

BILL ANALYSIS

C.S.S.B. 2094
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are growing concerns around student learning loss, particularly in the wake of the COVID-19 pandemic. There are also concerns that the grade placement committee process, currently required for the promotion of a student who does not perform satisfactorily on certain statewide standardized tests, may not be functioning as intended and that the current system of accelerated instruction, intended to assist students in achieving satisfactory grade-level performance, is ineffective. C.S.S.B. 2094 seeks to address these concerns by eliminating grade promotion that is reliant on the passing of standardized tests and providing for accelerated instruction standards. The bill also establishes the strong foundations grant program to assist the implementation of high-quality instruction, materials, and support structures.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTIONS 2 and 8 of this bill.

ANALYSIS

C.S.S.B. 2094 amends the Education Code to provide for the redesignation and revision of grade placement committees as accelerated learning committees, standards for accelerated instruction, and the strong foundations grant program, among other provisions.

Accelerated Learning Committee and Accelerated Instruction

C.S.S.B. 2094 removes the prohibition against a student being promoted to a sixth-grade or ninth-grade program if the student does not perform satisfactorily on the fifth-grade or eighth-grade mathematics or reading statewide standardized test, as applicable. The bill requires a public school district to establish instead an accelerated learning committee for each student who does not perform satisfactorily on any of those tests or on the third-grade mathematics or reading statewide standardized test. The bill removes and repeals requirements relating to the repeated administration of an applicable test to a student who fails to perform satisfactorily and the consequences of a student's failure on a second or third attempt of the same test.

C.S.S.B. 2094 renames a grade placement committee as an accelerated learning committee and revises related provisions. The bill requires the committee, not later than the start of the subsequent school year, to develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year for which the plan is developed. The bill requires the

educational plan to be documented in writing and provided to the student's parent or guardian and requires each district board to adopt a policy consistent with its adopted grievance procedure to allow a parent to contest the content or implementation of the plan.

C.S.S.B. 2094 authorizes the parent or guardian of a student who fails to perform satisfactorily on a third-grade, fifth-grade, or eighth-grade mathematics or reading standardized test to choose the classroom teacher who will provide instruction to the student in the failed subject area for the subsequent school year, if there is more than one appropriate teacher available. The bill requires such a student who is promoted to the next grade level to be assigned, in the subsequent school year in each failed subject, to an appropriately certified teacher who meets specified qualifications. If the student also fails in the subsequent school year to perform satisfactorily on a test in the same subject, the district superintendent or superintendent's designee must meet with the student's accelerated learning committee to identify the reason the student did not perform satisfactorily and determine whether the educational plan must be modified and whether any additional resources are required for that student. The superintendent's designee, if applicable, may not have served on the student's accelerated learning committee and may be an employee of a regional education service center.

C.S.S.B. 2094 requires a district to provide accelerated instruction during the subsequent summer or school year to any student who fails to perform satisfactorily on any statewide standardized test administered in the third through eighth grades and either to provide the student supplemental instruction or to allow the student to be assigned, in the applicable subject area for the subsequent school year, a classroom teacher who is certified as a master, exemplary, or recognized teacher. The bill prohibits a district, in providing accelerated instruction, from removing a student from grade-level foundation curriculum or enrichment curriculum instruction or from recess or other physical activity available to other students enrolled in the same grade level unless a student in that grade level, but not receiving accelerated instruction, would be removed under the same circumstances. The bill requires the commissioner of education to provide resources to districts to assist in the provision of an accelerated instruction program.

C.S.S.B. 2094 requires supplemental instruction provided by a district to meet the following criteria if the district receives funding under the strong foundations grant program created by the bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021, or the federal American Rescue Plan Act of 2021:

- include targeted instruction according to state curriculum standards for the applicable grade levels and subject area;
- be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
- be provided for a minimum of 30 total hours during the subsequent summer or school year and, if applicable, at a minimum frequency of once per week during the school year;
- be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
- include effective instructional materials designed for supplemental instruction;
- be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;
- be provided by a person with training in the applicable instructional materials and under the oversight of the district; and
- to the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

C.S.S.B. 2094 changes the requirement for the commissioner to adopt rules as necessary to implement provisions relating to accelerated instruction and certain test performance to an authorization. The bill authorizes the commissioner, on the request of a district, to waive the requirement for a student who fails to perform satisfactorily on a third-grade, fifth-grade, or

eighth-grade standardized test in mathematics or reading and is promoted to the next grade level to be assigned to an appropriately certified teacher in the applicable subject and grade.

