

By: Nelson, et al.

S.B. No. 42

Substitute the following for S.B. No. 42:

By: Delisi

C.S.S.B. No. 42

A BILL TO BE ENTITLED

AN ACT

relating to health education and physical activity in public primary and secondary schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.002, Education Code, is amended by amending Subsections (a), (k), and (l) and adding Subsections (1-1) and (1-2) to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts;

(B) mathematics;

(C) science; and

(D) social studies, consisting of Texas, United States, and world history, government, and geography; and

(2) an enrichment curriculum that includes:

(A) to the extent possible, languages other than English;

(B) health, with emphasis on the importance of proper nutrition and exercise;

(C) physical education;

(D) fine arts;

(E) economics, with emphasis on the free enterprise system and its benefits;

1 (F) career and technology education; and

2 (G) technology applications.

3 (k) The State Board of Education, in consultation with the
4 ~~[Texas]~~ Department of State Health Services and the Texas Diabetes
5 Council, shall develop a diabetes education program that a school
6 district may use in the health curriculum under Subsection
7 (a)(2)(B).

8 (l) The State Board of Education, after consulting with
9 educators, parents, and medical professionals, by rule may require
10 a student enrolled in kindergarten or a grade level below grade nine
11 ~~[seven in an elementary school setting]~~ to participate in daily
12 physical activity as part of a school district's physical education
13 curriculum or through structured activity during a school campus's
14 daily recess, except that the board may not require more than 30
15 minutes of daily physical activity. If the board adopts rules under
16 this subsection, the board must ensure by rule that students
17 enrolled in middle and junior-high school settings are allowed to
18 meet the physical activity requirement by participating in physical
19 activity twice each week throughout the school year. If the board
20 adopts rules under this subsection, the board must provide for an
21 exemption for:

22 (1) any [a] student who is unable to participate in
23 daily physical activity because of illness or disability; and

24 (2) a middle school or junior high school student who
25 participates in an extracurricular activity with a physical
26 activity component that is considered a structured activity under
27 rules adopted by the State Board of Education.

1 (1-1) In adopting rules relating to an activity described by
2 Subsection (1)(2), the State Board of Education may permit an
3 exemption for a student who participates in a school-related
4 activity or an activity sponsored by a private league or club only
5 if the student provides proof of participation in the activity.

6 (1-2) To encourage school districts to promote physical
7 activity for children through classroom curricula for health and
8 physical education, the agency, in consultation with the Department
9 of State Health Services, shall designate nationally recognized
10 health and physical education program guidelines that a school
11 district may use in the health curriculum under Subsection
12 (a)(2)(B) or the physical education curriculum under Subsection
13 (a)(2)(C).

14 SECTION 2. Section 28.004(k), Education Code, is amended to
15 read as follows:

16 (k) A school district shall publish in the student handbook
17 and post on the district's Internet website, if the district has an
18 Internet website [~~make available for reasonable public~~
19 ~~inspection~~]:

20 (1) a statement of the policies adopted to ensure that
21 [~~students in~~] elementary school, middle school, and junior high
22 school students [~~grades~~] engage in at least 30 minutes per school
23 day or 135 minutes per school week of physical activity; and

24 (2) a statement of:

25 (A) the number of times during the preceding year
26 the district's school health advisory council has met;

27 (B) whether the district has adopted and enforces

1 policies to ensure that district campuses comply with agency
2 vending machine and food service guidelines for restricting student
3 access to vending machines; and

4 (C) whether the district has adopted and enforces
5 policies and procedures that prescribe penalties for the use of
6 tobacco products by students and others on school campuses or at
7 school-sponsored or school-related activities.

8 SECTION 3. The heading to Section 38.013, Education Code,
9 is amended to read as follows:

10 Sec. 38.013. COORDINATED HEALTH PROGRAM FOR ELEMENTARY,
11 MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

12 SECTION 4. Section 38.013, Education Code, is amended by
13 amending Subsections (a) and (a-1) and adding Subsection (c) to
14 read as follows:

15 (a) The agency shall make available to each school district
16 one or more coordinated health programs designed to prevent
17 obesity, cardiovascular disease, and Type 2 diabetes in elementary
18 school, middle school, and junior high school students. Each
19 program must provide for coordinating:

- 20 (1) health education;
- 21 (2) physical education and physical activity;
- 22 (3) nutrition services; and
- 23 (4) parental involvement.

