

BILL ANALYSIS

C.S.H.B. 2162
By: Dutton
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the results of the 2022 STAAR exams, half of students in third grade do not meet grade-level reading standards, which may indicate that students are more likely to face educational challenges by the time they reach high school. In 2019, H.B. 3 was passed by the legislature which, among other changes to the public education system, sought to address the state's early literacy rate by creating reading academies for elementary educators based on the science of teaching reading and by permitting reading tests to be administered to students in kindergarten through second grade. However, many feel that this was not enough to address early literacy, as evidenced by the recent STAAR results. C.S.H.B. 2162 seeks to build on recent public education reforms by eliminating instructional practices that are not aligned to the science of teaching reading and providing for reading interventions to struggling students.

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 commissioner of education in SECTIONS 2 and 4 of this bill.

ANALYSIS

C.S.H.B. 2162 amends the Education Code to set out and revise provisions relating to reading instruction, tests, and interventions provided to public school students.

C.S.H.B. 2162 makes the requirement for public school districts to administer reading tests to certain early-grade students for use in diagnosing reading development and comprehension applicable also to open-enrollment charter schools and expands the grades in which a reading test must be administered to include grade three. With respect to the requirement for the commissioner of education to develop recommendations for districts for administering reading tests, training educators in administering the tests, and applying the results of the tests to the instructional program, the bill does the following:

- replaces the requirement to develop recommendations for districts with a requirement to adopt procedures for both districts and charter schools;
- expands the purposes for administering reading tests to include ensuring the validity and reliability of test results and identifying students at risk for dyslexia or other reading difficulties; and
- provides for the test results to be applied to intervention practices in addition to being applied to the instructional program.

The bill prohibits a district or charter school from administering a reading test to a student more than three times during a school year.

C.S.H.B. 2162 replaces the requirement for the commissioner to adopt a list of reading tests that a district may use to diagnose student reading development and comprehension with a requirement for the commissioner to adopt a list of reading tests that a district or charter school is required to use for such diagnosis for students in kindergarten through grade three. The bill removes the authorization for a district-level planning and decision-making committee to adopt a list of reading tests for use in the district in a grade level other than kindergarten in addition to tests adopted by the commissioner. However, the authorization for the commissioner to approve an alternative reading test for use in kindergarten is retained. The bill expands the scope of the requirement for the commissioner to determine by rule the performance on the reading test that indicates kindergarten readiness to require the commissioner by rule to determine the performance on each applicable reading test that indicates kindergarten readiness.

C.S.H.B. 2162 requires a reading test on the commissioner's list to include the foundational literacy components of phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension. The bill also includes the following among the criteria that each reading test adopted by the commissioner must satisfy:

- providing progress monitoring capabilities;
- providing a diagnostic tool to assist teachers in developing research-based targeted instruction;
- allowing screening of students three times a year;
- assessing only the foundational literacy components not already mastered by the student; and
- determining if a student needs reading instruction intervention.

The bill replaces the requirement for the multidimensional test tool adopted by the commissioner for use in diagnosing the reading development and comprehension of kindergarten students to test literacy with a requirement for the tool to test foundational literacy components. The bill requires the commissioner to adopt a process for soliciting new reading tests and updating the list of adopted reading tests, including multidimensional assessment tools, for kindergarten through grade three at least once every four years. The bill requires the commissioner, in adopting a reading test, to prioritize selecting a test that minimizes the impact of administration of the test on instructional time, provides timely reporting of results, and is able to be integrated into reading instruction.

In addition to the existing requirement for a district superintendent to report reading test results to the district's board of trustees, C.S.H.B. 2162 requires the person who serves the function of superintendent in a charter school to report reading test results to the charter school's governing body. The bill removes requirements for a district superintendent to report reading test results to the commissioner and, using the school readiness certification system, to report each student's raw score on the reading test to the Texas Education Agency (TEA) for use in that system. The bill requires instead that a district superintendent or the person who serves the function of superintendent in a charter school report to TEA any information required by TEA, including the results of the reading test and each student's raw score on the reading test.

C.S.H.B. 2162 makes the requirement for a district superintendent to report reading test results to a student's parent or guardian also applicable to the person who serves the function of superintendent in a charter school and provides for such a report to include any additional information required by TEA. The bill changes the deadline by which a student's results on a reading test must be reported to the student's parent or guardian from the 60th calendar day after the date the test was administered to the 30th calendar day after that date. In addition to that report, the bill requires a district or charter school to notify the parent or guardian of each student in kindergarten through grade three who is determined to need reading intervention of that determination not later than the 30th day after the date the result indicating the student needs intervention is available. The bill requires the notice provided to describe the current reading services the district or charter school provides to the student, describe the reading interventions that will be provided to the student to ensure the student will meet or exceed grade-level reading

standards, and include high-quality resources for the parent or guardian of the student to use at home to help the student succeed at reading.

