



AGENDA REPORT

CITY OF SAN CLEMENTE

City Council Meeting

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: 4/4/2023

Agenda Item: 9D

Department: City Manager
Prepared By Andy Hall, City Manager

Subject:
CONSIDERATION OF ADOPTING A RESOLUTION IN OPPOSITION TO CALIFORNIA ASSEMBLY BILL (AB) 1078

Summary:

On March 21, 2023, Mayor Pro Tem Knoblock, with the support of Councilmember Cabral and Councilmember James, requested a resolution of opposition of Assembly Bill (AB) 1078 be placed on the agenda for consideration.

The sponsors of this agenda item are concerned that the bill, as enrolled, will continue to erode autonomy and decision-making authority from government entities closest to the people including the City of San Clemente and local school districts. Furthermore, the 'one size fits all' approach from state government fails to recognize the differences and diversity in California's communities.

Council Options:

- Adoption of Resolution
- Continue the Item with direction to staff to provide additional information
- Deny Resolution

Fiscal Impact:

None.

Staff Recommendation:

Determine whether to adopt Resolution No. 23-17 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, OPPOSING AB 1078.

Attachments:

1. Resolution No.23-17
2. State's Legislative Counsel's Digest AB 1078

ATTACHMENT 1

RESOLUTION NO. 23-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, OPPOSING AB 1078

WHEREAS, AB 1078, as proposed, is an example of the continued erosion of local decision making and autonomy from local government entities, in particular those that are closest to the people they serve, including the City of San Clemente and local school districts; and

WHEREAS, AB 1078, as proposed, promotes a 'one size fits all' approach from state government that fails to recognize the differences and diversity in California's communities including the unique qualities of the City of San Clemente; and

WHEREAS, California's Constitution, Article IX Education, Section 1, states the rights of its citizens guarantees "(a) general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement"; and

WHEREAS, the rights of the parents to direct the upbringing of their children is a recognized axiom of the history of America; and

WHEREAS, the idea of local control of education is a constitutional concept embedded in American culture. It is generally accepted that decisions about the education of children in a public school district should be made by those who are closest to the site; and

WHEREAS, the state's constitution guarantees the right of the people to elect their local and county school boards, and such locally elected leaders best represent the concept of local education, and

WHEREAS, according to the California Department of Education: 1) more local responsibility is legally granted to school districts and county education officials than to other government entities and officials, 2) statutes relating to school districts, county boards of education, and county superintendents of schools operate differently from any other California statutes, and 3) the California Constitution impacts school districts and laws relating to local schools occupying a unique constitutional position; and

WHEREAS, under this "permissive education code," as long as a state education statute does not prohibit a program or activity, and it is consistent with the purposes for which school districts are established, it can be implemented. In other words, it is constitutionally unnecessary to enact any statutes that merely allow or permit school districts, at their discretion, to implement public policy and governance decision; and

WHEREAS, AB 1078 was introduced by state Assembly member Corey Jackson (AD 60- Perris), and read into the legislative record for the first time on February 15, 2023;

and

WHEREAS, according to the state's Legislative Counsel's Digest, existing state law prescribes substantive requirements and particular processes that the State Board of Education, the Instructional Quality Commission, local educational agencies, and the Superintendent of Public Instruction are required to follow when adopting or evaluating instructional materials or curriculum frameworks; and

WHEREAS, according to the state's Legislative Counsel's Digest, existing law requires the state board to adopt standards, rules, and regulations for school library services, and authorizes the governing board of a school district to exclude from schools and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character; and

WHEREAS, according to the state's Legislative Counsel's Digest, AB 1078 amends Sections 18111 and 60040 of, and to add Sections 33030.5, 51201, and 60040.5 to, the Education Code, relating to pupil instruction; and

WHEREAS, Legislative Counsel's Digest that states AB 1078 if enacted into law, would require the state Board of Education to develop, by July 1, 2024, a policy for local educational agencies to follow before removing any instructional materials or ceasing to teach any curriculum; and

WHEREAS, Legislative Counsel's Digest states that AB 1078 would require a state policy to include, but not be limited to, a requirement that the local educational agency receive approval from the state board before removing any instructional materials or ceasing to teach any curriculum; and

WHEREAS, Legislative Counsel's Digest states AB 1078 would also require the governing board of a school district to receive approval from the state board and comply with any other applicable policies adopted by the state board before removing any books, publications, or papers from schools and school libraries. By imposing new obligations on school districts, the bill would impose a state-mandated local program; and

WHEREAS, Legislative Counsel's Digest states AB 1078 requires that every instructional material adopted by a governing board include proportional and accurate representation of California's diversity in the categories of race, gender, socioeconomic status, religion, and sexuality. By imposing new obligations on local educational agencies, the bill would impose a state-mandated local program; and

WHEREAS, if enacted, AB 1078 would add Section 600400 to the Education Code, to read: Commencing with the 2024-2025 school year, a school district, county office of education, or charter school shall only remove instructional materials with approval from the state board and in compliance with other procedures developed by the state board pursuant to Section 33030.5.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Clemente that:

Section 1. The City Council of the City of San Clemente opposes AB 1078 on the following grounds:

1. Its constitutional infringement on citizens, parents, school boards and local educators.
2. It abridges the rights of parents to direct the upbringing of their children.
3. It limits the rights of local boards of education, charter schools, parental volunteer organizations such as PTAs to advance the concept of control of education.
4. Its transparent deviation and obstruction of parents and families in the local control of education.
5. Its impositions of numerous state financial mandates on the state education budget reducing education dollars normally directed towards the costs of a student's education.

