

BILL ANALYSIS

Senate Research Center
86R2243 MM-D

S.B. 316
By: Hughes
Education
3/14/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 22 of the Education Code deals with various matters related to public school employees, including civil immunity in Subchapter B. Specifically, Section 22.0511 states, "a professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students."

The rest of the subchapter goes on to discuss other immunities, proper notice of claims, and limitation on damages. These statutory provisions give public school teachers and other professional staff important protections as they go about their duties of educating students. Still, unfounded or frivolous claims will be made against teachers, and S.B. 316 directs the Texas attorney general to defend teachers in civil actions when he determines that the teacher was acting in good faith within the scope of the teacher's duties. This legislation applies to retired teachers sued for an action during their earlier employment and does not prevent either active or retired teachers from obtaining counsel of their own choosing. It only gives them an additional option when facing civil litigation against their competent acts. The Office of the Attorney General has been consulted on this legislation and is prepared to take on this responsibility.

As proposed, S.B. 316 amends current law relating to the attorney general's duty to defend public school teachers.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 22, Education Code, by adding Section 22.0518, as follows:

Sec. 22.0518. DEFENSE BY ATTORNEY GENERAL. (a) Requires the Texas attorney general (attorney general) to defend a civil action brought against a teacher employed by a school district or open-enrollment charter school as a result of an act the teacher in good faith believed was incident to or within the scope of the teacher's duties if the attorney general determines that the teacher acted in good faith.

(b) Provides that Subsection (a) applies regardless of whether at the time the action is initiated the teacher has terminated service with the school district or open-enrollment charter school.

(c) Prohibits a determination made by the attorney general under Subsection (a) from being admitted as evidence in a civil court proceeding.

(d) Provides that nothing in this section may be construed to deprive a teacher of the teacher's right to select legal counsel of the teacher's choosing at the teacher's own expense.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2019.