

BILL ANALYSIS

Senate Research Center
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S.B. 1868
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1868 improves accountability for schools serving Texas students who are categorized as having limited English proficiency. The current performance of students categorized as limited English proficient (LEP) lags far behind their non-LEP counterparts. Part of the problem rests in ineffective monitoring of bilingual education programs (BEP) and English as a Second Language (ESL) programs by the Texas Education Agency (TEA). The ineffective monitoring has led to litigation against both TEA and two Texas school districts alleging that district level monitoring of BEPs and ESL programs conducted by TEA masks problems with those programs at the campus level.

S.B. 1868 requires TEA to monitor performance indicators of bilingual education and other special language programs at the campus level through its Performance-Based Analysis Monitoring System. Specifically, TEA would monitor any significant differences between LEP students and non-LEP students in grade-level retention, academic performance, and dropout rates.

S.B. 1867 also requires TEA to set appropriate standards regarding achievement of LEP students compared to non-LEP students, taking into account district size and other factors. Should a program be deemed ineffective under the established standards, TEA would notify the campus or district of the finding and require the campus or district to provide detailed information regarding its special language programs and develop annual improvement goals to reduce the achievement gap between LEP and non-LEP students.

As proposed, S.B. 1868 amends current law relating to public school accountability for bilingual education and English as a second language and other special language programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 29.062, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.062, Education Code, as follows:

Sec. 29.062. COMPLIANCE. (a) Provides that the legislature recognizes that compliance with this subchapter is an imperative public necessity. Requires the Texas Education Agency (TEA), in accordance with the policy of the state, to evaluate the effectiveness of programs under this subchapter based on the following data, disaggregated by campus and school district or open-enrollment charter school, which each district and open-enrollment charter school shall collect and provide to TEA:

- (1) Creates this subdivision from existing text and makes no further change to this subdivision;
- (2) the difference in grade-level retention rates between students of limited English proficiency and students who have not previously been classified as students of limited English proficiency;
- (3) any significant difference in performance on assessment instruments required under Sections 39.023(a) (relating to essential assessment criteria

adopted or developed by TEA), (c) (relating to the adoption of end-of-course assessment instruments), and (l) (relating to the State Board of Education adopting rules for the administration of assessment instruments), as applicable, between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average performance on those assessment instruments of students who have not previously been classified as students of limited English proficiency; and

(4) any significant difference in the dropout rate for grade levels 9 through 12 between students of limited English proficiency at the campus or in the district or open-enrollment charter school being evaluated and the state average dropout rate of students who have not previously been classified as students of limited English proficiency.

(b) Requires TEA to evaluate information specified under Subsection (a) only at the district level, notwithstanding Subsection (a), for a school district campus with fewer than 30 students enrolled in bilingual education or English as a second language or other special language programs.

(b-1) Creates this subsection from existing text. Authorizes TEA to combine but not replace evaluations under this section with federal accountability measures concerning students of limited English proficiency.

(b-2) Requires each lead monitor evaluating the effectiveness of programs under this subchapter to be appropriately certified by the State Board for Educator Certification (SBEC) as provided for under Section 29.061 (Bilingual Education and Special Language Program Teachers) for teaching English as a second language. Provides that an emergency endorsement issued under Section 29.061(a) (relating to SBEC to issue teaching certificates for bilingual education instruction) is not considered appropriate certification for purposes of this subsection.

Deletes existing text requiring the areas to be monitored to include program content and design, program coverage, identification procedures, classification procedures, staffing, learning materials, testing materials, reclassification of students for either entry into regular classes conducted exclusively in English or reentry into a bilingual education or special education program, and activities of the language proficiency assessment committees.

(c) Requires TEA, to ensure the effectiveness of programs under this subchapter, to intervene in a school district, campus, or open-enrollment charter school program if, as a result of an evaluation under Subsection (a), TEA determines the program is ineffective.

Deletes existing text requiring TEA, not later than the 30th day after the date of an on-site monitoring inspection, to report its findings to the school district or open-enrollment charter school and to the division of accreditation.