C.S.S.B. 2094 repeals provisions that do the following:

- require the commissioner to determine and certify annually whether sufficient funds have been appropriated for purposes of accelerated instruction, including accelerated instruction for high school students;
- prohibit the commissioner from considering foundation school program funds other than the compensatory education allotment for that purpose; and
- make the implementation of applicable provisions in a given school year contingent on the commissioner's certification that sufficient funds have been appropriated to administer the accelerated instruction programs.

Accelerated Instruction and Testing for High School Students

C.S.S.B. 2094 revises requirements for accelerated instruction for high school students as follows:

- removes a specification that accelerated instruction is funded through appropriations for that purpose; and
- requires the instruction to comply with the requirements for accelerated instruction in the third through eighth grades.

C.S.S.B. 2094 repeals provisions relating to the adoption and administration of optional statewide standardized tests in Algebra II and English III.

Strong Foundations Grant Program and Intervention

C.S.S.B. 2094 requires the commissioner to establish and administer a strong foundations grant program for campuses or a campus program serving students enrolled in prekindergarten through grade five to implement a rigorous school approach that combines high-quality instruction, materials, and support structures. The bill requires the commissioner to adopt required components for the program, which must include the following:

- the use of high-quality instructional materials, curricula, and curricular tools;
- the use of aligned diagnostic and formative assessments;
- aligned professional supports;
- practices designed to ensure high-quality support for students with disabilities;
- evidence-based practices to increase and maintain parental engagement; and
- measurement of fidelity of program implementation.

Grants may be in the form of funds, in-kind resources, or both. The bill requires the commissioner to use appropriated funds, federal funds, and other available funds to assist districts and open-enrollment charter schools in implementing the program and authorizes the commissioner to accept gifts, grants, and donations from any source for the program. The bill makes a contributing private or nonprofit organization eligible to receive an Employers for Education Excellence award. The bill authorizes a district or charter school to use grant funds to prepare educators and other staff, pay for agreements with other entities to provide prekindergarten services, or pay for accelerated instruction.

C.S.S.B. 2094 authorizes the commissioner, as an intervention under the public school accountability system, to require a district or charter school to comply with all requirements of the strong foundations grant program at a campus that meets the following conditions:

- includes students at any grade level from prekindergarten through fifth grade;
- is assigned an overall performance rating of D or F; and
- is in the bottom five percent of campuses in the state based on student performance on the third-grade reading standardized test during the previous school year, as determined by the commissioner.

This authorization applies notwithstanding an exception delaying certain interventions for a campus assigned an overall performance rating of D that is ordered to implement a targeted improvement plan. The bill requires the commissioner, subject to appropriations, to award a strong foundations grant to any campus required to implement the grant program requirements for accountability purposes. The bill requires the commissioner to adopt rules to determine whether an applicable district or charter school is complying adequately with the requirements. The bill authorizes the commissioner, for a campus that meets the requisite conditions, to impose the strong foundations grant program requirements either as an alternative to a commissioner hearing or the establishment of a school community partnership team or in any combination with those other interventions.

Applicability and Repealers

C.S.S.B. 2094 applies beginning with the 2021-2022 school year.

C.S.S.B. 2094 repeals the following provisions of the Education Code:

- Sections 28.0211(b), (d), (e), (i-1), (i-2), (m), and (m-1);
- Section 39.0231; and
- Section 39.0238.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2094 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute makes the supplemental instruction standards established by the engrossed contingent on a district's receipt of funding under the strong foundations grant program, the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021, or the federal American Rescue Plan Act of 2021.

The engrossed authorized the commissioner to provide resources to districts to assist in the provision of an accelerated instruction program, whereas the substitute requires the commissioner to do so.

The substitute does not include provisions that appeared in the engrossed establishing an annual accelerated learning and sustainment outcomes bonus under the foundation school program that entitles a district or charter school to a bonus amount for each successfully accelerated student above a threshold number of qualifying students set by the commissioner and a bonus amount for each sustained accelerated student.

The substitute includes provisions that did not appear in the engrossed relating to the establishment and administration of a strong foundations grant program and the commissioner's authority to impose an intervention requiring a district or charter school to comply with the grant program requirements at certain campuses that do not meet performance standards.