

By: Bernal, Talarico, Lopez, Ramos, Raymond,
et al.

H.B. No. 4242

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of reading level in the adoption of certain assessment instruments and associated student performance levels and to the temporary suspension of accountability sanctions for public schools.

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

SECTION 1. Section 39.023, Education Code, is amended by adding Subsections (a-10), (a-14), (a-15), and (e-2) and amending Subsection (a-11) to read as follows:

(a-10) Each assessment instrument adopted or developed under Subsection (a) must:

(1) include only passages, questions, answers, and other content aligned with the essential knowledge and skills adopted by the State Board of Education for the applicable subject for the grade level at which the assessment instrument will be administered or for any previous grade level; and

(2) include only passages written at a reading level not higher than the grade level at which the assessment instrument will be administered.

(a-11) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be appropriate, valid, and reliable by an entity that is independent of the agency and of any other entity that developed

1 the assessment instrument.

2 (a-14) The agency may not use a passage on an assessment
3 instrument administered under Subsection (a), unless the passage
4 has been individually evaluated to ensure the reading level of the
5 passage is appropriate for the grade level of the students to whom
6 the assessment instrument containing the passage will be
7 administered, provided that:

8 (1) the evaluation must be conducted by a committee
9 that:

10 (A) consists of not fewer than 10 educators
11 nominated by a regional education service center; and

12 (B) includes:

13 (i) at least one educator with a graduate
14 degree in reading or literacy;

15 (ii) at least one educator with a reading
16 specialist certification; and

17 (iii) at least one educator with current
18 experience teaching in this state at a grade level relevant to the
19 evaluation; and

20 (2) the committee established under Subdivision (1)
21 must, for purposes of the evaluation, consider:

22 (A) information from:

23 (i) not fewer than five nationally
24 recognized readability formulas; and

25 (ii) evidence-based readability evaluation
26 methods; and

27 (B) the reading level of other assessment

1 instruments commonly administered to students in each grade level.

2 (a-15) The agency shall annually submit a report to the
3 State Board of Education demonstrating compliance with Subsection
4 (a-10).

5 (e-2) A question with a related passage may not be
6 field-tested under Subsection (e) without its related passage first
7 being evaluated under Subsection (a-14). At the time the agency
8 releases assessment instrument questions and answer keys under
9 Subsection (e), the agency shall also release the reading level of
10 each passage as determined by the committee under Subsection
11 (a-14).

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

14 (a-2) The commissioner shall base the levels of performance
15 under Subsections (a) and (a-1) on the grade level expectations and
16 standards for each subject or course.

17 SECTION 3. Subchapter Z, Chapter 39A, Education Code, is
18 amended by adding Section 39A.907 to read as follows:

19 Sec. 39A.907. ASSESSMENT INSTRUMENT STUDY; TEMPORARY
20 SUSPENSION OF SANCTIONS. (a) The commissioner shall contract for a
21 study to determine whether, for each applicable grade level, each
22 assessment instrument administered under Section 39.023(a) during
23 the 2018-2019 school year or scheduled to be administered during
24 the 2019-2020 school year is written at the appropriate reading
25 level for students in that grade level.

26 (b) In contracting for the study, the commissioner shall:

27 (1) use a competitive process to select an independent

1 entity to conduct the study that is not an entity that develops or
2 otherwise reviews assessment instruments under Chapter 39; and

3 (2) provide that The University of Texas at Austin,
4 Texas Tech University, and Texas A&M University must oversee the
5 design, completion, and evaluation of the study.

6 (c) Not later than December 1, 2019, the commissioner shall:

7 (1) submit a report to the legislature and the
8 presiding officer of each legislative standing committee with
9 jurisdiction over primary and secondary education that includes the
10 results of the study; and

11 (2) hold a public meeting with representatives of The
12 University of Texas at Austin, Texas Tech University, and Texas A&M
13 University to discuss and explain the results of the study.

14 (d) Notwithstanding any other law, student performance on
15 assessment instruments administered under Section 39.023(a) in the
16 2018-2019 school year may not be used as a factor in determining:

17 (1) whether to order the closure of a campus as
18 authorized under this chapter after the 2018-2019 school year; or

19 (2) whether a student, based on the student's
20 performance, advances to the next grade level under Section 28.021
21 or 28.0211 after the student completes the 2018-2019 school year.

22 (e) Notwithstanding any other law, if the report submitted
23 by the commissioner under Subsection (c) indicates that an
24 assessment instrument adopted under Section 39.023(a) scheduled to
25 be administered during the 2019-2020 school year was written at a
26 reading level above the grade level of the students to whom the
27 assessment instrument is scheduled to be administered, student

1 performance on assessment instruments identified under this
2 subsection and administered under Section 39.023(a) may not be used
3 as a factor in determining whether:

4 (1) interventions and sanctions under this chapter may
5 be applied to a school district or campus for an unacceptable
6 performance rating under Section 39.054 received for the 2019-2020
7 school year;

8 (2) to impose interventions or sanctions authorized by
9 this chapter after the 2019-2020 school year, including an
10 intervention or sanction authorized by Section 39A.101 or 39A.111;
11 or

12 (3) a student, based on the student's performance,
13 advances to the next grade level under Section 28.021 or 28.0211
14 after the student completes the 2019-2020 school year.

15 (f) This section expires September 1, 2023.

16 SECTION 4. This Act applies beginning with the 2019-2020
17 school year.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2019.