

By: Rinaldi

H.B. No. 3848

A BILL TO BE ENTITLED

AN ACT

relating to removing the requirement for bilingual education and special language programs for certain students of limited English proficiency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter B, Chapter 29, Education Code, is amended to read as follows:

SUBCHAPTER B. ~~[BILINGUAL EDUCATION AND]~~ SPECIAL LANGUAGE PROGRAMS

SECTION 2. Section 29.051, Education Code, is amended to read as follows:

Sec. 29.051. STATE POLICY. English is the basic language of this state. Public schools are responsible for providing a full opportunity for all students to become competent in speaking, reading, writing, and comprehending the English language. ~~[Large numbers of students in the state come from environments in which the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of those students.]~~ The mastery of basic English language skills is a prerequisite for effective participation in the state's educational program. ~~[Bilingual education and special language programs can meet the needs of those students and facilitate their integration into the regular school curriculum. Therefore, in accordance with the policy of the state to ensure equal educational opportunity to~~

1 ~~every student, and in recognition of the educational needs of~~
2 ~~students of limited English proficiency, this subchapter provides~~
3 ~~for the establishment of bilingual education and special language~~
4 ~~programs in the public schools and provides supplemental financial~~
5 ~~assistance to help school districts meet the extra costs of the~~
6 ~~programs.]~~

7 SECTION 3. Subchapter B, Chapter 29, Education Code, is
8 amended by adding Section 29.0515 to read as follows:

9 Sec. 29.0515. SPECIAL LANGUAGE PROGRAMS. A school district
10 with an enrollment of 20 or more students of limited English
11 proficiency that speak the same primary language may offer
12 bilingual education, instruction in English as a second language,
13 English immersion, or other transitional language instruction.

14 SECTION 4. Section 29.052, Education Code, is amended to
15 read as follows:

16 Sec. 29.052. DEFINITION ~~[DEFINITIONS]~~. In this subchapter,
17 "student [+

18 ~~[(1) "Student]~~ of limited English proficiency" means a
19 student whose primary language is other than English and whose
20 English language skills are such that the student has difficulty
21 performing ordinary classwork in English.

22 ~~[(2) "Parent" includes a legal guardian of a student.]~~

23 SECTION 5. Sections 29.053, 29.054, 29.055, 29.056,
24 29.0561, 29.057, 29.058, 29.059, 29.060, 29.061, 29.062, 29.063,
25 29.064, and 29.066, Education Code, are repealed.

26 SECTION 6. Section 7.056(e), Education Code, is amended to
27 read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) essential knowledge or skills under Section 28.002 or high school graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, E, F, G, and J, Chapter 39;

(C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;

(D) health and safety under Chapter 38;

(E) purchasing under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at-risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;

(K) special education programs under Subchapter A, Chapter 29; or

~~(L) [bilingual education programs under Subchapter B, Chapter 29; or~~

~~(M)]~~ the requirements for the first day of instruction under Section 25.0811.

SECTION 7. Section 12.013(b), Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

(1) a provision of this title establishing a criminal offense;

(2) a provision of this title relating to limitations on liability; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

(C) criminal history records under Subchapter C, Chapter 22;

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that fails to satisfy any standard under Section 39.054(e);

(H) high school graduation under Section 28.025;

(I) special education programs under Subchapter A, Chapter 29;

~~(J) [bilingual education under Subchapter B, Chapter 29];~~

~~[(K)]~~ prekindergarten programs under Subchapter E, Chapter 29;

(K) ~~[(L)]~~ safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;

(L) ~~[(M)]~~ computation and distribution of state aid under Chapters 31, 42, and 43;

(M) ~~[(N)]~~ extracurricular activities under Section 33.081;

(N) ~~[(O)]~~ health and safety under Chapter 38;

(O) ~~[(P)]~~ public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

(P) ~~[(Q)]~~ equalized wealth under Chapter 41;

(Q) ~~[(R)]~~ a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

1 (R) [~~(S)~~] purchasing under Chapter 44.

