

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 13
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The proposed legislation provides increased structure and transparency to the processes and standards for school library book acquisition and review policies to ensure that school library collections are appropriate for their campuses based on state standards relating to grade, age, and developmental appropriateness, as well as community values.

These goals are accomplished using a multifaceted approach, modeled after procedures from both the Texas State Library and Archives Commission (TSLAC) best practices as well as from the Texas Education Agency (TEA) model policy for library materials.

The proposed local school library advisory councils charged with overseeing school districts' procurement of new materials and review of any challenged materials are modeled after the school health advisory councils (SHACs). SHACs provide local oversight in selecting a school district's health curriculum to ensure that these materials meet state standards but also reflect local values, principles at the core of this proposed legislation.

Additionally, the proposed legislation affirms that a parent has the right to access the school's records of the materials their child checks out from the school library. While some school districts already provide parents easy mechanisms for checking one's student's library records to promote transparency and parental engagement in one's child's education, all school districts should provided such access to their students' parents. All parents should be afforded the transparency they are entitled to as the ultimate decider of their child's education in all aspects of their child's education, including in the school library.

Difference Between the Original Bill and First Substitute:

The first committee substitute also prohibited content from school libraries that meets the Federal Communications Commission (FCC) definition of "indecent material," which is the standard upheld by the Supreme Court for content that can be regulated between 6 AM and 10 PM—the hours in which children may reasonably be in the audience. If this content cannot be on TV or radio when there is a reasonable risk of children being in the audience, then this content should not be in school libraries—somewhere there is an expectation that children are the audience.

The committee substitute also clarified that the proposed legislation applies to school library standards, and not to all of the Texas State Library and Archives Commission's (TSLAC) responsibilities.

Difference Between the Original Bill and New Substitute:

Adds to the required library standards that library materials cannot be removed solely because of the ideas expressed therein, in accordance with the Supreme Court of the United States precedent in *Board of Education v. Pico*.

Clarifies that school districts, with the recommendations of the library advisory councils, may adopt additional standards and guidelines to reflect their unique local needs, as long as these additional guidelines do not conflict with the rest of S.B. 13 or the required TSLAC standards.

Expedites certain already-approved book purchases as an exception from procurement review requirements for:

- Replacing damaged books
- Additional copies of titles that are already in the campus's catalog
- New additions to a school library's collection if the titles were already approved from another campus's procurement request list for the same grade levels
- More narrowly tailors the "changes to library catalog" council approval requirement to clarify that the school district must consider the council's recommendations before adding new books or removing challenged books in order to allow librarians to still use their professional expertise and local policies for catalog updates due to:
- Removal of books that are outdated or no longer reflect the curriculum
- Library maintenance, such as adding an additional genre to a catalog entry, or a book being moved to a different shelf when rearranging the library

Specifies that each trustee appoints an equal number of members to the local school advisory council.

Ensures that all perspectives of the elected members of the school board are represented, and thus providing better accountability to the voters.

Allows for the appointment of additional, non-council reviewers to assist with providing recommendations for challenged titles.

Helps school districts meet the required challenge timelines in the event that the district receives too large of a volume of challenges to be reviewed in a timely manner by the council members alone.

Allows for more tailored expertise for specific campuses, grades, and subjects.

Clarifies that school district employees may challenge books.

Prohibits the acquisition or retention of the FCC definition of "profane content."

This material, like "indecent content" added in the previous committee substitute, is also prohibited during the hours children are reasonably expected to be in the audience.

Removes affirmative defense section due to potential two subject rule point of order issue

Adds severability clause.

C.S.S.B. 13 amends current law relating to a school district's library materials and catalog, the creation of local school library advisory councils, and parental rights regarding public school library catalogs and access by the parent's child to library materials.

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 26.004(b), Education Code, as follows:

(b) Provides that a parent is entitled to access to all written records of a school district concerning the parent's child, including records relating to school library materials the child obtains from a school library. Makes nonsubstantive changes.

