

BILL ANALYSIS

Senate Research Center
88R19157 KJE-F

H.B. 1416
By: Bell, Keith et al. (Paxton)
Education
5/9/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

For over 20 years, when students score below grade level on the state's end-of-year test (currently STAAR), Texas law has required school districts to provide "accelerated instruction" in an effort to help students pass the test the following year and get them caught up.

In the wake of the COVID-19 pandemic, the 87th Legislature passed H.B. 4545, which prescribed specific "supplemental instruction" tutoring requirements. School districts reported multiple implementation challenges, including meeting requirements and staffing concerns.

This bill addresses the implementation barriers and complications experienced by school districts to provide additional flexibility and local control for schools without compromising the quality or availability of the much-needed high-impact tutoring for students recovering from COVID learning loss.

H.B. 1416 amends current law relating to accelerated instruction provided to public school students who fail to achieve satisfactory performance on certain assessment instruments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 28.0211, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 28.0211, Education Code, as follows:

Sec. 28.0211. New heading: ACCELERATED INSTRUCTION; MODIFIED TEACHER ASSIGNMENT.

SECTION 2. Amends Section 28.0211, Education Code, by amending Subsections (a), (a-1), (a-2), (a-3), (a-4), (f), (f-1), (f-2), (f-3), (h), (i), (j), and (n) and adding Subsections (a-7), (a-8), (a-9), (a-10), (b), and (i-1), as follows:

(a) Redesignates Subsection (a-1) as Subsection (a). Requires the school district in which a student attends school, each time the student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) (relating to requiring the Texas Education Agency (TEA) to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science) or (l) (relating to requiring the State Board of Education to adopt rules for the administration of the assessment instruments adopted in Spanish to emergent bilingual students in grades three through five) in the third, fourth, fifth, sixth, seventh, or eighth grade or on an end-of-course assessment instrument administered under Section 39.023(c) (relating to requiring TEA to also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history), other than an assessment instrument developed or adopted based on alternative academic achievement standards, to provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year.

Deletes existing Subsection (a) requiring a school district to establish an accelerated learning committee described by Subsection (c) for each student who does not perform satisfactorily on:

- (1) the third grade mathematics or reading assessment instrument under Section 39.023 (Adoption and Administration of Instruments);
- (2) the fifth grade mathematics or reading assessment instrument under Section 39.023; or
- (3) the eighth grade mathematics or reading assessment instrument under Section 39.023.

(a-1) Requires the school district in which the student attends school, each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a) that is a mathematics or reading assessment instrument or the English I, English II, or Algebra I end-of-course assessment instrument, subject to Subsection (a-7), to take certain actions.

(a-2)-(a-3) Makes conforming changes to these subdivisions.

(a-4) Requires that supplemental instruction provided by a school district under Subsection (a-1)(2), if a district receives funding under Section 29.0881 (Strong Foundations Grant Program) or 48.104 (Compensatory Education Allotment), the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2):

(1)-(2) makes no changes to these subdivisions;

(3) be provided, rather than be provided for no less than 30 total hours, during the subsequent summer or school year:

(A) to each student for no less than 15 hours; and

(B) unless the instruction is provided to a student fully during summer, no less than once per week during the school year, rather than include instruction no less than once per week during the school year, except as otherwise provided by commissioner of education (commissioner) rule to account for school holidays or shortened school weeks;

(4)-(5) makes no changes to these subdivisions;

(6) be provided to a student individually or in a group of no more than the following number of students, rather than three students, unless the parent or guardian of each student in the group authorizes a larger group:

(A) for a student in a grade level below ninth grade, five students; or

(B) for a student in ninth grade or above, ten students; and

(7)-(8) makes no changes to these subdivisions.

(a-7) Provides that the requirements under Subsection (a-1) do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply.

(a-8) Authorizes a parent or guardian of a student to whom supplemental instruction will be provided under Subsection (a-1)(2) and who either was administered and failed to perform satisfactorily on an assessment instrument described by Subsection (a) or was

administered a beginning-of-year assessment instrument aligned with the essential knowledge and skills for the applicable subject area to elect to reduce or remove a requirement for that instruction under Subsection (a-4) or for the student's accelerated education plan under Subsection (f), if applicable, by submitting a written request to an administrator at the campus at which the student is enrolled. Prohibits a school district from encouraging or directing a parent or guardian to make an election under this subsection that would allow the district to not provide supplemental instruction to the student.

(a-9) Requires TEA to approve an automated, computerized, or other augmented method for providing supplemental instruction under Subsection (a-1)(2) that is authorized to be used in lieu of some or all of the individual or group instruction required under Subsection (a-4)(6), as appropriate for the applicable grade level and subject area and a student's academic deficiency. Authorizes TEA to approve a method under this subsection only if evidence indicates that the method is more effective than the individual or group instruction required under Subsection (a-4)(6). Requires the commissioner to adopt rules regarding when a method approved under this subsection is authorized to be used and the requirements under Subsection (a-4) for which the method is authorized to be substituted.

(a-10) Provides that a school district that is required to provide to a student accelerated instruction under Subsection (a) or supplemental instruction under Subsection (a-1)(2) is not required to provide additional instruction under either provision to the student based on the student's failure to perform satisfactorily on an assessment instrument administered as an optional assessment in the same subject area in which the district is required to provide the student the accelerated or supplemental instruction.