2 SECTION 8. Section 12.056(b), Education Code, is amended to
3 read as follows:

4 (b) A campus or program for which a charter is granted under
5 this subchapter is subject to:

6 (1) a provision of this title establishing a criminal
7 offense; and

8 (2) a prohibition, restriction, or requirement, as
9 applicable, imposed by this title or a rule adopted under this
10 title, relating to:

11 (A) the Public Education Information Management
12 System (PEIMS) to the extent necessary to monitor compliance with
13 this subchapter as determined by the commissioner;

14 (B) criminal history records under Subchapter C,
15 Chapter 22;

16 (C) high school graduation under Section 28.025;

17 (D) special education programs under Subchapter
18 A, Chapter 29;

19 (E) ~~[bilingual education under Subchapter B,~~
20 ~~Chapter 29,~~

21 [~~(F)~~] prekindergarten programs under Subchapter
22 E, Chapter 29;

23 (F) [~~(G)~~] extracurricular activities under
24 Section 33.081;

25 (G) [~~(H)~~] health and safety under Chapter 38; and

26 (H) [~~(I)~~] public school accountability under
27 Subchapters B, C, D, E, F, G, and J, Chapter 39.

SECTION 9. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) ~~bilingual education under Subchapter B, Chapter 29,~~

~~[(H)]~~ prekindergarten programs under Subchapter E, Chapter 29;

(H) ~~[(I)]~~ extracurricular activities under Section 33.081;

1 (I) [~~(J)~~] discipline management practices or
2 behavior management techniques under Section 37.0021;

3 (J) [~~(K)~~] health and safety under Chapter 38;

4 (K) [~~(L)~~] public school accountability under
5 Subchapters B, C, D, E, F, G, and J, Chapter 39;

6 (L) [~~(M)~~] the requirement under Section 21.006
7 to report an educator's misconduct; and

8 (M) [~~(N)~~] intensive programs of instruction
9 under Section 28.0213.

10 SECTION 10. Section 39.023(1), Education Code, as effective
11 until on or before September 1, 2015, is amended to read as follows:

12 (1) The State Board of Education shall adopt rules for the
13 administration of the assessment instruments adopted under
14 Subsection (a) in Spanish to students in grades three through five
15 who are of limited English proficiency, as defined by Section
16 29.052, whose primary language is Spanish, and who are not
17 otherwise exempt from the administration of an assessment
18 instrument under Section 39.027(a)(1) or (2). Each student of
19 limited English proficiency whose primary language is Spanish,
20 other than a student to whom Subsection (b) applies, may be assessed
21 using assessment instruments in Spanish under this subsection for
22 up to three years or assessment instruments in English under
23 Subsection (a). [~~The language proficiency assessment committee~~
24 ~~established under Section 29.063 shall determine which students are~~
25 ~~administered assessment instruments in Spanish under this~~
26 ~~subsection.~~]

27 SECTION 11. Section 39.023(1), Education Code, as effective

on or before September 1, 2015, is amended to read as follows:

(1) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) and, to the extent applicable, the assessment instruments adopted under Subsection (a-4) in Spanish to students in grades three, four, and five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a) and, as applicable, Subsection (a-4). ~~[The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.]~~

SECTION 12. Section 39.023(1), Education Code, as effective September 1, 2017, is amended to read as follows:

(1) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of

1 limited English proficiency whose primary language is Spanish,
2 other than a student to whom Subsection (b) applies, may be assessed
3 using assessment instruments in Spanish under this subsection for
4 up to three years or assessment instruments in English under
5 Subsection (a). ~~[The language proficiency assessment committee
6 established under Section 29.063 shall determine which students are
7 administered assessment instruments in Spanish under this
8 subsection.]~~

9 SECTION 13. Section 39.232(b), Education Code, is amended
10 to read as follows:

11 (b) A school campus or district is not exempt under this
12 section from:

13 (1) a prohibition on conduct that constitutes a
14 criminal offense;

15 (2) requirements imposed by federal law or rule,
16 including requirements for special education or bilingual
17 education programs; or

