

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law (Section 28.004, Education Code), 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. In addition, a school district that offers 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" (Section 28.004(i)). Finally, the school district is required to make all curricular materials "available for reasonable public inspection" (Section 28.004(j)).

Concerns have been raised that school districts do not always comply with the parental involvement and curriculum transparency provisions of Section 28.004. S.B. 442 will strengthen these provisions to ensure that parents are aware of what their children are being taught with regard to human sexuality and that parents have the opportunity to participate in the formulation of this curriculum. Under the legislation, school boards will appoint members of the school health advisory council, public schools will post minutes of council meetings on the school website, school boards will implement a policy regarding the adoption of human sexuality curriculum, parents will be given better access to the curriculum, and school health advisory council meetings will be subject to the open meetings and public information laws.

As proposed, S.B. 442 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 that the local school health advisory council consist of at least five members, with each member appointed by the board of trustees (board). Deletes existing text requiring that the board of trustees appoint at least five members to the local school health advisory council.

(d-1) Requires the local school health advisory council to meet at least four times each year and promptly submit the minutes of each meeting to the school district. Requires the school 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 that the policy 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 local school health 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 local school health 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 of education 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 (Instructional Material List).

(h) Requires the board of trustees to determine the specific content of the district's instruction in human sexuality, in accordance with Section 28.004 (Local School Health Advisory Council and Health Education Instruction), rather than in accordance with Subsections (e) (relating to certain course materials and instruction selected by the board of trustees), (f) (relating to the composition of the local school health advisory council), and (g) (relating to authorizing a school district to separate students according to sex for sexuality instruction purposes).

(i) Requires that the written notice provided 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, if the instruction will be provided, 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 parent's right to certain action, including the right to receive a copy of, rather than to review, curriculum materials as provided by Subsection (j), and to 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, if the district has an Internet website, and the Internet website address at which the curriculum materials are located; and

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

Makes nonsubstantive changes.

(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, rather than of Subsection (i).

(j) Requires a school district to, 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 post on the district's Internet website, if the district has an Internet website, all curriculum materials used in the district's human sexuality instruction. Makes nonsubstantive changes.

SECTION 2. Amends Section 551.001(3), Government Code, to redefine "governmental body," for purposes of Chapter 551 (Open Meetings), to include a local school health advisory council established under Section 28.004, Education Code. Makes nonsubstantive changes.

SECTION 3. Amends Section 552.003(1), Government Code, to redefine "governmental body," for purposes of Chapter 552 (Public Information), to include a local school health advisory council established under Section 28.004, Education Code. Makes nonsubstantive changes.

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 2021-2022 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 2022-2023 school year.

SECTION 6. (a) Makes application of Section 551.001, Government Code, as amended by this Act, prospective to September 1, 2021.

(b) Makes application of Section 552.003, Government Code, as amended by this Act, prospective to September 1, 2021.

SECTION 7. Effective date: upon passage or September 1, 2021.