**BILL ANALYSIS**

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| Senate Research Center | C.S.S.B. 1396 |
| 88R20764 TSS-F | By: Middleton |
|  | Education |
|  | 4/11/2023 |
|  | Committee Report (Substituted) |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns have been raised regarding prayer not being allowed in public schools in some instances.

Overview:

S.B. 1396 would address these concerns by allowing the board of trustees of a school district or the governing body of an open-enrollment charter school not operated by or affiliated with a religious organization to, by record vote, adopt a policy requiring every campus or school to provide a period of prayer and readings from the Bible. No one would be allowed to be present during a prayer or Bible reading unless he or she has submitted a signed form acknowledging his or her free choice to hear or participate in the activity, stating he or she has no objections to hearing or participating in the activity, and waiving any constitutional claims he or she may assert against the school district or school officials.

The committee substitute clarifies that the bill is not limited to one specific religious text. Additionally, the committee substitute simplifies the enforcement language.

C.S.S.B. 1396 amends current law relating to a period of prayer and reading of the Bible or other religious text in public schools.

**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 Subchapter C, Chapter 25, Education Code, by adding Section 25.0823, as follows:

Sec. 25.0823. PERIOD OF PRAYER AND READING OF BIBLE OR OTHER RELIGIOUS TEXT. (a) Authorizes the board of trustees of a school district or the governing body of an open-enrollment charter school that is not operated by or affiliated with a religious organization to adopt by record vote a policy requiring every campus of the district or school to provide students and employees with an opportunity to participate in a period of prayer and reading of the Bible or other religious text on each school day in accordance with this section.

(b) Requires that a policy adopted under Subsection (a) prohibit:

(1) a student or employee of the school district or open-enrollment charter school from being permitted to participate in the period of prayer and reading of the Bible or other religious text unless the employee or parent or guardian of the student submits to the district a signed consent form that includes:

(A) an acknowledgment that the student or employee has a choice as to whether to participate in the period of prayer and reading of the Bible or other religious text;

(B) a statement that the person has no objection to the student's or employee's participation in or hearing of the prayers or readings offered during the period; and

(C) an express waiver of the person's right to bring a claim under state or federal law arising out of the adoption of a policy under this section, including a claim under the Establishment Clause of the First Amendment to the United States Constitution or a related state or federal law, releasing the district or school and district or school employees from liability for those claims brought in state or federal court; and

(2) the provision of a prayer or reading of the Bible or other religious text over a public address system.

(c) Authorizes an employee or parent or guardian of a student to revoke the person's consent provided under Subsection (b)(1) by informing the appropriate school administrator, as determined by the school district or open-enrollment charter school. Provides that an employee or student for whom consent has been revoked under this subsection:

(1) is prohibited from participating in the period of prayer and reading of the Bible or other religious text until the employee or parent or guardian of the student submits to the district or school a new consent form under Subsection (b)(1); and

(2) remains bound by the waiver described by Subsection (b)(1)(C).

(d) Provides that a policy adopted under Subsection (a):

(1) is required to include provisions ensuring a prayer or reading of the Bible or other religious text is not provided in the physical presence of, within the hearing of, or in another manner which would constitute an injury in fact within the meaning of the United States or Texas Constitution on a person for whom a signed consent form has not been submitted under Subsection (b)(1) or has been revoked under Subsection (c); and

(2) in order to comply with this subsection, is authorized to require that the period of prayer and reading of the Bible or other religious text be provided:

(A) before normal school hours;

(B) only in classrooms or other areas in which a consent form under Subsection (b)(1) has been submitted for every employee and student, which may include an entire district or school campus if a consent form has been submitted for each employee and student at the campus; or

(C) by any other method recommended by the attorney general or legal counsel for the district or school.

(e) Requires the attorney general, on request from the board of trustees of a school district or the governing body of an open-enrollment charter school, to:

(1) provide advice on best methods for a district or school to comply with the requirements of this section;

(2) provide a model consent form that is authorized to be used for purposes of providing consent under Subsection (b)(1); and

(3) defend the district or school in a cause of action arising out of the adoption of a policy under Subsection (a).

(f) Provides that the state is liable for the expenses, costs, judgments, or settlements of the claims arising out of the representation if the attorney general defends a district or school under Subsection (e)(3). Authorizes the attorney general to settle or compromise any and all claims under this subsection. Prohibits the state from being liable for any expenses, costs, judgments, or settlements of any claims arising out of the adoption of a policy under Subsection (a) against a district or school not being represented by the attorney general.

SECTION 2. Amends Section 29.901, Education Code, as follows:

Sec. 25.901. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY. Provides that a person is prohibited from requiring or coercing a student to engage in or refrain from such prayer or mediation during any school activity, rather than is prohibited from requiring, encouraging, or coercing a student to engage in or refrain from those activities.

SECTION 3. Requires each board of trustees of a school district and each governing body of an open-enrollment charter school to take a record vote not later than six months after the effective date of this Act on whether to adopt a policy requiring every campus of the district or school to provide a period of prayer and reading of the Bible or other religious text under Section 25.0823, Education Code, as added by this Act.

SECTION 4. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 5. Effective date: upon passage or September 1, 2023.