18 (3) a requirement, restriction, or prohibition
19 relating to:

20 (A) curriculum essential knowledge and skills
21 under Section 28.002 or high school graduation requirements under
22 Section 28.025;

23 (B) public school accountability as provided by
24 Subchapters B, C, D, E, F, G, and J;

25 (C) extracurricular activities under Section
26 33.081;

27 (D) health and safety under Chapter 38;

- (E) purchasing under Subchapter B, Chapter 44;
- (F) elementary school class size limits, except as provided by Subsection (d) or Section 25.112;
- (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
- (H) at risk programs under Subchapter C, Chapter 29;
- (I) prekindergarten programs under Subchapter E, Chapter 29;
- (J) rights and benefits of school employees; or
- (K) special education programs under Subchapter A, Chapter 29[~~, or~~
- ~~[(L) bilingual education programs under Subchapter B, Chapter 29].~~

SECTION 14. Section 39.309(c), Education Code, is amended to read as follows:

(c) The Texas School Accountability Dashboard developed under Subsection (a) must include:

(1) performance information for each school district and campus in areas specified by Subsection (b) and must allow for comparison between districts and campuses in each of the areas;

(2) a comparison of the number of students enrolled in each school district, including:

(A) the percentage of students of limited English proficiency, as defined by Section 29.052;

(B) the percentage of students who are unschooled asylees or refugees, as defined by Section 39.027(a-1);

(C) the percentage of students who are educationally disadvantaged; and

(D) the percentage of students with disabilities;

(3) a comparison of performance information for each district and campus disaggregated by race, ethnicity, and populations served by special programs, including special education[, ~~bilingual education, and special language~~] programs; and

(4) a comparison of performance information by subject area.

SECTION 15. Section 382.05199(c), Health and Safety Code, is amended to read as follows:

(c) The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the plant. If the elementary or middle school nearest to the proposed plant provides a special language [~~bilingual education~~] program under [~~as required by~~] Subchapter B, Chapter 29, Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the special language [~~bilingual education~~] program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice.

SECTION 16. Section 382.056(a), Health and Safety Code, is

1 amended to read as follows:

2 (a) Except as provided by Section 382.0518(h), an applicant
3 for a permit or permit amendment under Section 382.0518 or a permit
4 renewal review under Section 382.055 shall publish notice of intent
5 to obtain the permit, permit amendment, or permit review not later
6 than the 30th day after the date the commission determines the
7 application to be administratively complete. The commission by
8 rule shall require an applicant for a federal operating permit
9 under Section 382.054 to publish notice of intent to obtain a
10 permit, permit amendment, or permit review consistent with federal
11 requirements and with the requirements of Subsection (b). The
12 applicant shall publish the notice at least once in a newspaper of
13 general circulation in the municipality in which the facility or
14 federal source is located or is proposed to be located or in the
15 municipality nearest to the location or proposed location of the
16 facility or federal source. If the elementary or middle school
17 nearest to the facility or proposed facility provides a special
18 language [~~bilingual education~~] program under [~~as required by~~]
19 Subchapter B, Chapter 29, Education Code, the applicant shall also
20 publish the notice at least once in an additional publication of
21 general circulation in the municipality or county in which the
22 facility is located or proposed to be located that is published in
23 the language taught in the special language [~~bilingual education~~]
24 program. This requirement is waived if such a publication does not
25 exist or if the publisher refuses to publish the notice. The
26 commission by rule shall prescribe the form and content of the
27 notice and when notice must be published. The commission may

1 require publication of additional notice. The commission by rule
2 shall prescribe alternative procedures for publication of the
3 notice in a newspaper if the applicant is a small business
4 stationary source as defined by Section 5.135, Water Code, and will
5 not have a significant effect on air quality. The alternative
6 procedures must be cost-effective while ensuring adequate
7 notice. Notice required to be published under this section shall
8 only be required to be published in the United States.

9 SECTION 17. This Act applies beginning with the 2015-2016
10 school year.

11 SECTION 18. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2015.