

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

1 practice in this state, including medical or mental health
2 professionals;

3 (6) the business community;

4 (7) law enforcement;

5 (8) senior citizens;

6 (9) the clergy;

7 (10) nonprofit health organizations; and

8 (11) local domestic violence programs.

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

15 (e-1) The board of trustees shall adopt a policy
16 establishing a process for the adoption of curriculum or curriculum
17 materials for the district's human sexuality instruction. The
18 policy must require:

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

22 (2) the local school health advisory council to:

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

27 (B) provide the recommendations adopted under

1 Paragraph (A) to the board at a public meeting of the board, at
2 which an opportunity for public comment is provided; and

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

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

13 (h) The board of trustees shall determine the specific
14 content of the district's instruction in human sexuality, in
15 accordance with this section [~~Subsections (e), (f), and (g)~~].

16 (i) Before each school year, a school district shall provide
17 written notice to a parent of each student enrolled in the district
18 of the board of trustees' decision regarding whether the district
19 will provide human sexuality instruction to district students. If
20 instruction will be provided, the notice must include:

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

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

1 date;

2 (3) a statement of the parent's right to:

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

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

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

12 (4) a statement that the curriculum materials for the
13 district's human sexuality instruction must be posted on the
14 district's Internet website, if the district has an Internet
15 website, and the Internet website address at which the curriculum
16 materials are located; and

17 (5) ~~(3)~~ information describing the opportunities
18 for parental involvement in the development of the curriculum to be
19 used in human sexuality instruction, including information
20 regarding the local school health advisory council established
21 under Subsection (a).

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

25 (j) A school district shall:

26 (1) on request by a parent of a student enrolled in the
27 district, provide by mail or e-mail to the parent a copy of ~~[make]~~

1 all curriculum materials used in the district's human sexuality
2 instruction; and

3 (2) post on the district's Internet website, if the
4 district has an Internet website, all curriculum materials used in
5 the district's human sexuality instruction [~~available for~~
6 ~~reasonable public inspection~~].

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

9 (3) "Governmental body" means:

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

14 (B) a county commissioners court in the state;

15 (C) a municipal governing body in the state;

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

19 (E) a school district board of trustees;

20 (F) a county board of school trustees;

21 (G) a county board of education;

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

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

26 (J) a nonprofit corporation that is eligible to
27 receive funds under the federal community services block grant

1 program and that is authorized by this state to serve a geographic
2 area of the state;

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

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

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

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

13 (1) "Governmental body":

14 (A) means:

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

19 (ii) a county commissioners court in the
20 state;

21 (iii) a municipal governing body in the
22 state;

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

27 (v) a school district board of trustees;

1 (vi) a county board of school trustees;
2 (vii) a county board of education;
3 (viii) the governing board of a special
4 district;

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

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

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

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

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

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

25 (xv) the part, section, or portion of an
26 organization, corporation, commission, committee, institution, or
27 agency that spends or that is supported in whole or in part by

1 public funds; and

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

4 (B) does not include:

5 (i) the judiciary; or

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

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

14 (b) the entity:

15 (1) either:

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

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

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

26 (3) to a reasonable degree,
27 tracks the entity's receipt and expenditure of public funds

1 separately from the entity's receipt and expenditure of private
2 funds; and

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

7 SECTION 4. Sections 28.004(d), (d-1), (i), (i-1), and (j),
8 Education Code, as amended by this Act, apply beginning with the
9 2021-2022 school year.

10 SECTION 5. Sections 28.004(e-1) and (e-2), Education Code,
11 as added by this Act, and Section 28.004(h), Education Code, as
12 amended by this Act, apply beginning with the 2022-2023 school
13 year.

14 SECTION 6. (a) Section 551.001, Government Code, as
15 amended by this Act, applies only to a meeting held on or after
16 September 1, 2021. A meeting held before September 1, 2021, is
17 governed by the law in effect immediately before September 1, 2021,
18 and the former law is continued in effect for that purpose.

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

25 SECTION 7. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2021.