

School Boards, Overnight Accommodations and Review of Building Closure Resolutions; Local Broadcasters and KSHSAA; Senate Sub. for HB 2138

Senate Sub. for HB 2138 requires school district boards of education to adopt a policy regarding separate oversight accommodations for students of each biological sex during school district sponsored travel, permits local broadcasters to broadcast a school's regular or postseason activities under certain criteria, and provides for administrative review by the State Board of Education (State Board) of resolutions adopted by school district boards to permanently close a school building.

Effective Date

The bill provides that the provisions relating to a resolution to close a school building, and the potential subsequent review of such resolution, will go into effect and be in force from and after January 1, 2024, and publication in the statute book. All other provisions will be in effect upon publication in the statute book.

Overnight Accommodations

The bill requires each school district's board of education to adopt a policy requiring that separate overnight accommodations be provided for students of each biological sex during school district sponsored travel that requires overnight stays.

Reporting and Retaliation

The bill provides a private cause of action against a school district for any student who is subject to retaliation or adverse actions by a school district or its employees as a result of reporting a violation relating to the overnight accommodations policy. The bill requires such civil actions to be initiated within two years after the harm occurred. Students prevailing in such action would be entitled to monetary damages, including monetary damages for psychological, emotional, and physical harm suffered; for reasonable attorney fees and costs; and for other appropriate relief.

Definitions

The bill establishes definitions for the following terms:

- "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and non-ambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender; and
- "School district sponsored travel" means any travel that is necessary for students to attend, participate, or compete in any event or activity that is sponsored or

sanctioned by a school operated by the school district, including, but not limited to, any travel that is organized:

- By any club or organization recognized by the school;
- Through any communication facilitated by the school, such as email; or
- Through fundraising activities conducted, in whole or in part, by school district employees or on school district property.

Local Broadcasters; Postseason Activities; Contracts and Agreements

The bill permits local broadcasters to broadcast a school's postseason activities, notwithstanding exclusive contracts entered into by the Kansas State High School Activities Association (KSHSAA) for the purpose of broadcasting postseason activities. [Note: KSHSAA has an exclusive broadcast agreement with the National Federation of State High School Associations. The current agreement has five years remaining, along with an optional extension if specific performance metrics are met.]

Definitions

The bill defines various terms, including:

- “Activity” and “activities” mean school activities and contests in the fields of athletics, music, forensics, dramatics, and any other interschool extracurricular activities by students enrolled in any of the grades from 7 to 12, inclusive;
- “Broadcast” means the live or recorded audio or video transmission of an activity, play-by-play, or similar accounts of such activity via radio, television, internet, or other technologies;
- “Exclusive broadcast agreement” means an agreement entered into between KSHSAA and an organization to broadcast association activities under which such organization retains:
 - Sole rights to broadcast such activities; or
 - First right to broadcast such activities; and
- “Local broadcaster” means an organization, located in Kansas, that provides local broadcast services for any activity of a local school. [Note: “Local broadcaster” does include a student organization broadcast that is offered as an educational course or program by the school.]

Applicability

Current law allows KSHSAA to enter into an exclusive broadcast agreement for a postseason activity. The bill provides that if KSHSAA enters into or renews an exclusive broadcast agreement to broadcast a regular season activity or postseason activity, local

broadcasters would not be prohibited from broadcasting a school's regular season activity or postseason activity if the local broadcaster:

- Provides broadcast services for the school that is participating in the postseason activity;
- Broadcasts at least one-third of the events of such activity during the regular season; and
- Entered into valid broadcast agreements to broadcast the events of the activity during the regular season.

The bill will not prohibit KSHSAA from requiring local broadcasters to enter into a postseason broadcast agreement with stipulations. Stipulations include, but are not be limited to:

- Reasonable compensation for broadcasts, except that no fee shall be charged for such broadcasts;
- Approval by the site hosting the event;
- Limitations on organizations that are permitted to sponsor part of the broadcast; and
- Requirements for competent and professional announcers.

Resolution to Close a School Building

Under current law, a board of education of any unified school district may adopt a resolution to close any school building at any time the board determines the building should be closed to improve the school system. Prior to the adoption of the resolution, a public hearing on the proposal to close a school building must be held. In order for the resolution to be adopted, a majority of the members of the local board of education must vote to adopt the resolution.

Request for Review

The bill allows citizens to request the State Board to conduct an administrative review of a resolution to close a school building. The State Board would be required to conduct an administrative review of a resolution if at least 5.0 percent of registered voters of such school district sign a request for administrative review.

The bill specifies that a request for administrative review would need to be received by the State Board no later than 45 days after the adoption of the resolution to close a school building. If the State Board receives more than one request for review on the same resolution to close a school building, the request(s) received after the initial request could be dismissed or could be combined with the initial request. The bill clarifies that a resolution to close a school

building would not be effective until the 45-day time period to request a review has lapsed, so long as no request for review has been received by the State Board.

Administrative Review

The State Board will be required to review the resolution to determine whether it is reasonable under the totality of the circumstances. The bill requires an advisory determination to be issued to the school district no later than 45 days after receipt of the request for review. The advisory determination could include recommendations to modify or to rescind the original resolution to close the school building.

Reconsideration

Upon receipt of the State Board's advisory determination, the local board of education will be required to reconsider the original resolution to close a building. In reconsidering the resolution, the local board of education is required to hold a public hearing. Upon the conclusion of a hearing, the local board of education may issue one of the following determinations on the original resolution:

- Approve the resolution to close the school building;
- Modify and approve the resolution to close the school building; or
- Rescind the resolution to close the school building.

Definitions

The bill defines the term "school building" to mean any building or structure operated or maintained by the board of education of a unified school district.