

1-1 By: Nelson, et al. S.B. No. 530
1-2 (In the Senate - Filed February 8, 2007; February 26, 2007,
1-3 read first time and referred to Committee on Education;
1-4 April 2, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 2, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 530 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to physical activity requirements and physical fitness
1-11 assessment for certain public school students.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsections (1) and (1-1), Section 28.002, Education Code, are amended to read as follows:

1-14 (1) A school district shall [The State Board of Education, after consulting with educators, parents, and medical professionals, by rule may] 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 [or through structured activity during a school campus's daily recess, except that the board may not require more than 30 minutes of daily physical activity]. 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 board adopts rules under this subsection, the board must ensure by rule that students enrolled in middle and junior high school settings are allowed to meet the physical activity requirement by participating in physical activity twice each week throughout the school year or the option to schedule at least two semesters overall]. 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 [If the board adopts rules under this subsection, the board] must provide for an exemption for:

1-41 (1) any student who is unable to participate in the required [daily] physical activity because of illness or disability; and

1-42 (2) 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 [State Board of Education].

1-43 (1-1) In adopting rules relating to an activity described by Subsection (1)(2), the commissioner [State Board of Education] 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.

1-44 SECTION 2. Subsection (k), Section 28.004, Education Code, is amended to read as follows:

1-45 (k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

1-46 (1) 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 [30 minutes per school day or 135 minutes per school week] of physical activity required by

2-1 Section 28.002(1); [and]

2-2 (2) a statement of:

2-3 (A) the number of times during the preceding year
2-4 the district's school health advisory council has met;

2-5 (B) whether the district has adopted and enforces
2-6 policies to ensure that district campuses comply with agency
2-7 vending machine and food service guidelines for restricting student
2-8 access to vending machines; and

2-9 (C) whether the district has adopted and enforces
2-10 policies and procedures that prescribe penalties for the use of
2-11 tobacco products by students and others on school campuses or at
2-12 school-sponsored or school-related activities; and

2-13 (3) a statement providing notice to parents that they
2-14 can request in writing their child's physical fitness assessment
2-15 results at the end of the school year.

2-16 SECTION 3. Chapter 38, Education Code, is amended by adding
2-17 Subchapter C to read as follows:

2-18 SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

2-19 Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided
2-20 by Subsection (b), a school district annually shall assess the
2-21 physical fitness of students enrolled in kindergarten through grade
2-22 12.

2-23 (b) A school district is not required to assess a student
2-24 for whom, as a result of disability or other condition identified by
2-25 commissioner rule, the assessment instrument adopted under Section
2-26 38.102 is inappropriate.

2-27 Sec. 38.102. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The
2-28 commissioner by rule shall adopt an assessment instrument to be
2-29 used by a school district in assessing student physical fitness
2-30 under this subchapter.

2-31 (b) The assessment instrument must:

2-32 (1) be based on factors related to student health,
2-33 including the following factors that have been identified as
2-34 essential to overall health and function:

2-35 (A) aerobic capacity;

2-36 (B) body composition; and

2-37 (C) muscular strength, endurance, and
2-38 flexibility; and

2-39 (2) include criterion-referenced standards specific
2-40 to a student's age and gender and based on the physical fitness
2-41 level required for good health.

2-42 Sec. 38.103. REPORTING OF SUMMARY RESULTS. (a) A school
2-43 district shall compile the results of the physical fitness
2-44 assessment required by this subchapter and provide summary results,
2-45 aggregated by grade level and any other appropriate category
2-46 identified by commissioner rule, to the agency. The summary
2-47 results may not contain the names of individual students or
2-48 teachers.

2-49 (b) The results of individual student performance on the
2-50 physical fitness assessment instrument are confidential and may be
2-51 released only in accordance with state and federal law.

2-52 Sec. 38.104. ANALYSIS OF RESULTS. (a) The agency shall
2-53 analyze the results received by the agency under this subchapter
2-54 and identify, for each school district, any correlation between the
2-55 results and the following:

2-56 (1) student academic achievement levels;

2-57 (2) student attendance levels;

2-58 (3) student obesity;

2-59 (4) student disciplinary problems; and

2-60 (5) school meal programs.

2-61 (b) The agency may contract with a public or private entity
2-62 for that entity to conduct all or part of the analysis required by
2-63 Subsection (a).

2-64 (c) Not later than September 1 of each year, the agency
2-65 shall report the findings of the analysis under this section of the
2-66 results obtained during the preceding school year to the School
2-67 Health Advisory Committee established under Section 1001.0711,
2-68 Health and Safety Code, for use by the committee in:

2-69 (1) assessing the effectiveness of coordinated health

3-1 programs provided by school districts in accordance with Section
3-2 38.014; and

3-3 (2) developing recommendations for modifications to
3-4 coordinated health program requirements or related curriculum.

3-5 Sec. 38.105. DONATIONS. The agency and each school
3-6 district may accept donations made to facilitate implementation of
3-7 this subchapter.

3-8 Sec. 38.106. RULES. The commissioner shall adopt rules
3-9 necessary to implement this subchapter.

3-10 SECTION 4. The commissioner of education shall adopt the
3-11 physical fitness assessment instrument required under Subchapter
3-12 C, Chapter 38, Education Code, as added by this Act, and rules
3-13 necessary to implement that subchapter not later than the date that
3-14 enables the instrument to be used by school districts during the
3-15 2007-2008 school year.

3-16 SECTION 5. Notwithstanding Section 11, Chapter 784, Acts of
3-17 the 79th Legislature, Regular Session, 2005, Section 38.014,
3-18 Education Code, as amended by that Act, applies beginning with the
3-19 2007-2008 school year.

3-20 SECTION 6. Subsection (1), Section 28.002, Education Code,
3-21 as amended by this Act, applies to students enrolled in
3-22 kindergarten or a grade level below grade six beginning with the
3-23 2007-2008 school year and to students enrolled in grade levels six
3-24 through eight beginning with the 2008-2009 school year.

3-25 SECTION 7. Except as otherwise provided by this Act, this
3-26 Act applies beginning with the 2007-2008 school year. This Act
3-27 shall apply to junior high or middle schools only upon adoption of a
3-28 coordinated school health program for these grades by the Texas
3-29 Education Agency.

3-30 SECTION 8. This Act takes effect immediately if it receives
3-31 a vote of two-thirds of all the members elected to each house, as
3-32 provided by Section 39, Article III, Texas Constitution. If this
3-33 Act does not receive the vote necessary for immediate effect, this
3-34 Act takes effect September 1, 2007.

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