

BILL ANALYSIS

Senate Research Center
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S.B. 51
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 51 amends the Health and Safety Code to prohibit a governmental entity from requiring a person to show proof of vaccination status or post transmission recovery in order to gain entry, access to, or receive services from that governmental entity. This does not prohibit a governmental entity from implementing COVID-19 screening.

S.B. 51 adds Section 161.0086 to the Health and Safety Code to prohibit a political subdivision from requiring a person to be vaccinated against COVID-19.

The bill also amends the Education Code to prohibit an elementary or secondary school from requiring a COVID-19 vaccine. Public and private universities are also prohibited from requiring a COVID-19 vaccine.

S.B. 51 amends the Labor Code and requires that an employer, labor organization, or employment agency allow a person to claim an exemption from a required COVID-19 vaccination based on a medical condition or reasons of conscience, including a religious belief.

If the employer does not hire, fires, or otherwise discriminates against an employee based upon these exemptions, that employer has committed an unlawful employment practice. If a labor organization excludes or expels an individual from membership based on these exemptions, the organization has committed an unlawful employment practice. An employment agency also commits an unlawful employment practice if they refer, fail to refer, or discriminate against an individual who claims an exemption.

A person claiming an exemption must complete and provide a signed and notarized affidavit on a form prescribed by S.B. 51 stating the reason for the exemption. The employer must provide these affidavit forms to an employee if asked. After receipt of the affidavit, the employer must exempt the person from a required COVID-19 vaccination.

The Texas Workforce Commission is required to develop and provide the exemption form on their website.

S.B. 51 also requires that health care facilities include an exemption from required vaccines based on reasons of conscience, including a religious belief, to their vaccine policy for their employees.

As proposed, S.B. 51 amends current law relating to prohibited COVID-19 vaccine mandates and vaccination status discrimination and to exemptions from certain vaccine requirements.

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 Section 161.0085, Health and Safety Code, by adding Subsection (b-1) and amending Subsection (e), as follows:

(b-1) Prohibits a governmental entity in this state from requiring an individual to provide any documentation certifying the individual's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the governmental entity.

(e) Prohibits Section 161.0085 (COVID-19 Vaccine Passports Prohibited) from being construed to:

(1) restrict a business or governmental entity, rather than restrict a business, from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect public health; or

(2) makes no changes to this subdivision.

SECTION 2. Amends Subchapter A, Chapter 161, Health and Safety Code, by adding Section 161.0086, as follows:

Sec. 161.0086. PROHIBITION ON POLITICAL SUBDIVISIONS MANDATING COVID-19 VACCINATIONS. (a) Defines "COVID-19."

(b) Prohibits a political subdivision of this state, notwithstanding any other law, including Chapter 81 (Communicable Diseases; Public Health Disasters; Public Health Emergencies) of this code and Chapter 418 (Emergency Management), Government Code, from issuing an order, adopting an ordinance, or otherwise requiring an individual to be vaccinated against COVID-19.

SECTION 3. Reenacts Section 38.001(b), Education Code, as amended by Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th Legislature, Regular Session, 2007, and amends it, as follows:

(b) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner), subject to certain subsections, including Subsection (b-2), to modify or delete any of the immunizations in Subsection (a) (relating to requiring each student to be fully immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, with certain exceptions) or to require immunizations against additional diseases as a requirement for admission to any elementary or secondary school.

SECTION 4. Amends Section 38.001, Education Code, by adding Subsection (b-2), to prohibit an elementary or secondary school from requiring a student, as a condition of the student's admission to or continued enrollment in the school, to be vaccinated against the 2019 novel coronavirus disease (COVID-19).

SECTION 5. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.91921, as follows:

Sec. 51.91921. PROHIBITION ON PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION MANDATING COVID-19 VACCINATION FOR STUDENTS. (a) Defines "COVID-19" and "private or independent institution of higher education."

(b) Prohibits a private or independent institution of higher education from requiring a student, as a condition of the student's admission to or continued enrollment in the institution, to be vaccinated against COVID-19.

