

BILL ANALYSIS

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S.B. 1031
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

While improving the educational attainment of students, the cumulative Texas Assessment of Knowledge and Skills (TAKS) testing regime has had unintended consequences. Students are provided with a single avenue to success and may not achieve the level of college readiness they are truly capable of because TAKS tests are generic and shallow in scope. Many teachers do not focus on the richness of the curriculum for a particular subject, instead spending valuable time preparing students for these tests because they are evaluated on their students' performance on the tests.

As proposed, S.B. 1031 phases out the TAKS testing regime at the high school level and replaces it with end-of-course exams in the four core subject areas—English Language Arts, Mathematics, Science, and Social Studies. These assessments are course-specific, which should influence teachers and students to focus on the subject matter rather than test preparation. Performance on these assessments will continue to be used to set accountability standards for schools and students will be required to meet graduation requirements through a cumulative score achieved across all subject areas. The bill also requires assessments to be administered to diagnose a student's level of college readiness at the eighth and tenth grade levels so that any deficiencies can be identified and addressed prior to a student's senior year. It also authorizes students to take the college entrance exam of their choice, at the state's expense, in order to promote a college-going culture.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 9 (Section 39.025, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 18.006(b), Education Code, to require an accountability system under this section to include a consideration of student performance on the end-of-course assessment instruments, rather than the secondary exit-level assessment instruments.

SECTION 2. Amends Section 21.006(b), Education Code, to require the superintendent or director of a school district, regional education service center, or shared services arrangement to notify the State Board for Educator Certification (educator board) of reasonable cause to believe that an educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301, in addition to other notifications.

SECTION 3. Amends Section 25.005(b), Education Code, to make a conforming change.

SECTION 4. Amends Section 29.081(b), Education Code, to require each district to provide accelerated instruction to students who have taken and failed to perform satisfactorily on the end-of-course assessment instruments (assessment instruments) under Section 39.023(c), rather than secondary exit-level assessment instruments.

SECTION 5. Reenacts and amends Section 29.087(f), Education Code, as amended by Chapters 283 and 373, Acts of the 78th Legislature, Regular Session, 2003, to make conforming changes.

SECTION 6. Amends Section 30.021(e), Education Code, to exclude the satisfactory performance of a student under Section 39.025, rather than on the exit-level assessment

instrument, from being included in the academic requirements that make a student eligible to be served by a program set forth in this subsection.

SECTION 7. Amends Section 39.023, Education Code, by amending Subsections (a) and (c) and adding Subsections (c-1) and (c-2), as follows:

(a) Changes the grade levels of the assessments set forth in this subsection for which the Texas Education Agency (TEA) is required to adopt or develop end-of-course assessment instruments.

(c) Sets forth the courses for which TEA is required to develop assessment instruments. Requires a school district to comply with State Board of Education (SBOE) rules regarding the administration of the assessment instruments listed in this subsection and to adopt a policy requiring a student's performance on such instruments to account for 15 percent of the student's final grade in the course. Deletes the previous requirements for each individual subject instrument and an obsolete exemption from the requirements of Section 51.306 (Repealed) for students who perform at or above a level established by the Texas Higher Education Coordinating Board (THECB). Makes conforming changes.

(c-1) Requires TEA to develop any assessment instrument required under this section in a manner allowing for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-2) Authorizes TEA to adopt assessment instruments for courses not listed in Subsection (c). Provides that a student's performance on instruments adopted under this subsection is not subject to the requirements of Subsection (c) or Section 39.025.

SECTION 8. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.0233 and 39.0234, as follows:

Sec. 39.0233. **OPTIONAL QUESTIONS MEASURING COLLEGE READINESS.** Requires TEA, in coordination with THECB, to adopt optional questions to be included in an assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062 (Success Initiative). Requires the questions to be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 (Recognition of High School Completion and Success and College Readiness Programs) and 51.3062. Prohibits a student's performance on an optional question from being used to determine the student's performance on an assessment instrument.

Sec. 39.0234. **ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY COMPUTER.** (a) Requires TEA to provide for instruments required under Section 39.023 to be designed so that they can be administered by computer.

