

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,
1-14 Education Code, are amended to read as follows:

1-15 (1) A school district shall ~~[The State Board of Education,~~
1-16 ~~after consulting with educators, parents, and medical~~
1-17 ~~professionals, by rule may]~~ require a student enrolled in
1-18 kindergarten or a grade level below grade nine to participate in
1-19 moderate or vigorous daily physical activity for at least 30
1-20 minutes as part of a school district's physical education
1-21 curriculum ~~[or through structured activity during a school campus's~~
1-22 ~~daily recess, except that the board may not require more than 30~~
1-23 ~~minutes of daily physical activity]~~. If a school district
1-24 determines, for any particular grade level, that requiring moderate
1-25 or vigorous daily physical activity is impractical due to
1-26 scheduling concerns or other factors, the district may as an
1-27 alternative require a student in that grade level to participate in
1-28 moderate or vigorous physical activity for at least 135 minutes
1-29 during each school week ~~[the board adopts rules under this~~
1-30 ~~subsection, the board must ensure by rule that students enrolled in~~
1-31 ~~middle and junior high school settings are allowed to meet the~~
1-32 ~~physical activity requirement by participating in physical~~
1-33 ~~activity twice each week throughout the school year or the option to~~
1-34 ~~schedule at least two semesters overall]~~. Additionally, a school
1-35 district may as an alternative require a student enrolled in a grade
1-36 level for which the district uses block scheduling to participate
1-37 in moderate or vigorous physical activity for at least 225 minutes
1-38 during each period of two school weeks. A school district ~~[If the~~
1-39 ~~board adopts rules under this subsection, the board]~~ must provide
1-40 for an exemption for:

1-41 (1) any student who is unable to participate in the
1-42 required ~~[daily]~~ physical activity because of illness or
1-43 disability; and

1-44 (2) a middle school or junior high school student who
1-45 participates in an extracurricular activity with a moderate or
1-46 vigorous physical activity component that is considered a
1-47 structured activity under rules adopted by the commissioner ~~[State~~
1-48 ~~Board of Education]~~.

1-49 (1-1) In adopting rules relating to an activity described by
1-50 Subsection (1)(2), the commissioner ~~[State Board of Education]~~ may
1-51 permit an exemption for a student who participates in a
1-52 school-related activity or an activity sponsored by a private
1-53 league or club only if the student provides proof of participation
1-54 in the activity.

1-55 SECTION 2. Subsection (k), Section 28.004, Education Code,
1-56 is amended to read as follows:

1-57 (k) A school district shall publish in the student handbook
1-58 and post on the district's Internet website, if the district has an
1-59 Internet website:

1-60 (1) a statement of the policies adopted to ensure that
1-61 elementary school, middle school, and junior high school students
1-62 engage in at least the amount and level ~~[30 minutes per school day~~
1-63 ~~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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