By:  Dutton, Jetton, et al. H.B. No. 2162

A BILL TO BE ENTITLED

AN ACT

relating to reading instruction, assessment instruments, and interventions provided to public school students.

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

SECTION 1.  This Act may be cited as the Texas Literacy Act.

SECTION 2.  Section 21.044, Education Code, is amended by adding Subsection (h) to read as follows:

(h)  An educator preparation program may not include instruction in using the reading instruction method of three-cueing, as defined by Section 28.0062(a-1).

SECTION 3.  Section 28.006, Education Code, is amended by amending Subsections (a), (b), (c), (c-1), (c-2), (c-3), and (j) and adding Subsections (a-1), (b-2), (b-3), (b-4), (d-1), (g-3), (g-4), (g-5), (g-6), (n), and (o) to read as follows:

(a)  The commissioner shall adopt procedures [~~develop recommendations~~] for school districts and open-enrollment charter schools for:

(1)  administering reading instruments to:

(A)  ensure the results of the reading instruments are valid, reliable, and equated;

(B)  diagnose student reading development and comprehension; and

(C)  identify students at risk for dyslexia or other reading difficulties;

(2)  training educators in administering the reading instruments; and

(3)  applying the results of the reading instruments to the instructional program and intervention practices.

(a-1)  A school district or open-enrollment charter school may not administer a reading instrument to a student more than three times during a school year.

(b)  The commissioner shall adopt a comprehensive list of reading instruments that a school district or open-enrollment charter school shall select from for [~~may~~] use in diagnosing [~~to diagnose student~~] reading development and comprehension for students who are enrolled in kindergarten through third grade. A reading instrument included on the commissioner's list must include the foundational literacy components of phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension. For use in diagnosing the reading development and comprehension of kindergarten students, the commissioner shall adopt [~~a~~] multidimensional assessment tools [~~tool~~] that include [~~includes a~~] reading instruments that test [~~instrument and tests~~] at least three developmental skills, including the foundational literacy components. A multidimensional assessment tool administered as provided by this subsection is considered to be a reading instrument for purposes of this section.  A school district or open-enrollment charter school [~~district-level committee established under Subchapter F, Chapter 11,~~] may use other [~~adopt a list of~~] reading instruments, subject to Subsection (b-4), [~~for use in the district in a grade level other than kindergarten~~] in addition to the reading instruments included on the commissioner's list.  Each reading instrument included on the list adopted by the commissioner or administered by a school district or open-enrollment charter school [~~or a district-level committee~~] must:

(1)  be based on scientific research concerning reading skills development and reading comprehension;

(2)  [~~.  A list of reading instruments adopted under this subsection must~~] provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29;

(3)  provide progress monitoring capabilities;

(4)  provide a diagnostic tool to assist teachers in developing research-based targeted instruction;

(5)  allow screening of students three times each school year;

(6)  assess only foundational literacy components not already mastered by the student; and

(7)  assess whether a student needs reading instruction intervention.

(b-2)  The commissioner shall include on the commissioner's list any reading instrument that is:

(1)  based on scientific research concerning reading skills development and reading comprehension; and

(2)  submitted for inclusion on the list under Subsection (b-4).

(b-3)  The commissioner shall update the list of reading instruments at least once every four years, including multidimensional assessment tools authorized under this section.

(b-4)  A school district or open-enrollment charter school that uses one or more reading instruments not included on the commissioner's list in accordance with Subsection (b) must submit the instrument to the commissioner to verify the instrument satisfies the requirements of this section. The commissioner shall place on the commissioner's list a reading instrument that satisfies the requirements of this section.

(c)  Each school district and open-enrollment charter school shall administer, at the first and second grade levels, a reading instrument that is based on scientific research concerning reading skills development and reading comprehension included on the list adopted by the commissioner [~~or by the district-level committee~~].  The district or school shall administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-1)  Each school district and open-enrollment charter school shall administer at the beginning of the seventh grade a reading instrument included on the list adopted by the commissioner to each student whose performance on the assessment instrument in reading administered under Section 39.023(a) to the student in grade six did not demonstrate reading proficiency, as determined by the commissioner.  The district or school shall administer the reading instrument in accordance with the commissioner's policies adopted [~~recommendations~~] under Subsection (a)(1).

(c-2)  Each school district and open-enrollment charter school shall administer at the kindergarten level a reading instrument included on the list adopted by the commissioner [~~under Subsection (b) or approved by the commissioner under Subsection (b-1)~~].  The district or school shall administer the reading instrument in accordance with the commissioner's policies adopted [~~recommendations~~] under Subsection (a)(1).

(c-3)  The commissioner by rule shall determine the performance on a [~~the~~] reading instrument adopted under Subsection (b) that indicates kindergarten readiness.

(d-1)  The commissioner shall prominently display on the agency's Internet website information regarding the commissioner's list of reading instruments maintained under this section and the process for applying for inclusion on the list, as provided by agency rule adopted under Subsection (n).

(g-3)  A school district or open-enrollment charter school shall provide reading intervention to each student in kindergarten through grade three who is determined to need reading intervention using an assessment administered in accordance with Subsection (b). The school district shall continue to offer a student reading intervention until the student achieves satisfactory performance on a reading instrument. A reading intervention program offered under this subsection must:

(1)  include targeted instruction to improve the student's reading skills in the relevant areas identified through the assessment instrument;

(2)  monitor the progress of the student's reading skills throughout the school year;

(3)  be implemented during regular school hours and in addition to core instruction;

(4)  use high-quality instructional materials, curricula, and curricular tools that are research based and effective for early childhood literacy intervention; and

(5)  be provided by a teacher who has attended a literacy achievement academy provided under Section 21.4552.

