

SUBJECT: Insurance for student injuries in school-sponsored activities on campus

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 6 ayes — Bosse, Janek, Clark, Dutton, Martinez Fischer, Zbranek

0 nays

3 absent — Hope, Nixon, Smithee

WITNESSES: (*On original version:*)

For — None

Against — Cobby A. Caputo, Schwartz & Eickelbaum, P.C., Texas
Association of School Boards, Council of School Attorneys

BACKGROUND: Education Code, sec. 33.085 authorizes the board of trustees of a school district to obtain insurance against bodily injuries sustained by students while training for or engaging in interschool athletic competition. The cost of the insurance is considered a legitimate part of the total cost of a school district's athletic program budget.

DIGEST: CSHB 2301 would amend Education Code, sec. 33.085 to allow the board of trustees of a school district to obtain insurance not only against bodily injuries sustained by students engaged in athletics, but also in other school-sponsored activities on a school campus. The cost of such insurance would no longer be a legitimate part of the total cost of a school district's athletic budget, but of the school district's operating budget.

This bill would take effect September 1, 2001, and would apply only to an insurance policy delivered, issued for delivery, or renewed on or after that date.

SUPPORTERS SAY: CSHB 2301 is necessary to allow school districts to purchase liability insurance for bodily injuries sustained by students while engaged in school-sponsored activities on a school campus. Most people assume that school districts have insurance protecting the districts and students in case of a

catastrophic accident that occurs during a school-sponsored activity on a campus. In fact, the opposite is true: most school districts do not have coverage for protection against such bodily injuries.

Within the last year, a few tragic accidents happened on Texas public school campuses in which the districts did not have the protection of liability insurance. One accident involved the explosion of a high school chemistry lab where a number of students were badly burned. In that case, most of the students' parents had accident insurance that covered the injuries; however, one parent, a single mother, did not have coverage nor did the school district.

This bill would give school districts the option of buying insurance coverage for added protection against such tragic accidents. It would not interfere with a school district's sovereign immunity against liability, but simply would permit districts to purchase such insurance.

OPPONENTS
SAY:

This bill would offer no assurance that any particular school district would have coverage in the event of a future accident. It merely would grant a district the option of purchasing the insurance coverage.

NOTES:

HB 2301 as filed would have amended Education Code, ch. 11, related to liability for injury to a student. The original bill would have stated that a school district was liable to a claimant for damages arising from the bodily injury to or death of a student if the student was on property owned or otherwise under the control of the district and under the supervision of an employee or volunteer of the school district or participating in an activity conducted under the authority of the district. The filed bill would have waived a school district's immunity from liability only to the extent that any liability insurance purchased by the district would indemnify the district. The original bill would have deleted certain statutory provisions relating to tort claims and specified that the liability of a governmental unit would not apply to a claim for which a school district was liable.