

## **BILL ANALYSIS**

Senate Research Center  
81R31966 YDB-D

C.S.H.B. 4127  
By: Hartnett (Carona)  
Health & Human Services  
5/13/2009  
Committee Report (Substituted)

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

The statute governing compliance with safety standards for publicly funded playgrounds, enacted in 1995, references a standard published in the Handbook for Public Playground Safety published in 1994 by the United States Consumer Product Safety Commission (Publication No. 325).

Today, the standard that is recognized and followed by the industry is set by the American Society of Testing and Materials (ASTM). All reputable manufacturers design and manufacture to this standard, which is also recognized worldwide by foreign manufacturers. Therefore, the standard derived from the Handbook for Public Playground Safety is outdated and should be revised to require adherence to the current safety standard.

C.S.H.B. 4127 amends current law relating to the expenditure of public funds for certain playground facilities.

### **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 Sections 756.061(a) and (b), Health and Safety Code, as follows:

(a) Prohibits public funds, notwithstanding any other rule or statute, and except as provided by Subsection (b), on or after September 1, 2009, from being used:

(1) to purchase playground equipment that does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use" published by American Society of Testing and Materials (ASTM) International, or has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed;

(2) to purchase surfacing for the area under and around playground equipment if the surfacing will not comply, on completion of installation of the surfacing, with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing," published by ASTM International; or

(3) to pay for installation of playground equipment or surfacing if the installation will not comply, on completion of the installation, with each applicable provision of the specifications described by Subdivision (1) or (2), as applicable.

Deletes existing text prohibiting public funds, except as provided by Subsection (b), on or after September 1, 1997, from being used to purchase playground equipment that does not substantially comply with each applicable provision of the Handbook for Public Playground Safety published in 1994 by the United States Consumer Product Safety Commission (Publication No. 325); to purchase surfacing for the area under and around

playground equipment if the surfacing will not substantially comply, on completion of installation of the surfacing, with each applicable provision of the handbook described by Subdivision (1) (relating to the Handbook for Public Playground Safety); or to pay for installation of playground equipment or surfacing if the installation will not substantially comply, on completion of the installation, with each applicable provision of the handbook described by Subdivision (1).

(b) Authorizes public funds to be used for maintenance of playground equipment or surfacing for the area under and around playground equipment that was purchased before September 1, 2009, rather than September 1, 1997, even if the equipment or surfacing does not comply, rather than substantially comply, on completion of the maintenance, with each applicable provision of the specifications, rather than handbook, described by Subsections (a)(1) and (a)(2), rather than Subsection (a)(1).

SECTION 2. Effective date: September 1, 2009.