24 (a-1) The commissioner by rule shall adopt criteria for
25 evaluating a coordinated health program before making the program
26 available under Subsection (a). Before adopting the criteria, the
27 commissioner shall request review and comment concerning the

1 criteria from the [~~Texas~~] Department of State Health Services
2 [~~Health's~~] School Health Advisory Committee. The commissioner may
3 make available under Subsection (a) only those programs that meet
4 criteria adopted under this subsection.

5 (c) The commissioner by rule shall adopt criteria for
6 evaluating the nutritional services component of a program under
7 this section that includes an evaluation of program compliance with
8 the Department of Agriculture guidelines relating to foods of
9 minimal nutritional value.

10 SECTION 5. The heading to Section 38.014, Education Code,
11 is amended to read as follows:

12 Sec. 38.014. IMPLEMENTATION OF COORDINATED HEALTH PROGRAM
13 FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

14 SECTION 6. Section 38.014(a), Education Code, is amended to
15 read as follows:

- 16 (a) Each school district shall:
- 17 (1) participate in appropriate training for the
 - 18 implementation of the program approved by the agency under Section
 - 19 38.013; and
 - 20 (2) implement the program in each elementary school,
21 middle school, and junior high school in the district.

22 SECTION 7. Subchapter A, Chapter 38, Education Code, is
23 amended by adding Section 38.0141 to read as follows:

24 Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY
25 INFORMATION REQUIRED. Each school district shall provide to the
26 agency information as required by the commissioner, including
27 statistics and data, relating to student health and physical

1 activity and information described by Section 28.004(k), presented
2 in a form determined by the commissioner. The district shall
3 provide the information required by this section for the district
4 and for each campus in the district.

5 SECTION 8. Section 39.182(a), Education Code, is amended to
6 read as follows:

7 (a) Not later than December 1 of each year, the agency shall
8 prepare and deliver to the governor, the lieutenant governor, the
9 speaker of the house of representatives, each member of the
10 legislature, the Legislative Budget Board, and the clerks of the
11 standing committees of the senate and house of representatives with
12 primary jurisdiction over the public school system a comprehensive
13 report covering the preceding school year and containing:

14 (1) an evaluation of the achievements of the state
15 educational program in relation to the statutory goals for the
16 public education system under Section 4.002;

17 (2) an evaluation of the status of education in the
18 state as reflected by the academic excellence indicators adopted
19 under Section 39.051;

20 (3) a summary compilation of overall student
21 performance on academic skills assessment instruments required by
22 Section 39.023 with the number and percentage of students exempted
23 from the administration of those instruments and the basis of the
24 exemptions, aggregated by grade level, subject area, campus, and
25 district, with appropriate interpretations and analysis, and
26 disaggregated by race, ethnicity, gender, and socioeconomic
27 status;

1 (4) a summary compilation of overall performance of
2 students placed in a disciplinary [~~an~~] alternative education
3 program established under Section 37.008 on academic skills
4 assessment instruments required by Section 39.023 with the number
5 of those students exempted from the administration of those
6 instruments and the basis of the exemptions, aggregated by
7 district, grade level, and subject area, with appropriate
8 interpretations and analysis, and disaggregated by race,
9 ethnicity, gender, and socioeconomic status;

10 (5) a summary compilation of overall performance of
11 students at risk of dropping out of school, as defined by Section
12 29.081(d), on academic skills assessment instruments required by
13 Section 39.023 with the number of those students exempted from the
14 administration of those instruments and the basis of the
15 exemptions, aggregated by district, grade level, and subject area,
16 with appropriate interpretations and analysis, and disaggregated
17 by race, ethnicity, gender, and socioeconomic status;

18 (6) an evaluation of the correlation between student
19 grades and student performance on academic skills assessment
20 instruments required by Section 39.023;

21 (7) a statement of the dropout rate of students in
22 grade levels 7 through 12, expressed in the aggregate and by grade
23 level, and a statement of the completion rates of students for grade
24 levels 9 through 12;

25 (8) a statement of:

26 (A) the completion rate of students who enter
27 grade level 9 and graduate not more than four years later;

1 (B) the completion rate of students who enter
2 grade level 9 and graduate, including students who require more
3 than four years to graduate;

4 (C) the completion rate of students who enter
5 grade level 9 and not more than four years later receive a high
6 school equivalency certificate;

7 (D) the completion rate of students who enter
8 grade level 9 and receive a high school equivalency certificate,
9 including students who require more than four years to receive a
10 certificate; and

11 (E) the number and percentage of all students who
12 have not been accounted for under Paragraph (A), (B), (C), or (D);

13 (9) a statement of the projected cross-sectional and
14 longitudinal dropout rates for grade levels 9 through 12 for the
15 next five years, assuming no state action is taken to reduce the
16 dropout rate;

