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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

1 under Chapter 39A [Section 39.107(a) or (e)].

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

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

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

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

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

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

1 (i) an indicator that accounts for the
2 results of assessment instruments required under Sections
3 39.023(a), (c), and (l), as applicable for the district and campus,
4 including the results of assessment instruments required for
5 graduation retaken by a student, aggregated across grade levels by
6 subject area, including:

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

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

17 (ii) an indicator that accounts for the
18 results of assessment instruments required under Section
19 39.023(b), as applicable for the district and campus, including the
20 percentage of students who performed satisfactorily on the
21 assessment instruments, as determined by the performance standard
22 adopted by the agency, aggregated across grade levels by subject
23 area; ~~and~~

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

27 (i) students who satisfy the Texas Success

1 Initiative (TSI) college readiness benchmarks prescribed by the
2 Texas Higher Education Coordinating Board under Section 51.334 on
3 an assessment instrument in reading or mathematics designated by
4 the coordinating board under that section;

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

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

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

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

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

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

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

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

6 (x) students who successfully completed an
7 OnRamps dual enrollment course; ~~and~~

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

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

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

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

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

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

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

27 (iii) students who participate in

1 extracurricular activities, including University Interscholastic
2 League A+ academic events and foreign language, chess, and robotics
3 clubs;

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

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

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

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

17 (A) students formerly receiving special
18 education services;

19 (B) students continuously enrolled; and

20 (C) students who are mobile.

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

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

24 (1) a student's performance under Subsection
25 (c)(1)(B)(v) may be included in determining the performance of a
26 district or campus under Section 39.054 if the student successfully
27 completed the courses but did not receive the industry

1 certification until after the student graduated; and

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

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

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

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

16 (1) 30 percent of the performance rating to the
17 indicators under Section 39.053(c)(1)(A) relating to assessment
18 instrument results;

19 (2) 40 percent of the performance rating to the
20 indicator under Section 39.053(c)(1)(B)(ix) relating to high
21 school graduation rates; and

22 (3) 30 percent of the performance rating to the
23 indicators under Section 39.053(c)(1)(B) relating to college,
24 career, and military readiness.

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

1 (a) For purposes of evaluating performance under Section
2 39.053(c), the commissioner shall designate as a dropout recovery
3 school a school district or an open-enrollment charter school or a
4 campus of a district or of an open-enrollment charter school:

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

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

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

17 (d) For ~~[Notwithstanding Section 39.053(c), for]~~ purposes
18 of evaluating a dropout recovery school under the alternative
19 education accountability procedures adopted by the commissioner
20 ~~[to determine the performance rating of the school under Section~~
21 ~~39.054]~~, only the best result from the primary administration or
22 any retake of an assessment instrument administered to a student in
23 the school year evaluated may be considered in assigning
24 performance ratings for the school under Section 39.054.

25 (e) To the extent consistent with or permitted by an
26 authorized waiver of federal law, the commissioner, for purposes of
27 evaluating performance of a dropout recovery school under the

1 alternative education accountability procedures adopted by the
2 commissioner, shall adopt performance targets for the student
3 achievement domain under Section 39.053(c)(1) and the school
4 progress domain under Section 39.053(c)(2) that are based on the
5 average performance of school districts and campuses registered
6 under the alternative education accountability procedures for the
7 preceding school year for those respective domains.

8 (f) To the extent consistent with or permitted by an
9 authorized waiver of federal law, the commissioner, for purposes of
10 assigning an overall performance rating for a dropout recovery
11 school under Section 39.054, shall attribute not more than 10
12 percent of that rating to the closing the gaps domain under Section
13 39.053(c)(3).

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

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

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

27 (1) obtains any necessary waiver from the application

1 of federal law or regulation conflicting with Section 39.0548,
2 Education Code, as amended by this Act; or

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

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

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

16 ARTICLE 2. INDIVIDUAL GRADUATION COMMITTEES

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

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

22 (b-3) An open-enrollment charter school is subject to the
23 graduation qualification procedure established by the commissioner
24 under Section 28.02541. [~~This subsection expires September 1,
25 2019.~~]

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

1 (c-6) Notwithstanding Subsection (c), a person may receive
2 a diploma if the person is eligible for a diploma under Section
3 28.0258. [~~This subsection expires September 1, 2019.~~]

4 SECTION 2.03. Effective September 1, 2019, Section
5 28.02541(a), Education Code, is amended to read as follows:

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

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

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

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

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

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

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

27 (1) enters the workforce;

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

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

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

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

11 (a-5) [~~(a-2)~~] Notwithstanding Subsection (a), a student who
12 has failed to perform satisfactorily on end-of-course assessment
13 instruments in the manner provided under this section may receive a
14 high school diploma if the student has qualified for graduation
15 under Section 28.0258. [~~This subsection expires September 1,~~
16 ~~2019.~~]

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

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

1 SECTION 2.07. Sections 28.02541(g), 28.0258(1), and
2 28.0259(e), Education Code, are repealed.

3 ARTICLE 3. CONFLICTS PROVISION; EFFECTIVE DATE

4 SECTION 3.01. To the extent of any conflict, this Act
5 prevails over another Act of the 86th Legislature, Regular Session,
6 2019, relating to nonsubstantive additions to and corrections in
7 enacted codes.

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