87R6375 KJE-F

By:  Dutton H.B. No. 3872

A BILL TO BE ENTITLED

AN ACT

relating to local school health advisory councils and health education provided by school districts, including requirements regarding human sexuality instruction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(d)  The local school health advisory council must consist of at least five members, with each member appointed by the [~~The~~] board of trustees [~~shall appoint at least five members to the local school health advisory council~~]. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

(1)  classroom teachers employed by the district;

(2)  school counselors certified under Subchapter B, Chapter 21, employed by the district;

(3)  school administrators employed by the district;

(4)  district students;

(5)  health care professionals licensed or certified to practice in this state, including medical or mental health professionals;

(6)  the business community;

(7)  law enforcement;

(8)  senior citizens;

(9)  the clergy;

(10)  nonprofit health organizations; and

(11)  local domestic violence programs.

(d-1)  The local school health advisory council shall meet at least four times each year and promptly submit the minutes of each meeting to the school district. As soon as practicable after receipt of minutes under this subsection, the district shall post the minutes on the district's Internet website, if the district has an Internet website.

(e-1)  The board of trustees shall adopt a policy establishing a process for the adoption of curriculum or curriculum materials for the district's human sexuality instruction. The policy must 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)  The commissioner shall 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)  The board of trustees shall determine the specific content of the district's instruction in human sexuality, in accordance with this section [~~Subsections (e), (f), and (g)~~].

(i)  Before each school year, a school district shall provide written notice 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 instruction will be provided, the notice must include:

(1)  a summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;

(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:

(A)  receive a copy of [~~review~~] curriculum materials as provided by Subsection (j); [~~and~~]

(B)  remove the student from any part of the district's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

(C)  use the grievance procedure as provided by Subsection (i-1) or the appeals process under Section 7.057 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) [~~(3)~~]  information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council established under Subsection (a).

(i-1)  A parent may use the grievance procedure adopted under Section 26.011 concerning a complaint of a violation of this section [~~Subsection (i)~~].

(j)  A school district shall:

(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 [~~make~~] all curriculum materials used in the district's human sexuality instruction; and

(2)  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 [~~available for reasonable public inspection~~].

SECTION 2.  Section 551.001(3), Government Code, is amended to read as follows:

(3)  "Governmental body" means:

(A)  a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members;

(B)  a county commissioners court in the state;

(C)  a municipal governing body in the state;

(D)  a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(E)  a school district board of trustees;

(F)  a county board of school trustees;

(G)  a county board of education;

(H)  the governing board of a special district created by law;

(I)  a local workforce development board created under Section 2308.253;

(J)  a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(K)  a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code; [~~and~~]

(L)  a joint board created under Section 22.074, Transportation Code; and

(M)  a local school health advisory council established under Section 28.004, Education Code.

SECTION 3.  Section 552.003(1), Government Code, is amended to read as follows:

(1)  "Governmental body":

(A)  means:

(i)  a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members;

(ii)  a county commissioners court in the state;

(iii)  a municipal governing body in the state;

(iv)  a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a county or municipality;

(v)  a school district board of trustees;

(vi)  a county board of school trustees;

(vii)  a county board of education;

(viii)  the governing board of a special district;

(ix)  the governing body of a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code;

(x)  a local workforce development board created under Section 2308.253;

(xi)  a nonprofit corporation that is eligible to receive funds under the federal community services block grant program and that is authorized by this state to serve a geographic area of the state;

(xii)  a confinement facility operated under a contract with any division of the Texas Department of Criminal Justice;

(xiii)  a civil commitment housing facility owned, leased, or operated by a vendor under contract with the state as provided by Chapter 841, Health and Safety Code;

(xiv)  an entity that receives public funds in the current or preceding state fiscal year to manage the daily operations or restoration of the Alamo, or an entity that oversees such an entity; [~~and~~]

(xv)  the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds; and

(xvi)  a local school health advisory council established under Section 28.004, Education Code; and

(B)  does not include:

(i)  the judiciary; or

(ii)  an economic development entity whose mission or purpose is to develop and promote the economic growth of a state agency or political subdivision with which the entity contracts if:

(a)  the entity does not receive $1 million or more in public funds from a single state agency or political subdivision in the current or preceding state fiscal year; or

(b)  the entity:

(1)  either:

(A)  does not have the authority to make decisions or recommendations on behalf of a state agency or political subdivision regarding tax abatements or tax incentives; or

(B)  does not require an officer of the state agency or political subdivision to hold office as a member of the board of directors of the entity;

(2)  does not use staff or office space of the state agency or political subdivision for no or nominal consideration, unless the space is available to the public;

(3)  to a reasonable degree, tracks the entity's receipt and expenditure of public funds separately from the entity's receipt and expenditure of private funds; and

(4)  provides at least quarterly public reports to the state agency or political subdivision regarding work performed on behalf of the state agency or political subdivision.

SECTION 4.  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.  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)  Section 551.001, Government Code, as amended by this Act, applies only to a meeting held on or after September 1, 2021. A meeting held before September 1, 2021, is governed by the law in effect immediately before September 1, 2021, and the former law is continued in effect for that purpose.

(b)  Section 552.003, Government Code, as amended by this Act, applies only to a request for public information received on or after September 1, 2021. A request for public information received before September 1, 2021, is governed by the law in effect when the request was received, and the former law is continued in effect for that purpose.

SECTION 7.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.