(b) Requires each school district, by September 1, 2008, to provide TEA with data regarding the ability of the district to administer the required assessment instruments by computer. Requires TEA to compile the data into a report recommending a plan and timeline for enabling each district in this state to administer the instruments by computer and deliver it to each member of the legislature not later than December 1, 2008. Provides that this subsection expires June 1, 2009.

SECTION 9. Amends Section 39.025, Education Code, as follows:

Sec. 39.025. New heading: **SECONDARY-LEVEL PERFORMANCE REQUIRED.** (a) Requires the commissioner of education (commissioner) to adopt rules requiring a student participating in the recommended or advanced high school program to be administered each assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered such assessment instruments only for courses the student is enrolled in and for which an instrument is administered. Sets forth the required cumulative score and method for determining that score. Prohibits a student from receiving a diploma until the student has

performed satisfactorily on the assessment instruments in the manner provided under this subsection, rather than the secondary exit-level instruments for specified subjects.

- (a-1) Requires the commissioner by rule to determine a method by which the performance factors set forth in this subsection may be used to determine whether a student satisfies the requirements of Subsection (a), including the cumulative score requirement of that subsection.
- (b) Makes conforming changes.
- (c) Makes conforming changes.
- (d) Makes no change to this subsection.
- (e) Makes a conforming change.
- (f) Requires the commissioner by rule to adopt a transition plan to implement the amendments made by .B No.____, Acts of the 80th Legislature, Regular Session, 2007, to this section and Sections 39.023(a) and (c) and 39.051(b)(5). Requires the rules to provide for the instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2009-2010 school year. Authorizes and requires certain actions set forth in this subsection to be taken during the period of transition to the usage of instruments.
- (g) Requires rules adopted under Subsection (f) to require each student subject to the requirements of Subsection (a) to be entitled to notice of the specific requirements applicable to the student. Requires such notice to be provided not later than the date the student enters the ninth grade. Provides that Subsection (f) and this subsection expire September 1, 2013.

SECTION 10. Amends Subchapter B, Chapter 39, Education B Code, by adding Section 39.0261, as follows:

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) Sets forth certain requirements of the school district in administering to its students college preparation and assessment instruments, in addition to the assessment instruments otherwise authorized or required by this subchapter (Assessment of Academic Skills).

- (b) Requires TEA to select and approve vendors of the specific assessment instruments administered under this section and to pay all fees associated with the administration of such assessment instruments from funds allotted from the Foundation School Program. Requires the commissioner to reduce the total amount of state funds allotted to each district from any source in the manner described for a reduction in allotments under Section 42.253.
- (c) Requires TEA to ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. Authorizes TEA to comply with this subsection by any reasonable means, including the creation of a refund system under which a vendor returns any payments for a student who registered for the assessment instrument but did not appear for its administration.
- (d) Requires a vendor that administers an assessment instrument under this section to report the results in the college instrument to TEA. Requires TEA to include a student's results on the assessment instrument in the electronic student records system established under Section 7.010 and to ensure that the student and the student's parent receive a report of such results.
- (e) Provides that Subsection (a)(3) (regarding the taking, at state cost, of a college instrument as part of the undergraduate admissions process) does not prohibit a high school student in the spring of 11th grade or during the 12th grade from

selecting and taking, at the student's own expense, one of the assessment instruments as part of their undergraduate admissions process more than once.

SECTION 11. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.0301, 39.0302, and 39.0303, as follows:

Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) Requires the commissioner to establish procedures for the administration of assessment instruments adopted or developed under Section 39.023, including security procedures, and authorizes the commissioner to establish record retention requirements for school district records related to the security of assessment instruments.

(b) Authorizes the commissioner to develop and implement statistical methods and standards for identifying violations of procedures established under Subsection (a) ensuring the security of such assessment instruments. Sets forth indicators the commissioner is authorized to include in developing such methods and standards.

