

- SUBJECT:** Prohibiting sexually suggestive performances at school events
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 6 ayes — Grusendorf, Branch, Delisi, Eissler, Hochberg, Mowery
0 nays
3 absent — Oliveira, Dutton, B. Keffer
- WITNESSES:** For — MerryLynn Gerstenschlager, Texas Eagle Forum
Against — Tracey Hayes, Pam Uhr, ACLU; Margeaux Goodfleisch
On — David Anderson, Texas Education Agency
- BACKGROUND:** Under Education Code, sec. 37.006, a student must be removed from class and placed in a disciplinary alternative education program if the student engages in conduct that contains the elements of public lewdness or indecent exposure within 300 feet of school property or while attending a school-sponsored or school related activity on or off of school property.
- DIGEST:** CSHB 1476 would amend Education Code, ch. 33, to prohibit a school dance, drill, or cheerleading team or any other performance group from performing in a manner that was overtly sexually suggestive at an athletic or other extracurricular event or competition sponsored or approved by a school district or campus.
- If the Texas Education Agency (TEA) commissioner determined that a performance group had performed in an overtly suggestive manner, TEA would have to inform the school district in question, which would be required to take appropriate action against the performance group and the group's sponsor, as determined by the district.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 1476 would make it clear to school districts and students that sexually suggestive performances are not acceptable in Texas public schools. Many people have expressed concern about the sexual nature of half-time shows at football games and other school sponsored events. While overtly sexually suggestive performances may be difficult to define, they are easy to recognize, and every school administrator should be required to ensure that they do not take place.

While existing statutes include sanctions for lewdness and indecent exposure at school and school-sponsored activities, they do not speak directly to performances by cheerleaders, drill teams, and other groups at school-sponsored athletic events. School administrators are unlikely to place cheerleaders or school band members in an alternative education program because of their performance in a half-time show. This bill would not impose penalties because it is not intended to be punitive, but rather to serve as a directive to school districts that sexually explicit performances are prohibited.

The fact that cheerleading organizations voluntarily have adopted standards prohibiting sexually explicit performances illustrates that there is a problem. Cheerleading squads may perform different routines at football games than they perform in competitions because they know the behavior is prohibited. Those squads that voluntarily prohibit these movements would not be affected by the bill.

TEA and school boards are responsible for cooperating to ensure that school-related activities promote a positive self-image for young women. The bill would establish the appropriate level of state involvement by directing TEA to serve as a referral agency but giving school districts the responsibility for taking appropriate action.

The bill would not affect dress codes, which are adopted by local school districts. Students still would be able to wear uniforms and costumes that adhered to school dress codes.

**OPPONENTS
SAY:**

CSHB 1476 is unnecessary because existing statutes and policies already address public lewdness and indecent exposure. The bill would be difficult to implement because it does not define what would be considered “overtly sexually suggestive” and would impose no penalties for this behavior. One person’s sexually suggestive behavior may be another’s idea of artistic expression. A high school musical production might

contain elements that some consider suggestive and others find perfectly acceptable, even charming. School districts already have sufficient authority to respond to inappropriate and suggestive performances by placing students in an alternative education program. Most cheerleading teams have adopted voluntary standards for content that prohibit sexually explicit performances, and the National Cheerleading Association penalizes squads that have vulgar or suggestive elements in their competition routines.

The state should not be involved in legislating morality. Dress codes and other guidelines should be adopted locally and should reflect local tastes and morals. TEA is in no position to decide the appropriateness of a half-time performance at a particular high school football game. If parents believe that extracurricular activities at their children's school are in violation of good taste, they have ample opportunity to seek corrective action by appealing to campus administrators and school board trustees.

NOTES:

The committee substitute eliminated a provision in the original that would have barred a performance group from performing for the remainder of the school year in which a violation occurred as well as a requirement that TEA withhold state funding from a school or district that knowingly permitted a sexually suggestive performance. The committee substitute also added "any other performance group" to those which could not engage in the prohibited behaviors.