

BILL ANALYSIS

C.S.S.B. 530
By: Nelson
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Research has shown that being overweight in childhood often continues into obesity in adulthood. It is essential that healthy habits begin early in life to establish a foundation that will last a lifetime. As obesity rates increase, chronic disease risks also increase. The top three leading causes of death—heart disease, stroke, and cancer—can be linked to obesity.

This bill strengthens the physical activity requirement for certain students, as described below, and establishes a fitness assessment as a tool to gauge fitness levels.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 1 and SECTION 3 of this bill.

ANALYSIS

Note: Unless otherwise specified, statutory references in this BILL ANALYSIS are to the Education Code.

This bill relates to physical activity requirements and physical fitness assessment for certain public school students.

The bill provides that a school district shall require a student enrolled in kindergarten or a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for: any student who is unable to participate in the required physical activity because of illness or disability; and a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the Commissioner of Education (commissioner). In adopting such rules, the commissioner may permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.

The bill provides that a school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website: a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of required physical activity as specified above; and provides that the local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council

must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any such policy recommendation made to the district.

The bill provides that, except as provided below in this paragraph, a school district annually shall assess the physical fitness of students enrolled in grades three through eight. A school district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument is inappropriate.

The bill provides that a school district shall provide the results of a student's physical fitness assessment to the student's parent or guardian, accompanied by an explanation of the results.

The bill provides that the commissioner by rule shall adopt an assessment instrument to be used by a school district in assessing student physical fitness. The assessment instrument must be based on factors related to student health, including the following factors that have been identified as essential to overall health and function: aerobic capacity; body composition; and muscular strength, endurance, and flexibility; and include criterion-referenced standards specific to a student's age and gender and based on the physical fitness level required for good health.

The bill provides that a school district shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by commissioner rule, to the Texas Education Agency (agency). The summary results may not contain the names of individual students or teachers. The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

The bill provides that the agency shall analyze the results received by the agency under this subchapter and identify, for each school district, any correlation between the results and the following: student academic achievement levels; student attendance levels; student obesity; student disciplinary problems; and school meal programs. The agency may contract with a public or private entity for that entity to conduct all or part of the required analysis. Not later than September 1 of each year, the agency shall report the findings of the analysis of the results obtained during the preceding school year to the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, for use by the committee in: assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section 38.014; and developing recommendations for modifications to coordinated health program requirements or related curriculum.

The bill provides that the agency and each school district may accept donations made to facilitate implementation of Subchapter C (PHYSICAL FITNESS ASSESSMENT) of Chapter 38, and that the commissioner shall adopt rules necessary to implement such subchapter.

The bill provides that, not later than September 1, 2008, the Texas Education Agency, in consultation with the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, shall provide a report to the legislature that details options and recommendations for providing moderate or vigorous daily physical activity for students for at least 30 minutes outside the seven-hour instructional day. The options and recommendations must be developed with consideration for the needs of students who are enrolled in multiple enrichment curriculum courses.

The bill provides that the commissioner shall adopt the physical fitness assessment instrument required under Subchapter C of Chapter 38, as added by this Act, and rules necessary to implement Subchapter C of Chapter 38 not later than the date that enables the instrument to be used by school districts during the 2007-2008 school year.

The bill provides that, notwithstanding Section 11, Chapter 784, Acts of the 79th Legislature, Regular Session, 2005, Section 38.014, Education Code, as amended by that Act, applies beginning with the 2007-2008 school year.

The bill provides that Section 28.002(1), Education Code, as amended by this Act, applies to students enrolled in kindergarten or a grade level below grade six beginning with the 2007-2008 school year and to students enrolled in grade levels six, seven, and eight beginning with the 2008-2009 school year.

The bill provides that, except as otherwise provided by the Act, the Act applies beginning with the 2007-2008 school year. This Act shall apply to junior high or middle schools only upon adoption of a coordinated school health program for these grades by the Texas Education Agency.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original provided that a school district shall require a student enrolled in kindergarten or a grade level below grade nine to participate in moderate or vigorous daily physical activity for at least 30 minutes as part of a school district's physical education curriculum. If a school district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

The substitute provides that a school district shall require a student enrolled in kindergarten or a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

The original provided that a school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year. The substitute provides that a school district shall provide the results of a student's physical fitness assessment to the student's parent or guardian, accompanied by an explanation of the results.

The substitute provides that the local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any such policy recommendation made to the district. This provision is not in the original bill.

The original provided, with certain specified exceptions, that a school district annually shall assess the physical fitness of students enrolled in kindergarten through grade 12. The substitute provides, with certain specified exceptions, that a school district annually shall assess the physical fitness of students enrolled in grades three through eight.

The substitute provides that, not later than September 1, 2008, the Texas Education Agency, in consultation with the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, shall provide a report to the legislature that details options and recommendations for providing moderate or vigorous daily physical activity for students for at least 30 minutes outside the seven-hour instructional day. The options and recommendations

must be developed with consideration for the needs of students who are enrolled in multiple enrichment curriculum courses. This provision is not in the original bill.