

SUBJECT: Allowing State Board of Education to review textbooks for patriotic content

COMMITTEE: Public Education — committee substitute recommended

VOTE: 6 ayes — Grusendorf, Branch, Dawson, Eissler, Griggs, Madden
2 nays — Oliveira, Hochberg
1 absent — Dutton

WITNESSES: For — Bill Ames, Citizens for a Sound Economy; Anne Newman, Texas Justice Foundation
Against — Samantha Smoot, Texas Freedom Network; JoHannah Whitsett, Association of Texas Professional Educators
On — David Anderson, Texas Education Agency; Richard Neavel

BACKGROUND: Education Code, sec. 28.002 outlines public school curriculum requirements, including the foundation curriculum (English, mathematics, science, and social studies) and an enrichment curriculum (foreign languages, health, physical education, fine arts, economics, with an emphasis on the free enterprise system and its benefits, and career and technology education).
Sec. 28.002(h) directs the State Board of Education (SBOE) and individual school districts to include information on the free enterprise system in U.S. and Texas history classes. It states the primary purpose of the curriculum as preparing students to be “thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.”
Education Code, ch. 31 sets forth guidelines for adopting and buying public school textbooks. For each subject in the required curriculum, SBOE must establish a review and adoption cycle for textbooks from prekindergarten through secondary grade levels. SBOE must adopt two levels of textbooks. The conforming list includes textbooks that SBOE has adopted and that

contain material covering each element of the essential knowledge and skills of the subject and grade level as determined by SBOE. The nonconforming list includes textbooks the board has adopted that cover at least half, but not all, of the elements of the essential knowledge and skills of the subject and grade level. Textbooks on both lists must be free of factual errors.

DIGEST: CSHB 1172 would allow SBOE to adopt rules establishing a process for reviewing textbooks to determine compliance with Education Code, sec. 28.002(h). SBOE by majority vote could reject a textbook for placement on a conforming or nonconforming list if the board found through this process that the textbook did not comply with requirements of sec. 28.002(h).

The bill would take effect September 1, 2003, and would apply to each textbook submitted for adoption in response to a proclamation issued by SBOE after that date.

SUPPORTERS SAY: CSHB 1172 would give SBOE clear statutory authority to adopt rules establishing a process to review textbooks used to teach patriotism. The Education Code directs the board to include patriotism in the curriculum, but the board has no statutory authority to establish rules and procedures to meet this objective. In Opinion DM-424 (November 1996), the attorney general concluded that SBOE had no authority to adopt a rule prescribing textbook content because these duties were not prescribed by law. CSHB 1172 would establish this authority in statute and would help SBOE fulfill its mandate to ensure that Texas students have an appreciation of democratic values.

OPPONENTS SAY: CSHB 1172 would represent a first step down the path to broadening SBOE's authority over textbook content. SBOE has demonstrated that, given the opportunity, it will edit and reject textbooks on the basis of the personal beliefs of the majority of board members. The Legislature should not give the board additional authority over textbook selection.

OTHER OPPONENTS SAY: This bill is unnecessary. SBOE already has broad authority to adopt or reject textbooks, including those that deal with the subject of patriotism.

NOTES: Two similar bills by Howard, HB 1448 and HB 1917, would require textbooks to comply with Education Code, sec. 28.002(h) and would allow

SBOE to reject textbooks that did not comply. Both bills have been referred to the House Public Education Committee.

HB 319 by Grusendorf, enacted this session, would direct educators to “prepare students to be thoughtful, active citizens who have an appreciation for the basic values of our state and national heritage and who can understand and productively function in a free enterprise society.” HB 319 was sent to the governor on May 8.