(b) Requires the school district a student attends, for each student who does not perform satisfactorily on an assessment instrument described by Subsection (a-1) for two or more consecutive school years in the same subject area, to develop an accelerated education plan as described by Subsection (f).

(f) Requires a school district, rather than requires an accelerated learning committee described by Subsection (c) (relating to requiring an accelerated learning committee to be established after a student fails to perform satisfactorily on an assessment instrument), not later than the start of the subsequent school year, to develop an accelerated education plan for each student to whom Subsection (b) applies, rather than an educational plan for the student, that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade or course level by the conclusion of the school year. Provides that the plan:

(1) is required to:

(A) identify the reason the student did not perform satisfactorily on the applicable assessment instrument described by Subsection (a-1); and

(B) notwithstanding Subsection (a-4)(3)(A), require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction under Subsection (a-4) for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area described by Subsection (a-1); and

(2) is authorized to require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area described by Subsection (a-1) at the next administration of the assessment instrument:

(A) notwithstanding Subsection (a-4)(6), the student be provided supplemental instruction under Subsection (a-4) individually or in a group of fewer than the number of students permitted under Subsection (a-4)(6);

(B) the district expand the times in which supplemental instruction under Subsection (a-4) is available to the student;

(C) the student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and

(D) the district provide any necessary additional resources to the student.

(f-1) Makes a conforming change to this subsection.

(f-2) Deletes existing text requiring the district to administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year. Makes a conforming change.

(f-3) Makes a conforming change to this subsection.

(h) Requires the district, in each instance under Section 28.0211 (Accelerated Learning Committee; Accelerated Instruction; Modified Teacher Assignment) in which a school district is specifically required to provide notice or a written copy to a parent or guardian of a student, to make a good faith effort to ensure that such notice or copy is provided either in person or by regular mail and that the notice or copy is clear and easy to understand and is written in English or the parent or guardian's native language.

(i) Requires the admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A (Special Education Program), Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) to, at the student's next annual review meeting, review the student's participation and progress in, as applicable, accelerated instruction provided under Subsection (a), supplemental instruction provided under Subsection (a-1)(2), or an accelerated education plan developed under Subsection (f). Authorizes the student's parent to request, or the district to schedule, an additional committee meeting if a committee member believes that the student's individualized education program needs to be modified based on the requirements under this section. Requires the district, if the district refuses to convene a committee meeting requested by the student's parent under this subsection, to provide the parent with written notice explaining the reason the district refuses to convene the meeting. Deletes existing text requiring the admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter A, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) to meet to determine the manner in which the student will participate in an accelerated instruction program under this section.

(i-1) Authorizes the school district, if a student who attends school in a homebound or other off-campus instructional arrangement, including at a residential treatment campus or state hospital, is unable to participate in an accelerated instruction program required under this section due to the student's condition, to determine that the student be provided the accelerated instruction when the student attends school in an on-campus instructional setting. Provides that the district, if the student's condition prevents the student from attending school in an on-campus instructional setting for the school year during which the accelerated instruction is required to be provided to the student, is not required to provide the accelerated instruction to the student for that school year.

(j) Requires a school district or open-enrollment charter school to provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours, unless the district or

school does not operate, or contract or agree with another entity to operate, a transportation system.

(n) Requires a student for whom an accelerated education plan is required to be developed under Subsection (b), except as requested under Subsection (a-5) or provided by Subsection (n-1) (relating to authorizing the commissioner to waive the requirement regarding the assignment of a student to an appropriately certified classroom teacher on the request of a school district), to be assigned, in each school year and subject covered by the accelerated education plan, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade. Deletes existing text requiring a student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and is promoted to the next grade level, except as provided by Subsection (n-1), to be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Subsection (a) to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

SECTION 3. Amends Section 29.0881(e), Education Code, as follows:

(e) Authorizes a school district or open-enrollment charter school that receives grant funds under Section 29.0881 (Strong Foundations Grant Program) to use the funds for certain purposes, including to pay for accelerated instruction provided under Section 28.0211, rather than Section 28.0217 (Accelerated Instruction for High School Students).

SECTION 4. Amends Section 39.025(b-1), Education Code, to make a conforming change.

SECTION 5. Repealers: Sections 28.0211(c) (relating to requiring an accelerated learning committee to be established after a student fails to perform satisfactorily on an assessment instrument) and (f-4) (relating to requiring the superintendent of the district to meet with a student's accelerated learning committee if certain criteria are met), Education Code.

Repealers: Sections 28.0211(f-5) (relating to providing that a superintendent's designee is required to meet certain criteria) and (o) (relating to providing that this section does not require the administration of a fifth or eighth grade assessment instrument to a student enrolled in the fifth or eighth grade, as applicable, if the student meets certain criteria), Education Code.

Repealers: Sections 28.0211(p) (relating to prohibiting a student from being denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student) and 28.0217 (Accelerated Instruction for High School Students), Education Code.

SECTION 6. Provides that the changes in law made by this Act to Section 28.0211, Education Code, apply beginning with assessment instruments administered during the 2023 spring semester.

SECTION 7. Provides that the repeal by this Act of Section 28.0217, Education Code, applies beginning with the 2023–2024 school year.

SECTION 8. Effective date: upon passage or September 1, 2023.