17 (10) a description of a systematic, measurable plan
18 for reducing the projected cross-sectional and longitudinal
19 dropout rates to five percent or less for the 1997-1998 school year;

20 (11) a summary of the information required by Section
21 29.083 regarding grade level retention of students and information
22 concerning:

23 (A) the number and percentage of students
24 retained; and

25 (B) the performance of retained students on
26 assessment instruments required under Section 39.023(a);

27 (12) information, aggregated by district type and

1 disaggregated by race, ethnicity, gender, and socioeconomic
2 status, on:

3 (A) the number of students placed in a
4 disciplinary [~~an~~] alternative education program established under
5 Section 37.008;

6 (B) the average length of a student's placement
7 in a disciplinary [~~an~~] alternative education program established
8 under Section 37.008;

9 (C) the academic performance of students on
10 assessment instruments required under Section 39.023(a) during the
11 year preceding and during the year following placement in a
12 disciplinary [~~an~~] alternative education program; and

13 (D) the dropout rates of students who have been
14 placed in a disciplinary [~~an~~] alternative education program
15 established under Section 37.008;

16 (13) a list of each school district or campus that does
17 not satisfy performance standards, with an explanation of the
18 actions taken by the commissioner to improve student performance in
19 the district or campus and an evaluation of the results of those
20 actions;

21 (14) an evaluation of the status of the curriculum
22 taught in public schools, with recommendations for legislative
23 changes necessary to improve or modify the curriculum required by
24 Section 28.002;

25 (15) a description of all funds received by and each
26 activity and expenditure of the agency;

27 (16) a summary and analysis of the instructional

1 expenditures ratios and instructional employees ratios of school
2 districts computed under Section 44.0071;

3 (17) a summary of the effect of deregulation,
4 including exemptions and waivers granted under Section 7.056 or
5 39.112;

6 (18) a statement of the total number and length of
7 reports that school districts and school district employees must
8 submit to the agency, identifying which reports are required by
9 federal statute or rule, state statute, or agency rule, and a
10 summary of the agency's efforts to reduce overall reporting
11 requirements;

12 (19) a list of each school district that is not in
13 compliance with state special education requirements, including:

14 (A) the period for which the district has not
15 been in compliance;

16 (B) the manner in which the agency considered the
17 district's failure to comply in determining the district's
18 accreditation status; and

19 (C) an explanation of the actions taken by the
20 commissioner to ensure compliance and an evaluation of the results
21 of those actions;

22 (20) a comparison of the performance of
23 open-enrollment charter schools and school districts on the
24 academic excellence indicators specified in Section 39.051(b) and
25 accountability measures adopted under Section 39.051(g), with a
26 separately aggregated comparison of the performance of
27 open-enrollment charter schools predominantly serving students at

1 risk of dropping out of school, as defined by Section 29.081(d),
2 with the performance of school districts; [~~and~~]

3 (21) a summary of the information required by Section
4 38.0141 regarding student health and physical activity from each
5 school district; and

6 (22) any additional information considered important
7 by the commissioner or the State Board of Education.

8 SECTION 9. Subchapter D, Chapter 1001, Health and Safety
9 Code, is amended by adding Section 1001.0711 to read as follows:

10 Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) The
11 commission by rule shall establish a School Health Advisory
12 Committee at the department to provide assistance to the council in
13 establishing a leadership role for the department in support for
14 and delivery of coordinated school health programs and school
15 health services.

16 (b) The committee shall include at least:

17 (1) one representative from the Department of
18 Agriculture, appointed by the commissioner of agriculture; and

19 (2) one representative from the Texas Education
20 Agency, appointed by the commissioner of education.

21 (c) Section 2110.008, Government Code, does not apply to a
22 committee created under this section.

23 SECTION 10. Section 38.013, Education Code, as amended by
24 this Act, applies only to approval of a coordinated health program
25 evaluated on or after the effective date of this Act. The Texas
26 Education Agency shall continue to make available to school
27 districts a coordinated health program evaluated and approved

1 before the effective date of this Act under Section 38.013,
2 Education Code, as that section existed before amendment by this
3 Act, until the approval of the program expires as provided by 19
4 T.A.C. Section 102.1031.

5 SECTION 11. Except as provided by Section 10 of this Act,
6 this Act applies beginning with the 2006-2007 school year.

7 SECTION 12. Not later than January 1, 2006, the Health and
8 Human Services Commission shall adopt rules to establish the School
9 Health Advisory Committee as provided by Section 1001.0711, Health
10 and Safety Code, as added by this Act.

11 SECTION 13. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2005.