

BILL ANALYSIS

Senate Research Center

S.B. 370
By: Shapiro
Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, school districts are permitted to hold teachers liable for items confiscated under a district, campus, or classroom policy that are then damaged or stolen. Although confiscating these items is within the scope of a teacher's duty and the law protects teachers for such confiscations, some districts have attempted to make teachers pay for them. Additionally, some districts hold teachers liable for textbooks and technological equipment by requiring them to waive their immunity from liability in their employment contracts.

S.B. 370 prohibits school districts from requiring district employees to assume liability for confiscated items or textbooks through an employment contract and prohibits district employees from waiving their immunity from liability.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 22.0511, Education Code, by adding Subsection (d), as follows:

(d) Prohibits a school district by policy, contract, or administrative directive from requiring a district employee (employee) to waive immunity from liability for an act for which the employee is immune from liability under this section, or requiring a district employee who acts in good faith to pay for or replace property belonging to a student or other person that is or was in the possession of the employee because of an incident that is within the scope of the duties of the employee's position.

SECTION 2. Amends Section 31.104(e), Education Code, as follows:

(e) Adds electronic textbook and technological equipment to and deletes instructional technology from the list of items that the board of trustees of a school district is prohibited from requiring an employee who acts in good faith to pay for if the item is damaged, stolen, misplaced, or not returned. Adds "damaged" to the list of criteria for which an employee is not required to pay, and deletes the requirement that the harm to certain material be committed by a student. Prohibits an employee from waiving this provision by contract or any other means, except that a district is authorized to enter into a written agreement with a school employee whereby the employee assumes financial responsibility for electronic textbook or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the school employee to use those materials for personal business. Requires such an agreement to be separate from the employee's contract of employment, if applicable, and to clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. Prohibits an employee from being required to agree to such an agreement as a condition of employment.

SECTION 3. Makes ineffective an employee's assumption of liability from which the employee is immune under Section 22.0511 (relating to immunity from liability for school district employees), Education Code, or a waiver by an employee of the employee's immunity from

liability under Section 31.104(e) (relating to the prohibition on school-related reimbursement by employees), Education Code, that is made before the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2007.