By:  Huberty, Guillen, Raymond, Morales H.B. No. 3904

A BILL TO BE ENTITLED

AN ACT

relating to public school accountability, including certain performance standards and sanctions, to providing alternative methods to satisfy certain public high school graduation requirements, and to public school class size limits.

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

ARTICLE 1. PUBLIC SCHOOL ACCOUNTABILITY

SECTION 1.01.  Section 11.174(f), Education Code, is amended to read as follows:

(f)  This subsection applies only to a district campus subject to a contract described by Subsection (a) that received an overall performance rating of unacceptable under Subchapter C, Chapter 39, for the school year before operation of the district campus under the contract began. The commissioner may not impose a sanction or take action against the campus under Chapter 39A [~~Section 39.107(a) or (e)~~] for failure to satisfy academic performance standards during the first two school years of operation of a district campus under Subsection (a). The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years under Chapter 39A. The performance of a campus subject to this subsection may not be included in determining the performance of the district during the period the campus is exempt from sanctions under Chapter 39A [~~Section 39.107(a) or (e)~~].

SECTION 1.02.  Section 39.0241, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2)  This subsection applies only to an assessment instrument authorized under Section 39.025(a-2) for use as a substitute assessment instrument for purposes of satisfying the requirements concerning an end-of-course assessment instrument. The commissioner shall designate for student performance on each substitute assessment instrument subject to this subsection a level of performance considered to be satisfactory and a level of performance necessary to indicate college readiness in the same manner as the commissioner designates those standards for student performance on each end-of-course assessment instrument listed in Section 39.023(c). The commissioner shall designate the level of performance that indicates college readiness on a substitute assessment as "masters grade-level performance."

SECTION 1.03.  Section 39.053(c), Education Code, as amended by Chapters 807 (H.B. 22), 842 (H.B. 2223), and 1088 (H.B. 3593), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(c)  School districts and campuses must be evaluated based on three domains of indicators of achievement adopted under this section that include:

(1)  in the student achievement domain, indicators of student achievement that must include:

(A)  for evaluating the performance of districts and campuses generally:

(i)  an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(a)  for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(b)  for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii)  an indicator that accounts for the results of assessment instruments required under Section 39.023(b), as applicable for the district and campus, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area; [~~and~~]

(B)  for evaluating the performance of high school campuses and districts that include high school campuses, indicators that account for:

(i)  students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.334 on an assessment instrument in reading or mathematics designated by the coordinating board under that section;

(ii)  students who satisfy relevant performance standards on advanced placement tests or similar assessments;

(iii)  students who earn a three-hour [~~dual~~] course credit [~~credits~~] in a [~~the~~] dual credit course in any subject [~~courses~~];

(iv)  students who enlist in the armed forces of the United States;

(v)  students who complete coherent sequences of courses required to earn industry certifications;

(vi)  students admitted into postsecondary industry certification programs that require as a prerequisite for entrance successful performance at the secondary level;

(vii)  students whose successful completion of a course or courses under Section 28.014 indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(viii)  students who successfully met standards on a composite of indicators that through research indicates the student's preparation to enroll and succeed, without remediation, in an entry-level general education course for a baccalaureate degree or associate degree;

(ix)  high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) subject to the exclusions provided by Subsections (g), (g-1), (g-2), and (g-3);

(x)  students who successfully completed an OnRamps dual enrollment course; [~~and~~]

(xi)  [~~the percentage of~~] students who successfully completed a practicum or internship approved by the State Board of Education;

(xii)  students who are awarded an associate [~~associate's~~] degree;

(xiii)  students who participate in extracurricular activities, including University Interscholastic League A+ academic events and foreign language, chess, and robotics clubs; and

(xiv)  ninth grade students who are academically on track to graduate with their ninth grade cohort; and

(C)  for evaluating the performance of middle and junior high school and elementary school campuses and districts that include those campuses, indicators that account for:

(i)  students who participate in full-day prekindergarten programs;

(ii)  students who participate in elementary literacy and mathematics academies; and

(iii)  students who participate in extracurricular activities, including University Interscholastic League A+ academic events and foreign language, chess, and robotics clubs;

(2)  in the school progress domain, indicators for effectiveness in promoting student learning, which must include:

(A)  for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and

(B)  for evaluating relative performance, the performance of districts and campuses compared to similar districts or campuses; and

(3)  in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A)  students formerly receiving special education services;

(B)  students continuously enrolled; and

(C)  students who are mobile.

SECTION 1.04.  Section 39.053, Education Code, is amended by adding Subsection (c-4) to read as follows:

(c-4)  The commissioner shall determine a method by which:

(1)  a student's performance under Subsection (c)(1)(B)(v) may be included in determining the performance of a district or campus under Section 39.054 if the student successfully completed the courses but did not receive the industry certification until after the student graduated; and

(2)  a student's performance described by Subdivision (1) is assigned equal credit under the college, career, and military readiness component calculation as a student who earned an industry certification before the student graduated.

SECTION 1.05.  Section 39.054, Education Code, is amended by adding Subsections (a-5) and (a-6) to read as follows:

(a-5)  For purposes of assigning each district and campus a domain performance rating under Section 39.053(c), the commissioner may not attribute more than 50 percent of any domain performance rating to the results of assessment instruments required under Sections 39.023(a), (b), (c), and (l).

