

BILL ANALYSIS

C.S.H.B. 3668
By: VanDeaver
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that the state is testing its students in excess of federal requirements by at least five tests and that high school graduation and promotion to certain grade levels is tied to student achievement on these statewide standardized tests. State contracts for support in the development, administration, scoring, and reporting of statewide standardized tests represent an estimated total cost of \$388 million to the state. Additionally, standardized testing issues during the COVID-19 pandemic have highlighted the need to establish procedures for test administration during a disaster.

C.S.H.B. 3668 seeks to address these concerns by eliminating required administration of statewide standardized tests that are not federally mandated and removing student achievement requirements on those tests for grade promotion or graduation. The bill also provides for federal test administration waivers during a disaster and for the prohibition, if a waiver is not granted, against use of test results for district or school performance evaluation, graduation qualifications, or grade promotion requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Board of Education in SECTION 19 of this bill.

ANALYSIS

C.S.H.B. 3668 amends the Education Code to remove requirements for the administration of statewide standardized tests in writing in grades four and seven and in social studies in grade eight. The bill removes requirements that the Texas Education Agency (TEA) adopt end-of-course tests for secondary-level courses in Algebra I, biology, English I, English II, and U.S. history and that the State Board of Education (SBOE) schedule and administer the tests. The bill requires TEA instead to provide for tests for secondary-level courses in reading, mathematics, and science only as necessary to comply with minimum requirements of the federal Every Student Succeeds Act.

C.S.H.B. 3668 requires the SBOE, if changes made to the federal Every Student Succeeds Act reduce the number or frequency of tests required to be administered to students, to adopt rules reducing the number or frequency of state-required tests and requires the commissioner of education to ensure that students are not assessed in subject areas or in grades that are no longer required to meet the minimum federal requirements. The bill, effective September 1, 2021,

repeals a provision requiring the SBOE to ensure that such tests are not administered on the first instructional day of a week.

C.S.H.B. 3668 repeals the prohibition against a student being promoted unless the student performs satisfactorily on specified statewide standardized tests. This repeal is effective September 1, 2021. The bill, accordingly, removes the requirement for a student's score on such a test to be considered in determining whether the student may be promoted. The bill repeals and, accordingly, removes provisions requiring the establishment of an individual graduation committee or grade placement committee when a student fails to perform satisfactorily on such a test. The bill's repeal of this provision is effective September 1, 2021.

C.S.H.B. 3668 requires the commissioner to determine the level of performance considered to be satisfactory on an end-of-course test. The bill does the following:

- requires each student's performance on such a test to be evaluated to determine whether the student achieved a scale score that indicates satisfactory performance but prohibits the results of such a test from being used as criteria for graduation;
- limits the authorized uses of the results to diagnosing the academic strengths and deficiencies of a student and guiding student instruction;
- removes the prohibition against a student receiving a high school diploma until the student has performed satisfactorily on required end-of-course tests;
- effective September 1, 2001, repeals provisions relating to district reporting requirements for students graduating based on individual graduation committee review process; and
- removes the requirement for the commissioner to provide for conversion of an end-of-course test's scale score.

C.S.H.B. 3668 requires the commissioner to apply to the U.S. Department of Education for a waiver of federally required test administration during a school year that a district is located wholly or partly in the area of a disaster declared by the president or the governor. The bill prohibits the commissioner, if the U.S. Department of Education fails to grant the waiver, from considering the results of such tests for the purposes of evaluating district or campus performance for the affected district for the applicable school year.

C.S.H.B. 3668 does the following:

- removes social studies as a subject in which a campus may be awarded a distinction designation for outstanding performance in academic achievement;
- specifies that statutory provisions relating to individual graduation committee review, as they existed on January 1, 2021, apply to the longitudinal data required to be collected by the Texas Higher Education Coordinating Board (THECB);
- removes the requirement that a reciprocity agreement to facilitate the transfer of military personnel and their dependents must address procedures for permitting a student to satisfy end-of-course or other exit-level test requirements; and
- requires each district to provide notice to an eighth grade student informing the student of the specific requirements applicable to the student with regard to secondary-level testing and the level of performance required.

C.S.H.B. 3668 applies beginning with the 2021-2022 school year.

C.S.H.B. 3668, effective September 1, 2021, repeals the following provisions of the Education Code:

- Section 12.104(b-2);
- Section 19.0043(c);
- Section 28.021(e);
- Sections 28.0211(a), (a-2), (e), (f), (i-1), (i-2), (n), (o), and (p);
- Sections 28.025(c-6) and (d);
- Section 28.0255(h);

- Section 28.0258;
- Section 28.0259;
- Section 30.104(c);
- Section 39.023(c-3);
- Section 39.023(c-7), as added by Chapter 1282 (H.B. 1244), Acts of the 86th Legislature, Regular Session, 2019;
- Section 39.023(c-7), as added by Chapter 1315 (H.B. 3906), Acts of the 86th Legislature, Regular Session, 2019; and
- Sections 39.025(a-1), (a-2), (a-3), (a-4), (a-5), (b), (c), (c-1), (c-2), (d), (e), (f), (f-1), (f-2), and (g).

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3668 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following provisions not contained in the original:

- provisions repealing the prohibition against a student being promoted unless the student performs satisfactorily on specified statewide standardized tests;
- provisions removing requirements relating to the establishment of a grade placement committee;
- a provision requiring the commissioner to determine the level of performance considered to be satisfactory on an end-of-course test;
- provisions repealing provisions relating to district reporting requirements for students graduating based on individual graduation committee review process;
- a provision requiring each district to provide notice to an eighth grade student relating to requirements for secondary-level testing and the level of performance required;
- a provision repealing a requirement that the SBOE ensure applicable tests are not administered on the first instructional day of a week;
- a provision relating to reciprocity agreements to facilitate the transfer of military personnel and their dependents;
- a provision specifying the applicability of statutory provisions relating to individual graduation committee review to data collected by the THECB; and
- a provision prohibiting the results of end-of-course tests from being used as criteria for graduation and limiting the authorized uses of those results.

The substitute includes a provision not included in the original specifying that the bill applies beginning with the 2021-2022 school year.

The substitute changes a provision in the original relating to test administration during a declared disaster to include a determination of a district's accreditation status among evaluations in which the commissioner is prohibited from considering statewide standardized test results.

The substitute does not include a provision that appeared in the original that removed the requirement for the commissioner to provide guidelines to districts based on best practices that a district may use when considering factors for promotion.