C.S.H.B. 2162 requires a district or charter school to provide a reading intervention program to each student in kindergarten through grade three who is determined to need reading intervention using a reading test. The bill requires a district to continue to offer a student reading intervention until the student achieves satisfactory performance on a reading test. The reading intervention program must:

- include targeted instruction to improve the student's reading skills in the relevant areas identified through the test;
- monitor the progress of the student's reading skills throughout the school year;
- be implemented during regular school hours and in addition to core instruction;
- use high-quality instructional materials, curricula, and curricular tools that are research based and effective for early childhood literacy intervention; and
- be provided by a teacher who has attended a literacy achievement academy.

The bill prohibits a district or charter school that provides a reading intervention program to a student from removing the student from instruction in the foundation curriculum and enrichment curriculum or recess or other physical activity for the purposes of providing reading intervention, except under circumstances for which a student in the same grade level who is not receiving reading intervention would be removed.

C.S.H.B. 2162 prohibits an educator preparation program from including instruction on the method of three-cueing and prohibits a district or charter school from including any instruction that incorporates three-cueing in the foundational skills reading curriculum for kindergarten through third grade. The bill defines "three-cueing" as any model, including the model referred to as meaning, structure, and visual cues (MSV), of teaching a student to read based on meaning, structure and syntax, and visual cues or memory.

C.S.H.B. 2162 authorizes the commissioner, from funds appropriated for teacher literacy achievement academies and in collaboration with regional education service centers, to provide assistance to districts and charter schools in complying with requirements relating to reading standards for students in kindergarten through third grade. The bill requires the commissioner to prioritize providing such assistance in districts with the highest rate of students performing below satisfactory levels on reading tests administered under the bill's provisions.

C.S.H.B. 2162 requires a district or charter school to make available a tutoring service provider to a parent or guardian of a student who is determined to need reading intervention on each of the applicable reading assessments administered for two consecutive school years. The bill caps the cost to a district or charter school for making available the tutoring service provider at \$1,000. The bill authorizes a parent or guardian of a student to select a tutoring service provider from a list of high-quality providers approved by TEA to address the student's reading deficiency. The bill requires the district or charter school to contract directly with that service provider to pay the lesser of the cost of the service or \$1,000 to provide tutoring services to the student. The bill prohibits a district or charter school from providing money directly to a student's parent or guardian for such services. The bill requires a district or charter school that provides such a tutoring service to a student to continue to provide the student any other reading support required. The bill authorizes the commissioner to adopt rules to implement these provisions.

C.S.H.B. 2162 repeals provisions requiring the commissioner to annually certify whether sufficient funds have been appropriated statewide for the administration of reading tests and conditioning implementation of requirements relating to parental notification of a student's results on a reading test and implementation of an accelerated reading instruction program on the commissioner's certification of the necessary funds. The bill removes provisions that cap the amount of funds that may be spent on indirect costs and provide for audits of expenditures of funds appropriated for the administration of reading tests.

C.S.H.B. 2162 repeals Sections 28.006(c), (c-2), (i), and (k), Education Code.

C.S.H.B. 2162 applies beginning with the 2023-2024 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2162 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement absent from the introduced for the commissioner to adopt a process for soliciting new reading tests and updating the list of adopted reading tests, including multidimensional assessment tools, for kindergarten through grade three at least once every four years.

The introduced authorized the commissioner to provide literacy coaching and technical assistance to kindergarten through grade three classroom teachers for purposes of implementing provisions relating to reading diagnostic tests from money appropriated for that purpose. The substitute revises this authorization as follows:

- by specifying that the assistance is in collaboration with regional education service centers;
- by changing the purpose for which the commissioner is granted that authorization from implementing provisions relating to reading diagnostic tests, as in the introduced, to assisting districts and charter schools in complying with requirements relating to reading standards for students in kindergarten through grade three; and
- by specifying that the funds from which the commissioner may provide such assistance are from funds appropriated for teacher literacy achievement academies.

While both the introduced and the substitute define "three-cueing," the substitute defines the term as any model, including the model referred to as meaning, structure, and visual cues (MSV), of teaching a student to read based on meaning, structure and syntax, and visual cues or memory, whereas the introduced defined the term as a method of reading instruction for identification of words by which a student is encouraged to draw on context and sentence structure to identify a word without sounding the word out or using a phonics-based approach. While the introduced prohibited a district or charter school from including any three-cueing in the phonics curriculum for kindergarten through third grade, the substitute prohibits a district or charter school from including any instruction that incorporates three-cueing in the foundational skills reading curriculum for those grade levels.

Both the introduced and substitute include requirements for a district or charter school to make private reading instruction available through a tutoring service to address a student's reading deficiency. The introduced included an authorization for a parent or guardian of a student to select a private tutoring service not provided by the district or charter school whereas the substitute specifies that the selection must be made from a list of high-quality providers approved by TEA, which did not appear in the introduced.