

SHB 3127 - H AMD 746

By Representative Nixon

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout sections 2 through 6 of this act unless the context
5 clearly requires otherwise.

6 (1) "Parent" means a parent, guardian, or other person having
7 legal custody of a child.

8 (2) "Sex education curriculum" means any audio or visual
9 presentation, curriculum, handout, illustration, literature,
10 poster, survey, test, or text to be used in the instruction of
11 human sexuality.

12 (3) "Instruction" means an assignment, demonstration,
13 depiction, discussion, dissemination, display, explanation,
14 posting, presentation, question, survey, or test.

15 (4) "Human sexuality" means the anatomy and physiology of human
16 reproduction and the characteristics or qualities that distinguish
17 between human maleness and femaleness, including the physiological,
18 psychological, and sociological processes experienced by an
19 individual with regard to sexual development.

20 (5) "Separate written notice" means a separate written advisory
21 that instruction regarding human sexuality will be provided.

22 (6) "Public school setting" includes any school-sponsored
23 activity involving an employee, contractor, volunteer, or agent of
24 a school district, regardless of its location.

25 NEW SECTION. **Sec. 2.** (1) A school district shall not provide
26 instruction relating to human sexuality to students in grades five
27 through twelve, inclusive, without first providing notice to the
28 students' parents as required by section 3 of this act.

29 (2) Instruction relating to human sexuality shall not be

1 provided to, or in the presence of, students in kindergarten or
2 grades one to four, inclusive, in a public school setting.

3 NEW SECTION. Sec. 3. (1) If a school district intends to
4 provide or permit instruction in a public school setting to, or in
5 the presence of, a student in grades five to twelve, inclusive,
6 relating to human sexuality the school district shall provide
7 separate written notice as described in section 3 of this act to
8 the parent or guardian of the student no less than thirty days in
9 advance of the instruction, and shall obtain the prior written
10 approval of the student's parent or guardian consenting to the instruction.

11 (2) The notice required by this section shall be titled
12 "Request for Parental Approval of Sexual Instruction." The title
13 shall be printed at the top of the page, in boldface and no less
14 than 16-point type, and shall be immediately followed by the text
15 of sections 2 and 5 of this act in no less than 14-point type. The
16 notice shall include all of the following information printed in no
17 less than 12-point type: (a) The date, time, and location of the
18 instruction; (b) the name of the teacher or administrator in charge
19 of the instruction, and the name and affiliation of any presenters;
20 (c) the telephone number at which the teacher or administrator in
21 charge may be reached during regular school hours; (d) a reminder
22 that parents and guardians may attend the class or assembly; and
23 (e) a detailed and accurate description of the instruction to be
24 provided, including, but not limited to, the scope and content of
25 any activity, counseling, instruction, program, or testimonial.

26 NEW SECTION. Sec. 4. (1) The school district shall keep its sex
27 education curriculum in the following locations: a) The school
28 district's office, out-of-sight of students; and (b) The school
29 district's web site, if the school district maintains a web site.

30 (2) The sex education curriculum shall be available for
31 inspection and copying by any parent, guardian, or agent of the
32 parent or guardian of a student beginning at least thirty days in
33 advance of, and for at least thirty days after, the instruction.
34 The school district shall retain the original written approval
35 required pursuant to section 3 of this act for at least ninety days
36 and shall allow a parent, guardian, or agent of the parent or
37 guardian to inspect and copy the written approval submitted by that

1 parent or guardian upon request. A school district may charge a
2 reasonable fee to cover costs associated with copying.

3 (3) The school district shall submit any sex education
4 curriculum to the office of the superintendent of public
5 instruction within thirty days of offering such instruction. The
6 office of the superintendent of public instruction shall maintain
7 such materials submitted to it for no less than two calendar years,
8 and shall make such materials available for public inspection and
9 copying upon request.

10 NEW SECTION. Sec. 5. If a parent or guardian of a student does
11 not provide written approval pursuant to section 3 of this act, the
12 student shall be excused from the instruction, and offered other
13 activities worth equal credit. No act or procedure may be required
14 of a parent or guardian to excuse a student from that portion of
15 the planned curriculum that concerns human sexuality. A student may
16 not be academically penalized if his or her parent or guardian does
17 not provide written approval pursuant to section 3 of this act.

18 NEW SECTION. Sec. 6. A school district found to be in violation
19 of section 2, 3, 4, or 5 of this act by a court of competent
20 jurisdiction is liable to the student or the parent or guardian of
21 the student for damages in the amount of one hundred dollars per
22 incident, for actions filed before December 31, 2008. Beginning
23 January 1, 2008, the amount of damages shall be adjusted annually
24 by an inflation factor based on the change in the
25 Seattle-Tacoma-Bremerton consumer price index for all urban
26 consumers. In any action brought under this section, the school
27 district has the burden of proving by a preponderance of the
28 evidence that it complied with the notice and written approval
29 required by section 3 of this act. A prevailing plaintiff is
30 entitled to reasonable attorneys' fees and court costs.

31 NEW SECTION. Sec. 7. If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. Sec. 8. Sections 1 through 6 of this act are each

1 added to chapter 28A.230 RCW."

2 Correct the title.

EFFECT: Replaces all provisions of the substitute bill with a requirement that school districts provide notice to and receive written approval from parents before providing instruction to students in grades 5 through 12 regarding human sexuality. No instruction may be provided for students in grades K through 4. The curriculum must be kept out of sight of students; be available for inspection; and be submitted to OSPI before use. Violations by a school district are subject to financial damages.