(a-6)  For purposes of assigning each district and campus a domain performance rating for the student achievement domain under Section 39.053(c)(1), the commissioner shall attribute:

(1)  30 percent of the performance rating to the indicators under Section 39.053(c)(1)(A) relating to assessment instrument results;

(2)  40 percent of the performance rating to the indicator under Section 39.053(c)(1)(B)(ix) relating to high school graduation rates; and

(3)  30 percent of the performance rating to the indicators under Section 39.053(c)(1)(B) relating to college, career, and military readiness.

SECTION 1.06.  Section 39.0548, Education Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1), (e), (f), and (g) to read as follows:

(a)  For purposes of evaluating performance under Section 39.053(c), the commissioner shall designate as a dropout recovery school a school district or an open-enrollment charter school or a campus of a district or of an open-enrollment charter school:

(1)  that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2)  that [~~meets the eligibility requirements for and~~] is registered under alternative education accountability procedures adopted by the commissioner.

(a-1)  For purposes of assigning performance ratings under Section 39.054, the commissioner shall evaluate a dropout recovery school under alternative education accountability procedures adopted by the commissioner.

(d)  For [~~Notwithstanding Section 39.053(c), for~~] purposes of evaluating a dropout recovery school under the alternative education accountability procedures adopted by the commissioner [~~to determine the performance rating of the school under Section 39.054~~], only the best result from the primary administration or any retake of an assessment instrument administered to a student in the school year evaluated may be considered in assigning performance ratings for the school under Section 39.054.

(e)  To the extent consistent with or permitted by an authorized waiver of federal law, the commissioner, for purposes of evaluating performance of a dropout recovery school under the alternative education accountability procedures adopted by the commissioner, shall adopt performance targets for the student achievement domain under Section 39.053(c)(1) and the school progress domain under Section 39.053(c)(2) that are based on the average performance of school districts and campuses registered under the alternative education accountability procedures for the preceding school year for those respective domains.

(f)  To the extent consistent with or permitted by an authorized waiver of federal law, the commissioner, for purposes of assigning an overall performance rating for a dropout recovery school under Section 39.054, shall attribute not more than 10 percent of that rating to the closing the gaps domain under Section 39.053(c)(3).

(g)  To the extent consistent with or permitted by an authorized waiver of federal law, the commissioner, for purposes of evaluating performance of a dropout recovery school under the alternative education accountability procedures adopted by the commissioner, shall attribute to a dropout recovery school not less than a minimum scaled score of 60 for the closing the gaps domain under Section 39.053(c)(3).

SECTION 1.07.  (a) Except as otherwise provided by this section, this article applies beginning with the 2020-2021 school year.

(b)  Section 39.0548, Education Code, as amended by this Act, takes effect on any date not later than September 1, 2021, on which the commissioner of education:

(1)  obtains any necessary waiver from the application of federal law or regulation conflicting with Section 39.0548, Education Code, as amended by this Act; or

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

(c)  Section 39.0548, Education Code, as amended by this Act, applies beginning with the first school year that begins after the date on which Section 39.0548, Education Code, takes effect under Subsection (b) of this section.

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

ARTICLE 2. INDIVIDUAL GRADUATION COMMITTEES

SECTION 2.01.  Sections 12.104(b-2) and (b-3), Education Code, are amended to read as follows:

(b-2)  An open-enrollment charter school is subject to the requirement to establish an individual graduation committee under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

(b-3)  An open-enrollment charter school is subject to the graduation qualification procedure established by the commissioner under Section 28.02541. [~~This subsection expires September 1, 2019.~~]

SECTION 2.02.  Section 28.025(c-6), Education Code, is amended to read as follows:

(c-6)  Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

SECTION 2.03.  Effective September 1, 2019, Section 28.02541(a), Education Code, is amended to read as follows:

(a)  This section applies only to a student who:

(1)  entered the ninth grade before the 2011-2012 school year;

(2)  successfully completed the curriculum requirements for high school graduation applicable to the student when the student entered the ninth grade;

(3)  has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment instrument offered under Section 39.025(c-2) [~~39.025(c-1)~~]; and

(4)  has been administered the assessment instrument or the part of the assessment instrument for which the student has not performed satisfactorily at least three times.

SECTION 2.04.  Section 28.02591(a), Education Code, is amended to read as follows:

(a)  The Texas Higher Education Coordinating Board, in coordination with the agency, shall collect longitudinal data relating to the post-graduation pursuits of each student who is awarded a diploma based on the determination of an individual graduation committee under Section 28.0258, [~~as that section existed before September 1, 2019,~~] including whether the student:

(1)  enters the workforce;

(2)  enrolls in an associate degree or certificate program at a public or private institution of higher education;

(3)  enrolls in a bachelor's degree program at a public or private institution of higher education; or

(4)  enlists in the armed forces of the United States or the Texas National Guard.

SECTION 2.05.  Section 39.025(a-2), Education Code, as added by Chapter 5 (S.B. 149), Acts of the 84th Legislature, Regular Session, 2015, is redesignated as Section 39.025(a-5), Education Code, and amended to read as follows:

(a-5) [~~(a-2)~~]  Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section 28.0258. [~~This subsection expires September 1, 2019.~~]

SECTION 2.06.  Section 39.025(a-3), Education Code, is amended to read as follows:

(a-3)  A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. [~~This subsection expires September 1, 2019.~~]

SECTION 2.07.  Sections 28.02541(g), 28.0258(l), and 28.0259(e), Education Code, are repealed.

ARTICLE 3. CONFLICTS PROVISION; EFFECTIVE DATE

SECTION 3.01.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 3.02.  Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.