

- SUBJECT:** Requiring employee vaccine policies in child-care facilities
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 10 ayes — Kolkhorst, Naishtat, Coleman, Collier, Cortez, S. Davis, Guerra, Laubenberg, J.D. Sheffield, Zedler
- 1 nay — S. King
- SENATE VOTE:** On final passage, March 13 — 31-0
- WITNESSES:** For — Anna Dragsbaek, The Immunization Partnership; Joe Martinec, March of Dimes; Jason Terk, Texas Pediatric Society, Texas Medical Association, Texas Academy of Family Physicians; (*Registered, but did not testify*: Nora Belcher, Texas e-Health Alliance; Melody Chatelle, United Ways of Texas; Brent Connett, Texas Conservative Coalition; Teresa Devine, Blue Cross and Blue Shield of Texas; Kathy Eckstein, Children’s Hospital Association of Texas; Melissa Gardner, Texans Care for Children; Harry Holmes, Harris County Healthcare Alliance; Tere Holmes, Texas Licensed Child Care Association; Dennis Scharp, North Texas Citizen’s Lobby; Rebekah Schroeder, Texas Children’s Hospital; Steven Shelton, Texas Public Health Coalition; Ronald Woodruff, North Texas Citizen’s Lobby)
- Against — None
- On — Wesley Hodgson, Department of State Health Services; (*Registered, but did not testify*: Michele Adams, Department of Family and Protective Services)
- DIGEST:** SB 64 would require each child-care facility licensed by the Department of State Health Services (DSHS) to develop and implement a policy to protect the children in its care from the vaccine-preventable diseases specified by the Centers for Disease Control and Prevention.
- The policy would require that each child-care facility employee receive the vaccines specified by the facility based on the risk presented by the employee’s routine and direct exposure to children. The policy would

include procedures for verifying and maintaining a record of each employee's compliance and the authorized disciplinary actions against employees who failed to comply.

The vaccine-preventable diseases policy would include procedures to determine any exemptions from required vaccines resulting from an employee's medical condition. Any exempt employee would follow alternate procedures, such as wearing gloves and a mask, based on the exposure and risk the employee presented to children in the facility's care. The policy would prohibit retaliatory action against an employee exempt from the required vaccines and would specify that the use of alternate medical equipment would not be considered retaliatory action.

SB 64 would allow the vaccine-preventable diseases policy to include procedures to exempt employees based on reasons of conscience, including a religious belief. It would not apply to child-care facilities that provided care in the home of the facility director, owner, or operator.

By June 1, 2014, the executive commissioner of the Health and Human Services Commission would be required to adopt rules to implement the bill's provisions. Child-care facilities would be required to have their policies in effect beginning September 1, 2014.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

SB 64 would reduce the spread of infectious disease among children in child-care facilities who cannot — or have not — been vaccinated themselves. For example, flu-related complications hospitalize about 20,000 children under age five each year, but children under six months of age cannot receive a flu vaccine. In 2012, more than 1,750 children were diagnosed with pertussis, including five deaths in children younger than three months old, but children cannot receive their first pertussis vaccine until two months of age.

Even among children old enough to receive the standard series of vaccine immunizations, only 71 percent of children between 19 and 35 months old have done so. Because children in child-care facilities are at an increased risk of exposure due to their less-developed immune systems and close contact with other children and facility employees, requiring vaccine policies at child-care facilities would be a prudent safeguard.

The bill would allow parents and guardians to make more informed decisions when choosing a child-care facility. Although vaccine policies would vary by facility, caretakers could inquire directly about each one's comprehensiveness, whereas currently facilities that do not require any minimum level of employee vaccination cannot always provide clear information.

SB 64 would give each facility the ability to tailor its vaccine-prevention policy to the facility's size, age group, and risk factors, instead of receiving a one-size-fits-all mandate from the government. Beyond the minor requirement of adopting the policy, the bill would not impose any new costs on child-care facilities. Facilities could maintain the flexibility of not requiring any vaccines or, if they chose, of assisting their employees in purchasing the required vaccines either directly or through the company's insurance plan. In either case, the long-term savings from preventing hospitalizations and disease outbreaks would be greater than the cost of prevention.

OPPONENTS
SAY:

SB 64 would be an unnecessary and unfunded government mandate. Although the bill would not determine which vaccines would be required for child-care facilities, it would result in most facilities either paying for new vaccines, passing the costs on to consumers, or making employees pay for them out-of-pocket, which could be very expensive. If SB 64 increased costs, it would reduce access to child-care facilities, and each facility, regardless of its level of implementation, would face the administrative burdens of developing and monitoring this new policy.

Current public health needs do not justify governmental intervention. Parents bear primary responsibility for vaccinating their children, and this responsibility should not be forced, even indirectly, onto the facility, its employees, or other parents through increased fees. The free market allows parents seeking child-care facilities with certain vaccine standards the freedom to do so, which signals their demand to the facilities.

This bill is a good example of the law of diminishing returns. Since past legislation and medical advances have reduced the rates of illness due to vaccine-preventable diseases, each additional measure has had increasingly little effect.

OTHER
OPPONENTS

SB 64's lack of standardization would be inefficient and ineffective. The bill would cause each individual facility to develop and administer its own

SAY: policy instead of implementing a single standard developed by DSHS using industry best practices for adoption by all licensed child-care facilities. The bill's lack of uniformity also would undermine its ability to prevent a disease outbreak because it would not require any facility to increase its required vaccinations, and the concept of "community-immunity" depends on a critical portion of a community being immunized against a disease.

NOTES: The House companion bill, HB 1150 by Zerwas, was referred to the House Public Health Committee on February 25.