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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

1 addition to the reading instruments included on the commissioner's
2 list. Each reading instrument included on the list adopted by the
3 commissioner or administered by a school district or
4 open-enrollment charter school ~~[or a district-level committee]~~
5 must:

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

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

12 (3) provide progress monitoring capabilities;

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

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

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

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

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

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

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

27 (b-3) The commissioner shall update the list of reading

1 instruments at least once every four years, including
2 multidimensional assessment tools authorized under this section.

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

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

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

27 (c-2) Each school district and open-enrollment charter

1 school shall administer at the kindergarten level a reading
2 instrument included on the list adopted by the commissioner [~~under~~
3 ~~Subsection (b) or approved by the commissioner under Subsection~~
4 ~~(b-1)~~]. The district or school shall administer the reading
5 instrument in accordance with the commissioner's policies adopted
6 [~~recommendations~~] under Subsection (a)(1).

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

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

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

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

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

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

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

6 (5) be provided by a teacher who has attended a
7 literacy achievement academy provided under Section [21.4552](#).

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

13 (1) instruction in the foundation curriculum and
14 enrichment curriculum adopted under Section [28.002](#) for the grade
15 level in which the student is enrolled; or

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

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

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

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

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

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

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

16 ~~(j) [No more than 15 percent of the funds certified by the~~
17 ~~commissioner under Subsection (i) may be spent on indirect costs.]~~

18 The commissioner shall evaluate the programs that fail to meet the
19 standard of performance under Section 39.301(c)(5) and may
20 implement interventions or sanctions under Chapter 39A. [The
21 ~~commissioner may audit the expenditures of funds appropriated for~~
22 ~~purposes of this section. The use of the funds appropriated for~~
23 ~~purposes of this section shall be verified as part of the district~~
24 ~~audit under Section 44.008.]~~

25 (n) The agency by rule shall provide a process under which a
26 school district or open-enrollment charter school may submit an
27 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

1 instruction required under Subsection (a). The district or school
2 shall contract directly with the tutor selected, who may be a
3 classroom teacher employed at the district or school. A classroom
4 teacher selected as a student's tutor is entitled to supplemental
5 pay from the district or school. The district or school may not
6 provide money under this subsection directly to a parent or
7 guardian of a student.

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

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

16 SECTION 6. Section [29.1543](#), Education Code, is amended to
17 read as follows:

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

24 (1) the information required by Section [29.1532](#)(c) to
25 be reported through the Public Education Information Management
26 System (PEIMS);

27 (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

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

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

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

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2023.