Section 2. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of _____, 2023.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) §
 CITY OF SAN CLEMENTE)

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

Approved as to form:

 City Attorney

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL**No. 1078****Introduced by Assembly Member Jackson**

February 15, 2023

An act to amend Sections 18111 and 60040 of, and to add Sections 33030.5, 51201, and 60040.5 to, the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, as introduced, Jackson. Instructional materials: removing instructional materials and curriculum: diversity.

Existing law prescribes substantive requirements and particular processes that the State Board of Education, the Instructional Quality Commission, local educational agencies, and the Superintendent of Public Instruction are required to follow when adopting or evaluating instructional materials or curriculum frameworks, as defined.

This bill would require the state board to develop, by July 1, 2024, a policy for local educational agencies to follow before removing any instructional materials or ceasing to teach any curriculum. The bill would require the policy to include, but not be limited to, a requirement that the local educational agency receive approval from the state board before removing any instructional materials or ceasing to teach any curriculum. Commencing with the 2024–25 school year, the bill would require a local educational agency to receive approval from the state board and comply with any other applicable policies adopted by the state board before ceasing to teach any curriculum or removing any instructional materials. By imposing new obligations on local educational agencies, the bill would impose a state-mandated local program.

Existing law requires the state board to adopt standards, rules, and regulations for school library services and authorizes the governing board of a school district to exclude from schools and school libraries all books, publications, or papers of a sectarian, partisan, or denominational character.

This bill would also require the governing board of a school district to receive approval from the state board and comply with any other applicable policies adopted by the state board before removing any books, publications, or papers from schools and school libraries. By imposing new obligations on school districts, the bill would impose a state-mandated local program.

Existing law requires governing boards of school districts, when adopting instructional materials for use in the schools, to include materials that accurately portray the cultural and racial diversity of our society, including the contributions of both men and women and the role and contributions of culturally and racially diverse groups, including, among others, Mexican Americans, lesbian, gay, bisexual, and transgender Americans. Existing law requires the state board to comply with those requirements related to the accurate portrayal of cultural and racial diversity when reviewing and adopting or recommending for adoption submitted basic instructional materials. Existing law also requires the governing board of each school district maintaining one or more high schools to comply with those requirements related to the accurate portrayal of racial and cultural diversity when adopting instructional materials for use in the high schools under its control.

This bill would revise the list of culturally and racially diverse groups to instead include materials that accurately portray the contributions of people of all gender expressions and the role and contributions of LGBTQ+ Americans. The bill would also require that every instructional material adopted by a governing board include proportional and accurate representation of California's diversity in the categories of race, gender, socioeconomic status, religion, and sexuality. By imposing new obligations on local educational agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18111 of the Education Code is amended
2 to read:

3 18111. (a) The governing board of ~~any~~ a school district may
4 exclude from schools and school libraries all books, publications,
5 or papers of a sectarian, partisan, or denominational character.

6 (b) *Commencing with the 2024–25 school year, the governing*
7 *board of a school district shall only remove books, publications,*
8 *or papers from schools and school libraries with approval from*
9 *the state board and in compliance with other procedures developed*
10 *by the state board, as described in Section 33030.5.*

11 SEC. 2. Section 33030.5 is added to the Education Code, to
12 read:

13 33030.5. (a) The state board shall, by July 1, 2024, develop a
14 policy for local educational agencies to follow before removing
15 any instructional materials or ceasing to teach any curriculum.
16 This policy shall include, but not be limited to, a requirement that
17 the local educational agency receive approval from the state board
18 before removing any instructional materials or ceasing to teach
19 any curriculum.

20 (b) For purposes of this section, the following definitions apply:

21 (1) “Curriculum” means the components of a course of study.

22 (2) “Instructional materials” has the same meaning as that term
23 is defined in subdivision (h) of Section 60010.

24 (3) “Local educational agency” means a school district, county
25 office of education, or charter school.

26 SEC. 3. Section 51201 is added to the Education Code, to read:

27 51201. (a) Commencing with the 2024–25 school year, a
28 school district, county office of education, or charter school shall
29 only cease teaching any curriculum with approval from the state
30 board and in compliance with other procedures developed by the
31 state board pursuant to Section 33030.5.

32 (b) For purposes of this section, “curriculum” means the
33 components of a course of study.

1 SEC. 4. Section 60040 of the Education Code is amended to
2 read:

3 60040. (a) When adopting instructional materials for use in
4 the schools, governing boards shall include only instructional
5 materials ~~which~~, *that*, in their determination, accurately portray
6 the cultural and racial diversity of our society, including:

7 (a)
8 (1) The contributions of ~~both men and women~~ *people of all*
9 *gender expressions* in all types of roles, including professional,
10 vocational, and executive roles.

11 (b)
12 (2) The role and contributions of Native Americans, African
13 Americans, Mexican Americans, Asian Americans, Pacific
14 Islanders, European Americans, ~~lesbian, gay, bisexual, and~~
15 ~~transgender Americans~~, *LGBTQ+ Americans*, persons with
16 disabilities, and members of other ethnic and cultural groups to
17 the total development of California and the United States.

18 (c)
19 (3) The role and contributions of the entrepreneur and labor in
20 the total development of California and the United States.

21 (b) *Every instructional material adopted by a governing board*
22 *shall include proportional and accurate representation of*
23 *California’s diversity in the following categories:*

- 24 (1) *Race.*
- 25 (2) *Gender.*
- 26 (3) *Socioeconomic status.*
- 27 (4) *Religion.*
- 28 (5) *Sexuality.*

29 SEC. 5. Section 60040.5 is added to the Education Code, to
30 read:

31 60040.5. Commencing with the 2024–25 school year, a school
32 district, county office of education, or charter school shall only
33 remove instructional materials with approval from the state board
34 and in compliance with other procedures developed by the state
35 board pursuant to Section 33030.5.

36 SEC. 6. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.