SECTION 2. Amends Chapter 26, Education Code, by adding Section 26.017, as follows:

Sec. 26.017. NOTICE REGARDING SCHOOL LIBRARY MATERIALS. (a) Requires a school district to provide written notice, before each school year, to a parent of each child enrolled in the district regarding the option to receive notice each time the child obtains a school library material from a school library in the district.

(b) Requires the school district to notify the parent by e-mail each time the parent's child obtains a school library material from a school library in the district for each parent who elects to receive notice under Subsection (a). Requires that the notice include, as applicable, the title, author, genre, and return date of the school library material.

SECTION 3. Amends Subchapter B, Chapter 33, Education Code, by adding Section 33.020, as follows:

Sec. 33.020. DEFINITIONS. Defines "harmful material," "indecent content," "library material," and "profane content."

SECTION 4. Amends Section 33.021, Education Code, as follows:

Sec. 33.021. LIBRARY STANDARDS. (a) Requires the Texas State Library and Archives Commission (TSLAC), rather than TSLAC in consultation with the State Board of Education (SBOE), to submit proposed standards, rather than to adopt standards, for school library services to SBOE for approval or disapproval.

(b) Requires that the standards approved under Subsection (a) include a collection development policy that:

(1) prohibits the acquisition or retention of:

(A) harmful material; and

(B) material containing indecent content or profane content;

(2) demonstrates a commitment to compliance with the Children's Internet Protection Act (Pub. L. No. 106-554), including through the use of technology protection measures, as defined by that Act; and

(3) prohibits the removal of library materials solely because of the ideas expressed in the library materials.

(c) Requires a school district to adhere to, rather than to consider, the standards approved under Subsection (a) in developing, implementing, or expanding library services.

(d) Authorizes a school district to adopt local policies and procedures in addition to the standards approved under Subsection (a) that do not conflict with the standards approved under Subsection (a) or other requirements of this code.

SECTION 5. Amends Subchapter B, Chapter 33, Education Code, by adding Sections 33.026, 33.027, and 33.028, as follows:

Sec. 33.026. LOCAL SCHOOL LIBRARY ADVISORY COUNCIL. (a) Requires the board of trustees of each school district (board) to establish a local school library

advisory council (council) to assist the district in ensuring that local community values are reflected in each school library catalog in the district.

(b) Requires a school district, except as provided by Section 32.027(c), to consider the recommendations of council before:

- (1) adding library materials to a school library catalog;
- (2) removing library materials from a school library catalog following a challenge under Section 33.028; or
- (3) making changes to policies or guidelines related to a school library catalog.

(c) Provides that the council's duties include recommending:

- (1) policies and procedures for the procurement of library materials consistent with local community values;
- (2) library materials appropriate for each grade level;
- (3) if feasible, joint use agreements or strategies for collaboration between the school district and local public libraries and community organizations;
- (4) the removal of any library materials that the council determines to be harmful material or material containing indecent content or of profane content, or to be inconsistent with local community values;
- (5) the policies and procedures for processing challenges received under Section 33.028; and
- (6) the action to be taken by the district in response to a challenge received under Section 33.028.

(d) Requires that any recommendation made by the council adhere to the library standards approved under Section 33.021 (Library Standards).

(e) Requires that the council consist of at least five members, with each member appointed by the board of trustees, and with each trustee appointing an equal number of members. Requires that a majority of the voting members of the council be persons who are parents of students enrolled in the district and who are not employed by the district. Requires one of those members to serve as chair of the council. Authorizes the board of trustees to also appoint one or more persons to serve as nonvoting members of the council from any of the following groups:

- (1) classroom teachers employed by the district;
- (2) librarians employed by the district;
- (3) school counselors certified under Subchapter B (Certification of Educators), Chapter 21, employed by the district;
- (4) school administrators employed by the district;
- (5) district students;
- (6) the business community; and
- (7) the clergy.

