BILL ANALYSIS

Senate Research Center

S.B. 930
By: Shapiro
Education
6/25/2003
Enrolled

DIGEST AND PURPOSE

According to the Texas Classroom Teachers Association, teachers have been sued for special education techniques, student injuries in the classroom and on the playground, and for other reasons. The United States Department of Education states that fear of litigation is one of the top three concerns among teachers. S.B. 930 maintains the current broad immunities that Texas law provides for teachers; incorporates the No Child Left Behind Coverdell Provision; adds specific protections from disciplinary proceedings for school professionals who use reasonable force to maintain order and discipline; caps the liability of a school professional at $100,000 for acts within the scope of duty; requires the exhaustion of district level remedies before suit and 90 day notice of suit; allows courts to refer cases to alternative dispute resolution; and provides recovery of attorney's fees if the professional employee substantially prevails.

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 Subchapter B, Chapter 22, Education Code, by amending Section 22.051 and adding Sections 22.0511- 22.0517, as follows:

Sec. 22.051. DEFINITION; OTHER IMMUNITY. (a) Defines "professional employee of a school district."

(b) Provides that the statutory immunity provided by this subchapter is in addition to and does not preempt the common law doctrine of official and governmental immunity.

Sec. 22.0511. New heading: IMMUNITY FROM LIABILITY. (a) Makes no changes made to this section.

(b) Makes no changes to this section

(c) Establishes that in addition to the immunity provided under this section and under other provision of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended. Requires nothing in this subsection to be construed to limit or abridge any immunity or protection afforded an individual under state law. Provides, for the purposes of this subsection, "individual" includes a person who provides services to private schools, to the extent provided by federal law. Deletes the definition of "professional employee."

Sec. 22.0512. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR PROFESSIONAL EMPLOYEES. (a) Prohibits a professional employee of a school district from being subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62 (Educator-Student) Penal Code.

(b) Defines "disciplinary proceeding."

(c) Specifies that this section does not prohibit a school district from taking certain actions.

Sec. 22.0513. NOTICE OF CLAIM. (a) Requires a person, by the 90th day before the date a person files a suit against a professional employee of a school district, to give a written notice to the employee of the claim, reasonably describing the incident from which the claim arose.

(b) Authorizes a professional employee of a school district against whom a suit is pending who does not receive a written notice, to file a plea in abatement by the 30th day after the date the person files an original answer in the court in which the suit is pending.

(c) Requires the court to abate suit, if after the hearing, it finds that the person is entitled to abatement because notice was not provided as required by this section.

(d) Provides that an abatement under Subsection (c) continues until the 90th day after the date that a written notice is given to the professional employee of a school district as provided by Subsection (a).

Sec. 22.0514. EXHAUSTION OF REMEDIES. Prohibits a person from filing suit against a professional employee of a school district unless the person has exhausted the remedies provided by the school district for resolving the complaint.

Sec. 22.0515. LIMITATION ON DAMAGES. Prohibits the liability of a professional employee of a school district or of an individual that is entitled to any immunity and other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seg), as amended, for an act incident to or within the scope of duties of the employee's position from exceeding $100,000. Provides that the limitation on liability provided by this subsection does not apply to any attorney's fees or court costs that may be awarded against the professional employee under Section 22.0517.

Sec. 22.0516. ALTERNATIVE DISPUTE RESOLUTION. Authorizes a court in which a judicial proceeding is being brought against a professional employee of a school district to refer the case to an alternative dispute resolution procedure as described by Chapter 154 (Alternative Dispute Resolution Procedures), Civil Practice and Remedies Code.

Sec. 22.0517. RECOVERY OF ATTORNEY'S FEES IN ACTION AGAINST PROFESSIONAL EMPLOYEE. Provides that in an action against a professional employee of a school district involving an act that is incidental to or within the scope of duties of the employee's position of employment and brought against the employee in the employee's individual capacity, the employee is entitled to recover attorney's fees and court costs from the plaintiff if the employee is found immune from liability under this subchapter.

SECTION 2. Amends Section 22.052(a), Education Code, to establish that on the adoption of policies concerning the administration of medication to students by school district employees, the school district, its board of trustees, and its employees are immune from civil liability from damages or injuries resulting from the administration of medication to a student under certain circumstances.

SECTION 3. Amends Section 22.053(a), Education Code, to make a conforming change.

SECTION 4. Amends Section 30.024(c), Education Code, to make a conforming change.

SECTION 5. Amends Section 30.055(c), Education Code, to make a conforming change.

SECTION 6. Amends Section 105.301(e), Education Code, to make a conforming change.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Provides that if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 9. Effective date: September 1, 2003.