

BILL ANALYSIS

Senate Research Center

H.B. 2162
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Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. 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.

H.B. 2162 amends current law relating to reading instruction, assessment instruments, and interventions provided to public school students.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 3 (Section 28.006, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Texas Literacy Act.

SECTION 2. Amends Section 21.044, Education Code, by adding Subsection (h), to prohibit an educator program from including instruction in using the reading instruction method of three-cueing, as defined by Section 28.0062(a-1).

SECTION 3. Amends Section 28.006, Education Code, 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), as follows:

(a) Requires the commissioner of education (commissioner) to adopt procedures, rather than 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) creates this paragraph from existing text and makes nonsubstantive changes;

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

(2) makes no changes to this subdivision;

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

(a-1) Prohibits a school district or open-enrollment charter school from administering a reading instrument to a student more than three times during a school year.

(b) Requires the commissioner to adopt a comprehensive list of reading instruments that a school district or open-enrollment charter school is required to select from for use in diagnosing reading development and comprehension for students who are enrolled in kindergarten through third grade. Requires a reading instrument included on the commissioner's list to include the foundational literacy components of phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension. Requires the commissioner to adopt multidimensional assessment tools that include reading instruments that test, rather than an instrument and tests, for use in diagnosing the reading development and comprehension of kindergarten students, at least three developmental skills, including the foundational literacy components. Authorizes a school district or open-enrollment charter school to use other reading instruments, subject to Subsection (b-4), in addition to the reading instruments included on the commissioner's list. Requires that each reading instrument included on the list adopted by the commissioner or administered by a school district or open-enrollment charter school, rather than adopted by the commissioner or a district-level committee:

- (1) creates this subdivision from existing text and makes nonsubstantive changes;
- (2) provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B (Bilingual Education and Special Language Programs), 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.

Deletes existing text authorizing a district-level committee established under Subchapter F (Planning and Decision-Making Process), Chapter 11, to adopt a list of reading instruments for the use in the district in a grade level other than kindergarten in addition to the reading instruments on the commissioner's list. Deletes existing text requiring a list of reading instruments adopted under this subsection to provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29. Makes nonsubstantive changes.

(b-2) Requires the commissioner to 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) Requires the commissioner to update the list of reading instruments at least once every four years, including multidimensional assessment tools authorized under Section 28.006 (Reading Diagnosis)

(b-4) Requires 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) to submit the instrument to the commissioner to verify the instrument satisfies the requirements of this section. Requires the commissioner to place on the commissioner's list a reading instrument that satisfies the requirements of this section.

(c) Requires each school district and open-enrollment charter school to 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, rather than by the commissioner or by the district-level committee. Requires the district or school to administer the reading instrument in accordance with the commissioner's recommendations under Subsection (a)(1).

(c-1) Requires each school district and open-enrollment charter school to 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) (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) to the student in grade six did not demonstrate reading proficiency, as determined by the commissioner. Requires the district or school to administer the reading instrument in accordance with the commissioner's policies adopted, rather than recommendations, under Subsection (a)(1).

(c-2) Requires each school district and open-enrollment charter school to administer at the kindergarten level a reading instrument included on the list adopted by the commissioner, rather than adopted by the commissioner under Subsection (b) or approved by the commissioner under Subsection (b-1). Makes conforming changes.

(c-3) Makes nonsubstantive changes to this subsection.

(d-1) Requires the commissioner to prominently display on the TEA'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 TEA rule adopted under Subsection (n).

(g-3) Requires a school district or open-enrollment charter school to 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). Requires the school district to continue to offer a student reading intervention until the student achieves satisfactory performance on a reading instrument. Requires a reading intervention program offered under this subsection to:

- (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 (Teacher Literacy Achievement Academies).

(g-4) Prohibits a school district or open-enrollment charter school, in providing reading intervention under Subsection (g-3), from removing 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 (Required Curriculum) 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) Requires a school district or open-enrollment charter school, in addition to the report required under Subsection (d)(2) (relating to requiring the superintendent of each school district to not later than the 60th calendar day after the date on which a reading instrument was administered report, in writing, to a student's parent or guardian the student's results on the instrument), to notify the parent or guardian of each student in kindergarten through grade three who is determined to need reading intervention. Requires that the notification:

(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) Authorizes the commissioner, from funds appropriated for teacher literacy achievement academies developed under Section 21.4552, in collaboration with regional education service centers, to provide assistance to school districts and open-enrollment charter schools in complying with the requirements of Section 28.0062 (Reading Standards for Kindergarten Through Third Grade). Requires the commissioner to 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) Deletes existing text authorizing no more than 15 percent of the funds certified by the commissioner under Subsection (i) (relating to requiring the commissioner to certify whether sufficient funds have been appropriated statewide for the purposes of this section) to be spent on indirect costs. Deletes existing text authorizing the commissioner to audit the expenditures of funds appropriated for purposes of this section. Deletes existing text requiring that the use of funds appropriated for purposes of this section be verified as part of the district audit under Section 44.008 (Annual Audit; Report).

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

(o) Prohibits TEA from using data collected from a reading instrument administered under this section in evaluating the performance of a school district or campus under Section 39.054 (Methods and Standards for Evaluating Performance).

SECTION 4. Amends Section 28.0062, Education Code, by adding Subsection (a-1), to define "three-cueing."

SECTION 5. Amends Subchapter A, Chapter 28, Education Code, by adding Section 28.0063, as follows:

Sec. 28.0063. SUPPLEMENTAL READING INSTRUCTION FOR CERTAIN STUDENTS. (a) Requires a school district or open-enrollment charter school to make available supplemental instruction described by Section 28.0211(a-4) (relating to providing that if a district receives funding under certain circumstances, then supplemental instruction provided by a school district is required to meet certain criteria) 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) Authorizes a parent or guardian of a student described by Subsection (a) to select a tutor from a list of high-quality tutors approved by TEA or by the school district or open-enrollment charter school the student attends to provide the supplemental instruction required under Subsection (a). Requires the district or school to contract directly with the tutor selected, who is authorized to be a classroom teacher employed at the district or school. Provides that a classroom teacher selected as a student's tutor is entitled to supplemental pay from the district or school. Prohibits the district or school from providing money under this subsection directly to a parent or guardian of a student.

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

SECTION 6. Amends Section 29.1543, Education Code, as follows:

Sec. 29.1543. EARLY EDUCATION REPORTS. Requires TEA to produce and make available to the public on TEA'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. Requires that a report under this section contain:

(1) makes no changes to this subdivision;

(2) a description of any diagnostic reading instruments administered as provided by Section 28.006, rather than administered in accordance with Section 28.006(c) or (c-2);

(3)-(4) makes conforming changes to these subdivisions;

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

(7) makes a nonsubstantive change to this subdivision; and

(8) makes no changes to this subdivision.

SECTION 7. Repealer: Section 28.006(b-1) (relating to authorizing the commissioner to approve an alternative reading instrument for use in diagnosing the reading development and comprehension of kindergarten students that complies with the requirements), Education Code.

SECTION 8. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 9. Effective date: upon passage or September 1, 2023.