(g-4)  In providing reading intervention under Subsection (g-3), a school district or open-enrollment charter school may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving reading intervention would be removed, from:

(1)  instruction in the foundation curriculum and enrichment curriculum adopted under Section 28.002 for the grade level in which the student is enrolled; or

(2)  recess or other physical activity that is available to other students enrolled in the same grade level.

(g-5)  In addition to the report required under Subsection (d)(2), a school district or open-enrollment charter school shall notify the parent or guardian of each student in kindergarten through grade three who is determined to need reading intervention. The notification must:

(1)  be distributed not later than the 30th day after the date the result of the reading instrument indicating that the student needs intervention is available;

(2)  describe the current reading services the district or school provides to the student;

(3)  describe the reading interventions that will be provided to the student to ensure the student will meet or exceed grade-level reading standards; and

(4)  include high-quality resources for the parent or guardian of the student to use at home to help the student succeed at reading.

(g-6)  From funds appropriated for teacher literacy achievement academies developed under Section 21.4552, the commissioner may, in collaboration with regional education service centers, provide assistance to school districts and open-enrollment charter schools in complying with the requirements of Section 28.0062. The commissioner shall prioritize providing assistance under this subsection in school districts with the highest rate of students performing below satisfactory levels on reading instruments administered under Subsection (b).

(j)  [~~No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs.~~] The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(5) and may implement interventions or sanctions under Chapter 39A. [~~The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.~~]

(n)  The agency by rule shall provide a process under which a school district or open-enrollment charter school may submit an application for inclusion of a reading instrument on the commissioner's list of reading instruments maintained under this section.

(o)  The agency may not use data collected from a reading instrument administered under this section in evaluating the performance of a school district or campus under Section 39.054.

SECTION 4.  Section 28.0062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  In this subsection, "three-cueing" means 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. A school district or open-enrollment charter school may not include any instruction that incorporates three-cueing in the foundational skills reading curriculum for kindergarten through third grade.

SECTION 5.  Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0063 to read as follows:

Sec. 28.0063.  SUPPLEMENTAL READING INSTRUCTION FOR CERTAIN STUDENTS. (a) A school district or open-enrollment charter school shall make available supplemental instruction described by Section 28.0211(a-4) to address a student's reading deficiency if the student's results on both of the reading assessments administered under Section 28.006 in two consecutive school years indicate the student needs reading intervention.

(b)  A parent or guardian of a student described by Subsection (a) may select a tutor from a list of high-quality tutors approved by the agency or by the school district or open-enrollment charter school the student attends to provide the supplemental instruction required under Subsection (a). The district or school shall contract directly with the tutor selected, who may be a classroom teacher employed at the district or school. A classroom teacher selected as a student's tutor is entitled to supplemental pay from the district or school. The district or school may not provide money under this subsection directly to a parent or guardian of a student.

(c)  A school district or open-enrollment charter school shall submit to the agency the district's or school's list of high-quality tutors and publish the list on the district's or school's Internet website.

(d)  A school district or open-enrollment charter school that provides a tutor to a student under this section shall continue to provide the student any other reading support required of the district or school by federal or state law.

SECTION 6.  Section 29.1543, Education Code, is amended to read as follows:

Sec. 29.1543.  EARLY EDUCATION REPORTS. The agency shall produce and make available to the public on the agency's Internet website annual district and campus-level reports containing information from the previous school year on early education in school districts and open-enrollment charter schools. A report under this section must contain:

(1)  the information required by Section 29.1532(c) to be reported through the Public Education Information Management System (PEIMS);

(2)  a description of any [~~the~~] diagnostic reading instruments administered as provided by Section 28.006 [~~in accordance with Section 28.006(c) or (c-2)~~];

(3)  the number of students who were administered a diagnostic reading instrument administered as provided by Section 28.006 [~~in accordance with Section 28.006(c) or (c-2)~~];

(4)  the number of students whose scores from a diagnostic reading instrument administered as provided by Section 28.006 [~~in accordance with Section 28.006(c) or (c-2)~~] indicate reading proficiency;

(5)  the number of kindergarten students who were enrolled in a prekindergarten program in the previous school year in the same district or school as the district or school in which the student attends kindergarten;

(6)  the number and percentage of students who perform satisfactorily on the third grade reading or mathematics assessment instrument administered under Section 39.023, disaggregated by whether the student was eligible for free prekindergarten under Section 29.153;

(7)  the number of students described by Subdivision (6) who attended kindergarten in the district, disaggregated by:

(A)  whether the student met the kindergarten readiness standard on a [~~the~~] reading instrument adopted under Section 28.006;

(B)  whether the student attended prekindergarten in the district; and

(C)  the type of prekindergarten the student attended, if applicable; and

(8)  the information described by Subdivisions (6) and (7) disaggregated by whether the student is educationally disadvantaged.

SECTION 7.  Section 28.006(b-1), Education Code, is repealed.

SECTION 8.  This Act applies beginning with the 2023-2024 school year.

SECTION 9.  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 September 1, 2023.