

BILL ANALYSIS

C.S.H.B. 974
By: Eissler
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

At times, school or classroom policy requires teachers to confiscate items from students. Sometimes these items may be lost, damaged, or stolen. Although confiscating these items is within the scope of a teacher's duty and the law generally protects teachers from liability for acts within the scope of their duties, some districts have attempted to make teachers pay for the items. Additionally, some districts attempt to hold teachers liable for lost, stolen, or damaged textbooks and technological equipment by requiring them to waive their immunity from liability in their employment contracts.

CSHB 974 would expressly prohibit school districts from requiring district employees to waive immunity from liability for acts for which they are immune from liability under Section 22.0511, Education Code, or require an employee who acts in good faith to pay for or replace property that is or was in the employee's possession because of an act incident to or within the scope of employment, or require an employee who acts in good faith to pay for certain equipment that is damaged, stolen, misplaced, or not returned, except under certain limited circumstances as described below in the analysis section.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill provides that a school district may not by policy, contract, or administrative directive require a district employee to waive immunity from liability for an act for which the employee is immune from liability under Section 22.0511, Education Code, or require an employee who acts in good faith to pay for or replace property belonging to a student or other person that is or was in the possession of the employee because of an act that is incident to or within the scope of the duties of the employee's position of employment.

The bill also provides that the board of trustees of a school district may not require an employee of the district who acts in good faith to pay for a textbook, electronic textbook, or technological equipment that is damaged, stolen, misplaced, or not returned, and that an employee may not waive this provision by contract or any other means, with the following exception: a school district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic textbook or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use such equipment for personal business. The bill sets forth certain terms and conditions relating to the written agreement, and provides that an employee may not be required to enter into such an agreement as a condition of employment.

The bill further provides that an assumption or waiver of liability by an employee regarding the subject matter of this bill that was made or entered into before the effective date of this Act has no effect.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

C.S.H.B. 974 80(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill provided that the board of trustees of a school district may not require an employee of the district to pay for a textbook, electronic textbook, or technological equipment that is damaged, stolen, misplaced, or not returned, and that an employee may not waive this provision by contract or any other means. The substitute makes the above provision applicable only to an employee "who acts in good faith," and further creates an exception, as more fully described in the analysis section above, relating to a written agreement that may be entered into regarding electronic textbook or technological equipment usage.