(d) Requires TEA to notify a school district, any appropriate campus, or an open-enrollment charter school that is found in noncompliance in writing of an intervention under Subsection (c) not later than the 30th day after the first day of the intervention.

Deletes existing text requiring TEA to notify a school district or open-enrollment charter school found in noncompliance in writing, not later than the 30th day after the date of the on-site monitoring, and requiring the district or open-enrollment charter school to take immediate corrective action.

(d-1) Requires a school district, campus, or open-enrollment charter school with a program determined under this section to be ineffective, to evaluate program effectiveness further, to immediately review and provide to TEA a report concerning the following factors:

(1) procedures for identification of students of limited English proficiency;

(2) procedures for placement of students in a program under this subchapter;

(3) student assessment procedures, including assessment of:

(A) English language proficiency; and

(B) academic achievement in, as defined by commissioner of education (commissioner) rule, core content areas;

(4) provision of instruction under the program, including assessment of the quality of instruction and whether the program is being implemented as designed;

(5) credentials of instructional staff, including:

(A) appropriate certification of teachers providing English language development or content area instruction to students of limited English proficiency; and

(B) the amount of instruction provided by teachers who hold emergency endorsements or who are teaching outside the teacher's area of specialization;

(6) professional development provided to content area teachers serving students of limited English proficiency;

(7) curricular materials considered by language, school, and grade used in providing instruction to students of limited English proficiency;

(8) if applicable, district-level program evaluation procedures, including procedures for:

(A) ongoing district-level monitoring to identify program components needing improvement and implementing identified improvements; and

(B) identifying and closing any academic achievement gap between students of limited English proficiency and students who have not previously been classified as students of limited English proficiency;

(9) a rate of parental denial of approval of a student's entry into or placement in a program under this subchapter that is at least 150 percent greater than the state average rate of parental denial;

(10) any variance of greater than 20 percent between the percentage of students identified as students of limited English proficiency and the percentage of students who speak a language other than English at home, as determined by the home language survey administered to all students new to a campus, district, or open-enrollment charter school as provided

by Section 29.056(a)(1) (relating to the results of home language surveys); and

(11) reclassification of students for either entry into regular classes conducted exclusively in English or reentry into a bilingual education or special education program.

(d-2) Requires the campus, district, or open-enrollment charter school, on completion of the review under Subsection (d-1), to designate annual program improvement goals that:

(1) are designed to improve academic achievement in the core content areas by students of limited English proficiency; and

(2) are based on the extent of any academic achievement gap identified under Subsection (d-1)(8)(B), with incremental improvement goals established according to the size of the achievement gap.

(d-3) Requires TEA to review annual improvement in a program under this subchapter as measured by the goals designated under Subsection (d-2). Requires TEA to take appropriate corrective action for a campus, school district, or open-enrollment charter school program that fails to meet one or more annual improvement goals for two or more consecutive school years.

(e) Requires TEA to apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both, if a campus, school district, or open-enrollment charter school program under this subchapter fails to satisfy appropriate standards adopted by the commissioner of education (commissioner) for purposes of Subsection (d-3), rather than Subsection (a).

(f) Requires the commissioner to adopt rules consistent with this section as necessary to administer this section.

SECTION 2. Amends Section 42.006, Education Code, by adding Subsection (e), as follows:

(e) Requires the commissioner to adopt rules to ensure that, through the Public Education Information Management System, TEA collects and maintains data regarding:

(1) whether a student is or while enrolled in a public school in this state has ever been classified as a student of limited English proficiency;

(2) the school year in which a student described by Subdivision (1) first entered ninth grade;

(3) the date a student described by Subdivision (1) was classified as a student of limited English proficiency;

(4) if applicable, the date a student classified as a student of limited English proficiency exits a program under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29; and

(5) the status of a student described by Subdivision (1) as a continuing student, a high school graduate, a recipient of a high school equivalency certificate, or a dropout.

SECTION 3. Makes application of this Act prospective to the 2015-2016 school year.

SECTION 4. Effective date: upon passage or September 1, 2015.