

## **BILL ANALYSIS**

Senate Research Center  
82R6407 KKA-D

S.B. 443  
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Education  
3/3/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 443 addresses a number of unfunded mandates on school districts. S.B. 443 gives districts flexibility by lowering the classroom ratio for kindergarten to fourth grade classes to 21:1 on a district-wide average (currently, it is 22:1 for each classroom); by providing for the immediate removal without a hearing of any teacher or school district employee convicted of a felony (currently, such individuals can request a hearing with an independent hearing examiner before the individual's contract is terminated); by eliminating the double-testing requirement of eighth-grade students taking high school courses (currently, students must take the eighth grade TAKS test and end-of-course test for Algebra I and English/liberal arts); by making the summer English as a Second Language program for pre-kindergarten and kindergarten students voluntary (currently, it is mandatory); and by expanding the exemplary exemption to include school districts with a recognized rating (currently, it is only provided for districts with an exemplary distinction).

As proposed, S.B. 443 amends current law relating to measures intended to provide flexibility and cost savings to school districts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 21.058, Education Code, by amending Subsections (a) and (c) and adding Subsections (c-1) and (e), as follows:

(a) Provides that the procedures described by Subsection (b) (relating to revocation of a certificate by the State Board of Education) apply, rather than this section applies, only to conviction of a felony offense under Title 5 (Offenses Against the Person), Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, and if the victim of the offense is under 18 years of age.

(c) Requires a school district (district) or open-enrollment charter school (charter) that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter or otherwise becomes aware that a person employed by the district or charter who holds a certificate under this subchapter has been convicted of a felony not described by Subsection (a) to:

(1) immediately remove the person from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student, if the person's certificate was revoked under Subsection (b);

(2) if the person is employed under a probationary, continuing, or term contract under this chapter and was convicted of a felony, suspend the person without pay, provide the person with written notice that the person's contract is void in

accordance with Subsection (c-1), and as soon as practicable, terminate the person's employment; and

(3) if the person is not subject to action under Subdivision (2), terminate the employment of the person as soon as practicable in accordance with the person's contract and with this subchapter.

(c-1) Provides that a person's probationary, continuing, or term contract under this chapter is void if the employee is convicted of a felony.

(e) Provides that action taken by a district under Subsection (c)(2) is not subject to appeal under this chapter, and the notice and hearing requirements of this chapter do not apply to the action.

SECTION 2. Amends Section 25.112(a), Education Code, to prohibit a district, except as otherwise authorized by this section, from enrolling more than a district-wide average of 21 students in kindergarten, first, second, third, and, fourth grade classes, rather than 22 students in a kindergarten, first, second, third, or fourth grade class.

SECTION 3. Amends Section 28.0211, Education Code, by amending Subsections (a), (a-2), (d), (e), and (f) and by adding Subsections (a-4) and (c-1), as follows:

(a) Creates an exception under Subsection (a-4).

(a-2) Provides that a student who fails to complete required accelerated instruction, other than a student described by Subsection (a-4), may not be promoted.

(a-4) Provides that Subsection (a)(2) does not apply to an eighth grade student who has completed and received a passing final grade for mathematics or English language arts course work that the student has taken for credit toward high school graduation and that is relevant to the eighth grade mathematics or reading assessment instrument, as applicable, under Section 39.023 (Adoption and Administration of Instruments), on which the student has failed to perform satisfactorily.

(c-1) Provides that accelerated instruction required under Subsection (c) (relating to providing accelerated instruction in applicable subject areas) after a student fails to perform satisfactorily on an assessment instrument a third time is not required to commence until the beginning of the next school year.

(d) Requires the district, in addition to providing accelerate instruction to a student under Subsection (c), to notify the student's parents or guardian of certain information, including, except in the case of a student described by Subsection (a-4), the possibility that the student might be retained at the same grade level for the next school year.

(e) Creates an exception in the case of student described by Subsection (a-4) to the requirement that a student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) be retained at the same grade level for the next school year in accordance with Subsection (a).

(f) Requires a district to provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction commencing at the beginning of, rather than during, the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c).

SECTION 4. Amends Sections 29.060(a) and (e), Education Code, as follows:

(a) Authorizes a school district, rather than requires each district that is required to offer a bilingual education or special language program, to offer a voluntary program for children of limited English proficiency who will be eligible for admission to kindergarten

or the first grade at the beginning of the next school year. Requires a school that operates on a system permitted by this code other than a semester system, if the district elects to offer a voluntary program under this section, to offer 120 hours of instruction on a schedule the board of trustees of the district establishes. Requires a school that operates on a semester system, if the district elects to offer a voluntary program under this section, to offer the program during certain times and for a certain duration.

(e) Prohibits the programs authorized, rather than required or authorized, by this section from being substituted for programs required to be provided during the regular school year.

SECTION 5. Amends Sections 39.232(a) and (d), Education Code, as follows:

(a) Provides that, except as provided by Subsection (b) (relating to provisions under which a school campus or district is not exempt), a school campus or district that is rated as recognized or exemplary under Subchapter G (Distinction Designations) is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.

(d) Authorizes the commissioner of education (commissioner) to exempt a school campus that is rated as recognized or exemplary, rather than to exempt an exemplary school campus, under Subchapter G from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from class size limits will not be harmful to the academic achievement of the students on the school campus.

SECTION 6. Provides that this Act applies beginning with the 2011-2012 school year.

SECTION 7. Effective date: upon passage or September 1, 2011.