

BILL ANALYSIS

Senate Research Center
86R27819 KJE-F

C.S.S.B. 784
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Education
4/30/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 28.004 of the Education Code pertains to local school health advisory councils and health education. A school district's board of trustees is directed to establish a health advisory council to assist the district on various matters related to health education, including human sexuality instruction. The health advisory council must meet at least four times a year and must have a membership whose majority is comprised of parents with children enrolled in the district. The council is responsible for recommending "appropriate grade levels and methods" for human sexuality instruction (28.004(c)), and the school district must select its human sexuality curriculum with the advice of the council.

Before each school year, a school district that provides human sexuality instruction must provide a written notice to parents that includes "a summary of the basic content" of the instruction, "a statement of the parent's right" to review curricular material and remove a student from any part of the curriculum, and "information describing the opportunities for parental involvement in the development of the curriculum" (28.004(i)). Finally, the school district is required to make all curricular materials "available for reasonable public inspection" (28.004(j)).

S.B. 784 includes provisions to ensure that school districts comply with the provisions of Section 28.004 and that parents are fully informed about the content of human sexuality instruction. The commissioner of education (commissioner) must determine that a school district has fulfilled the notice and content requirements specified in statute before the district may offer the curriculum. The commissioner is given rulemaking authority to implement this review process in a flexible way, giving school districts requisite time to submit relevant information and to address any areas of noncompliance (this provision would not take effect until the 2020–2021 school year). Second, rather than a vague summary, school districts are required to provide the full human sexuality curriculum to parents and a detailed description of content on each class day. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 784 amends current law relating to local school health advisory councils and health education provided by school districts, including requirements regarding human sexuality instruction.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 28.004, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 28.004, Education Code, by amending Subsections (d), (d-1), (h), (i), (i-1), and (j) and adding Subsections (e-1) and (e-2), as follows:

(d) Requires the local school health advisory council (advisory council) to consist of at least five members, with each member appointed by the board of trustees (board), rather than requiring the board to appoint at least five members to the advisory council.

(d-1) Requires the advisory council to meet at least four times each year and promptly submit the minutes of each meeting to the school district. Requires the district, as soon as

practicable after receipt of minutes under this subsection, to post the minutes on the district's Internet website, if the district has an Internet website.

(e-1) Requires the board to adopt a policy establishing a process for the adoption of curriculum or curriculum materials for the district's human sexuality instruction. Requires the policy to require:

(1) the board to adopt a resolution convening the local school health advisory council for the purpose of making recommendations regarding the curriculum or curriculum materials;

(2) the advisory council to:

(A) after the board's adoption of the resolution under Subdivision (1), hold at least two public meetings, at which an opportunity for public comment is provided, on the curriculum or curriculum materials before adopting recommendations; and

(B) provide the recommendations adopted under Paragraph (A) to the board at a public meeting of the board, at which an opportunity for public comment is provided; and

(3) the board, after receipt of the advisory council's recommendations under Subdivision (2), to take action on the adoption of the recommendations by a record vote at a public meeting.

(e-2) Requires the commissioner to adopt rules requiring school districts to use a process for adopting curriculum materials for the district's human sexuality instruction, subject to the requirements under Subsection (e-1), that is substantially similar to the process used by the State Board of Education in adopting its list of instructional materials under Section 31.023.

(h) Requires the board to determine the specific content of the district's instruction in human sexuality, in accordance with this section, rather than in accordance with Subsections (e) (relating to requiring human sexuality courses to emphasize certain abstinence education topics), (f) (relating to prohibiting a school district from distributing condoms in connection to human sexuality instruction), and (g) (relating to authorizing a school district to separate students according to sex for human sexuality instruction).

(i) Requires a written notice provided by the school district to a parent of each student enrolled in the district of the board of trustees' decision regarding whether the district will provide human sexuality instruction to district students to include:

(1) makes no changes to this subdivision;

(2) each date on which the district's human sexuality instruction will be provided to the student along with a detailed description of the content of the instruction to be provided on that date;

(3) a statement of the parents right to:

(A) receive a copy of curriculum materials, rather than review curriculum materials, as provided by Subsection (j);

(B) makes no changes to this paragraph; and

(C) use the grievance procedure as provided by Subsection (i-1) or the appeals process under Section 7.057 (Appeals) concerning a complaint of a violation of this section;

(4) a statement that the curriculum materials for the district's human sexuality instruction must be posted on the district's Internet website and the Internet website address at which the curriculum materials are located; and

(5) creates this subdivision from existing Subdivision (3) and makes no further changes. Creates Subdivision (3) from existing text.

(i-1) Authorizes a parent to use the grievance procedure adopted under Section 26.011 (Complaints) concerning a complaint of a violation of this section (Local School Health Advisory Council and Health Education Instruction), rather than a violation of Subsection (i).

(j) Requires a school district to:

(1) on request by a parent of a student enrolled in the district, provide by mail or e-mail to the parent a copy of all curriculum materials used in the district's human sexuality instruction; and

(2) post on the district's Internet website all curriculum materials used in the district's human sexuality instruction.

Creates Subdivisions (1) and (2) from existing text of Subsection (j). Deletes existing text requiring the school district to make all curriculum materials used in the district's human sexuality instruction available for reasonable public inspection.

SECTION 2. Amends Section 551.001(3), Government Code, to add a local school health advisory council established under Section 28.004, Education Code, to a list of entities included in the definition of "governmental body."

SECTION 3. Amends Section 552.003(1), Government Code, to make a conforming change.

SECTION 4. Provides that Sections 28.004(d), (d-1), (i), (i-1), and (j), Education Code, as amended by this Act, apply beginning with the 2019–2020 school year.

SECTION 5. Provides that Sections 28.004(e-1) and (e-2), Education Code, as added by this Act, and Section 28.004(h), Education Code, as amended by this Act, apply beginning with the 2020–2021 school year.

SECTION 6. (a) Makes application of Section 551.001, Government Code, prospective to September 1, 2019.

(b) Makes application of Section 552.003, Government Code, prospective to September 1, 2019.

SECTION 7. Effective date: upon passage or September 1, 2019.