SECTION 6. Amends Section 51.933, Education Code, by amending Subsection (b) and adding Subsection (b-2), as follows:

(b) Creates an exception as provided by Subsection (b-2) to the provision that the executive commissioner is authorized to require immunizations against the diseases listed in Subsection (a) (relating to authorizing an institution of higher education to require applicants for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, with certain exceptions) and additional diseases for students at any institution of higher education who are pursuing a course of study in a human or animal health profession, and to the provision that the executive commissioner is authorized to require those immunizations for any students in times of an emergency or epidemic in a county where the commissioner of state health services has declared such an emergency or epidemic. Makes a nonsubstantive change.

(b-2) Prohibits an institution of higher education from requiring a student, as a condition of the student's admission to or continued enrollment in the institution, to be vaccinated against the 2019 novel coronavirus disease (COVID-19).

SECTION 7. Amends Chapter 21, Labor Code, by adding Subchapter H-1, as follows:

SUBCHAPTER H-1. DISCRIMINATION BASED ON EXEMPTION FROM REQUIRED COVID-19 VACCINATION

Sec. 21.421. DEFINITION. Defines "COVID-19."

Sec. 21.422. EXEMPTION FROM REQUIRED COVID-19 VACCINATION. Requires an employer, labor organization, or employment agency to allow an individual to claim an exemption from a required COVID-19 vaccination based on a medical condition or reasons of conscience, including a religious belief.

Sec. 21.423. PROHIBITED DISCRIMINATION BASED ON EXEMPTION FROM REQUIRED COVID-19 VACCINATION (a) Provides that an employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to the compensation or the terms, conditions, or privileges of employment because the individual claims an exemption described by Section 21.422.

(b) Provides that a labor organization commits an unlawful employment practice if the labor organization excludes or expels from membership or otherwise discriminates against an individual because the individual claims an exemption described by Section 21.422.

(c) Provides that an employment agency commits an unlawful employment practice if the employment agency classifies or refers for employment, fails or refuses to refer for employment, or otherwise discriminates against an individual because the individual claims an exemption described by Section 21.422.

Sec. 21.424. COVID-19 VACCINATION EXEMPTION AFFIDAVIT FORM. (a) Requires an employee claiming an exemption from a required COVID-19 vaccination to complete and provide to the employee's employer an affidavit on a form described by Subsection (e) stating the reason for the exemption.

(b) Requires that the affidavit be signed by the employee claiming the exemption or, if the employee is a minor, the employee's parent, managing conservator, or guardian, and requires that the affidavit be notarized.

(c) Requires an employer, on request of an employee, to provide to the employee a blank copy of the vaccination exemption affidavit form described by Subsection (e).

(d) Requires the employer, on receipt of an employee's signed and notarized affidavit claiming the exemption, to exempt the employee from receiving a required COVID-19 vaccination.

(e) Requires the Texas Workforce Commission (TWC) to develop and make available on TWC's Internet website a blank affidavit form to be used by an employee who claims an exemption from a required COVID-19 vaccination. Requires that the content of the affidavit form be the same or substantially similar to the affidavit form developed under Section 161.0041 (Immunization Exemption Affidavit Form), Health and Safety Code, except that the form is not required to contain a seal or other security device under Subsection (d) (relating to requiring the Department of State Health Services to develop a blank affidavit form that contains a seal or other security device to prevent reproduction of the form) of that section.

SECTION 8. Amends Section 224.002(c), Health and Safety Code, to require, rather than authorize, that the vaccine preventable diseases policy include procedures for a covered individual to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

SECTION 9. Makes application of Subchapter H-1, Chapter 21, Labor Code, as added by this Act, prospective.

SECTION 10. (a) Provides that the changes in law made by this Act to Title 2 (Public Education), Education Code, apply beginning with the 2021-2022 school year.

(b) Provides that the changes in law made by this Act to Title 3 (Higher Education), Education Code, apply beginning with the 2021-2022 academic year.

SECTION 11. Effective date: upon passage or the 91st day after the last day of the legislative session.