(f) Requires the council to meet at least two times each year. Requires the council, for each meeting, to:

(1) at least 72 hours before the meeting:

(A) post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each campus in the school district; and

(B) ensure that the notice required under Paragraph (A) is posted on the district's Internet website, if the district has an Internet website;

(2) prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;

(3) make an audio or video recording of the meeting; and

(4) not later than the 10th day after the meeting, submit the minutes and audio or video recording of the meeting to the district.

(g) Requires the school district, as soon as practicable after receipt of the minutes and audio or video recording under Subsection (f)(4), to post the minutes and audio or video recording on the district's Internet website, if the district has an Internet website.

Sec. 33.027. PROCUREMENT OF LIBRARY MATERIALS. (a) Requires the board to adopt a policy for the procurement of library materials. Requires that the policy require the board to:

(1) approve all library materials to be procured by a school library in the district, with the advice and recommendations of the district's council established under Section 33.026;

(2) make the list of library materials proposed to be procured accessible for review by the public for at least 30 days before final approval;

(3) approve or reject the list of library materials proposed to be procured in an open meeting; and

(4) ensure compliance with the library standards approved under Section 33.021.

(b) Entitles each member of the board to:

(1) review each list of library materials proposed to be procured for a school library in the district; and

(2) propose changes to each list described by Subdivision (1) before the board votes to approve or reject the list.

(c) Provides that this section does not apply to library materials to be procured by a school library that:

(1) replace a damaged copy of a library material that is currently in the school library catalog;

(2) are additional copies of a library material that is currently in the school library catalog; or

(3) have been approved by the board from a previous list of library materials proposed to be procured for the same grade levels.

Sec. 33.028. CHALLENGE OR APPEAL REGARDING LIBRARY MATERIALS; LOCAL SCHOOL LIBRARY ADVISORY COUNCIL RECOMMENDATIONS. (a) Authorizes a parent of or person standing in parental relation to a student enrolled in a school district, a person employed by the district, or a person residing in the district to submit:

(1) to the district a written challenge to any library material in the catalog of a school library in the district using the form adopted under Subsection (c); or

(2) to the district's board an appeal of an action taken by the district in response to a written challenge received under Subdivision (1).

(b) Requires a school district to provide a copy of the challenge to the district's council established under Section 33.026 not later than the fifth day after the date on which the district receives a written challenge under Subsection (a)(1). Requires the council to make a recommendation for action by the district not later than the 90th day after the date on which the council receives the copy.

(b-1) Authorizes the council, if the procedures recommended by the council and adopted by the board of trustees permit the appointment of library material review committees that consist of persons who are not members of the council to review materials challenged under Subsection (a)(1), to base the council's recommendation for action to be taken by the district under Subsection (b) on the recommendation of a library material review committee if the committee consists of at least five persons appointed by the board of trustees, a majority of whom are parents of students enrolled in the school district and are not employed by the district.

(c) Requires the Texas Education Agency (TEA) to adopt and post on TEA's Internet website a form to be used in making a written challenge under Subsection (a)(1). Requires each school district to post the form on the district's Internet website, if the district has an Internet website. Requires that the form require the person submitting the form to identify how the challenged library material violates the library standards approved under Section 33.021.

(d) Requires the board, in taking action on a written challenge submitted under Subsection (a)(1) or an appeal under Subsection (a)(2), to consider:

(1) the advice of the district's council; and

(2) whether the library material challenged under Subsection (a)(1) or appealed under Subsection (a)(2) is suitable for the subject and grade level for which the library material is intended, including by considering:

(A) whether the material adheres to the library standards approved under Section 33.021; and

(B) reviews, if any, of the material conducted by academic experts specializing in the subject covered by the library material or in the education of students in the subject and grade level for which the library material is intended.

SECTION 6. Severability clause.

SECTION 7. Requires the board of trustees of each school district, before the first day of the 2023–2024 school year, to establish and appoint members of the council as required by Section 33.026, Education Code, as added by this Act, and adopt a policy for the procurement of library materials as required by Section 33.027, Education Code, as added by this Act.

SECTION 8. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 9. Effective date: upon passage or September 1, 2023.