(c) Authorizes the commissioner to establish advisory committees to advise the commissioner and TEA regarding the monitoring of assessment practices and the use of statistical methods and standards under Subsection (b), including standards to be established by the commissioner for selecting school districts for investigation of potential assessment security violations under Subsection (e). Prohibits the commissioner from appointing a TEA employee to an advisory committee established under this subsection.

(d) Provides that any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that the statistical methods and standards adopted under this section and the results of applying those methods are confidential and not subject to disclosure under Chapter 552, Government Code, except as provided by Subsection (e).

(e) Authorizes TEA to conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with standards described in Subsection (c). Requires TEA, each year after completing all such investigations, to disclose the identity of the selected districts and the statistical methods and standards used to select the district.

(f) Authorizes the commissioner, at any time, to authorize the audit of a random sample of school districts to determine the compliance of the districts with the procedures established under Subsection (a). Provides that the identity of each school district selected for such audit is confidential and not subject to disclosure under Chapter 552, Government Code, except that TEA is required to disclose the identity of each district after the audit's completion.

Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) Authorizes the commissioner, during an investigation or audit set forth in this subsection, to issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence located in this state.

(b) Authorizes a subpoena to be served personally or by certified mail.

(c) Authorizes the commissioner to file suit in a district court enforcing a subpoena if a person fails to comply with it. Requires the court to order the person to comply with the subpoena on the finding that good cause exists for its issuance. Authorizes the court to punish a person failing to obey the court order.

(d) Provides that all information and materials subpoenaed or compiled in connection with an investigation or audit described by Subsection (a) are confidential and not subject to disclosure under Chapter 552, Government Code, or to any person other than a person set forth in this subsection.

Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person discloses the contents of any portion of a secure assessment instrument developed or administered under this subchapter, including the answer to an item in the assessment instrument, and such disclosure affects or is likely to affect the performance of one or more students on the assessment instrument.

(b) Provides that an offense under this subsection is a Class C misdemeanor.

SECTION 12. Amends Section 39.034(d), Education Code, to make conforming changes.

SECTION 13. Amends Section 39.051(b), Education Code, to make conforming changes.

SECTION 14. Amends Section 39.075(a), Education Code, to require the commissioner to authorize special accreditation investigations to be conducted when extraordinary numbers of placements in disciplinary alternative education programs are determined and in response to an allegation regarding or statistical analysis indicating a possible assessment instrument security procedure violation under Section 39.0301, including for the purpose of investigating or auditing a district under that section, in addition to other conditions authorizing the conducting of such investigations. Makes conforming changes.

SECTION 15. Amends Section 51.3062(q), Education Code, to exempt a student from the requirements of this section who has achieved scores set by the board on the optional questions developed for end-of-course assessment instruments under Section 39.0233, rather than a set score on the previously-required exit-level assessment instrument under Section 39.023. Makes conforming and nonsubstantive changes.

SECTION 16. Repealer: Section 39.023(j), Education Code (requiring the commissioner to develop an end-of-course assessment instrument for Algebra I).

SECTION 17. Provides that a reference in the Education Code to an end-of-course assessment instrument administered under Section 39.023(c), Education Code, includes an exit-level assessment instrument administered under that section as provided by Section 39.025(f), Education Code, as added by this Act.

SECTION 18. (a) Makes application of this Act prospective to the beginning of the 2007-2008 school year, except as otherwise provided by this Act.

(b) Authorizes the commissioner to conduct random audits as authorized under Section 39.0301(f), Education Code, as added by this Act, beginning with the 2007-2008 school year, and accreditation investigations as authorized under Section 39.075(a)(8), Education Code, as added by this Act, beginning with the 2008-2009 school year.

(c) Authorizes the commissioner, during the 2008-2009 school year, to use the statistical methods and standards established authorized under Section 39.0301(b), Education Code, as added by this Act, on a pilot basis to test the accuracy and predictive validity of the methods and standards. Makes such methods and standards confidential and not subject to disclosure under Chapter 552, Government Code. Requires the commissioner to release the results of any investigation conducted on the basis of those methods on completion of the investigation, without releasing the methods themselves.

SECTION 19. Effective date: September 1, 2007.