1 of each year, to make certain information available on TEA's Internet website for each assessment instrument administered under Subsection (a), (a-5), (a-6), (a-7), (c), or (l), rather than under Subsection (a), (c), or (l).

SECTION 2. (a) Effective date: any date not later than September 1, 2021, on which the commissioner:

(1) obtains any necessary waiver from the application of federal law or regulation conflicting with Section 39.023, Education Code, as amended by this Act, as required by Section 39.023(a-10), Education Code, as added by this Act; or

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

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

(c) Requires the commissioner, if the commissioner of education obtains any necessary waiver or receives written notification as described by Subsection (a) of this section, to certify that the commissioner has obtained the waiver or received notification that a waiver is not required, as applicable, and to publish notice of that fact in the Texas Register as soon as practicable after obtaining the waiver or receiving notification.