

ASSEMBLY BILL

No. 2298

Introduced by Assembly Member Torlakson

February 18, 2010

An act to amend Sections 33350, 51210.1, 51210.2, 51451, and 60200 of, to add Section 51220.7 to, and to repeal Section 51223 of, the Education Code, relating to physical education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2298, as introduced, Torlakson. Education: physical education.

(1) Existing law requires the State Department of Education to adopt rules and regulations that it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools. The department must compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools. The department must also encourage school districts offering instruction in kindergarten and any of grades 1 to 12, inclusive, to the extent that resources are available, to provide quality physical education, as specified.

This bill would require the department to periodically update the rules and regulations relating to physical education consistent with the Education Code and content standards developed by the State Board of Education. The bill would specify that the physical education manual that must be distributed to teachers in the public schools be consistent with the requirements for physical education outlined in the Education Code and the content standards adopted by the state board.

(2) Existing law contains specified legislative findings and declarations relating to the importance of physical education in public schools.

This bill would modify those findings and declarations to emphasize the importance of the Physical Education Model Content Standards for California Public Schools and the Physical Education Framework, adopted by the state board, to the physical education program in the public schools.

(3) Existing law provides that the adopted course of study for grades 7 to 12, inclusive, shall include courses in physical education, with emphasis given to physical activities that are conducive to health and to vigor of body and mind, as specified.

This bill would require that courses of physical education provide each pupil with instruction and assessment of their learning in specified content areas of physical education.

Because this provision would increase the duties of local educational agencies, it would create a state-mandated local program.

(4) Existing law establishes the Golden State Seal Merit Diploma to recognize high school graduates who have mastered the high school curriculum. The Golden State Seal Merit Diploma is awarded jointly by the state board and the Superintendent to each pupil who has completed all requirements for a high school diploma and demonstrated the mastery of the curriculum in 6 subject matter areas.

This bill would revise the subjects that a pupil must demonstrate the mastery of to 6 subject matter areas, which may include mathematics, English language arts, social studies, physical education, and visual and performing arts.

(5) Existing law requires the state board to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive. The state board must adopt at least 5 basic instructional materials for all applicable grade levels in specified categories.

This bill would add physical education to the specified categories.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 33350 of the Education Code is amended to read:

33350. ~~The State Department of Education~~ *department* shall do all of the following:

(a) *Adopt and periodically update* rules and regulations that it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools *consistent with this code and the content standards adopted by the state board.*

(b) Compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools of the state *that is consistent with the requirements for physical education outlined in this code and the content standards adopted by the state board.*

(c) Encourage school districts offering instruction in kindergarten and any of grades 1 to 12, inclusive, to the extent that resources are available, to provide quality physical education that develops the knowledge, attitudes, skills, behavior, and motivation needed to be physically active and fit for life; to provide daily recess periods for elementary school pupils, featuring time for unstructured but supervised play; to provide extracurricular physical activity and fitness programs and physical activity and fitness clubs; and to encourage the use of school facilities for physical activity and fitness programs offered by the school, public park and recreation districts, or community-based organizations outside of school hours.

SEC. 2. Section 51210.1 of the Education Code is amended to read:

51210.1. (a) (1) The Legislature finds and declares all of the following:

(A) ~~The Education Code~~ *This code* currently mandates a *minimum of 200 minutes of physical education instruction every 10 schooldays* for pupils in elementary school. Recent studies have shown that the vast majority of children and youth are not physically ~~fit~~ *active enough to achieve and maintain measures of physical fitness that support superior academic achievement and good health.*

(B) According to a March 1997 report by the Centers for Disease Control, the percentage of children and adolescents who are overweight has more than doubled in the last 30 years. Most of this increase occurred within the last 10 years.

(C) Nearly 40 percent of children of ages five to eight years have health conditions that significantly increase their risk of early heart disease.

(D) Some 70 percent of girls; and 40 percent of boys; who are from 6 to 12 years of age do not have enough muscle strength to do more than one pullup.

(E) Most children lead inactive lives. On the average, first through fourth graders spend two hours watching television on schooldays and spend close to three and one-half hours watching television on weekend days.

(2) It is, therefore, the intent of the Legislature that all children shall have access to a high-quality, comprehensive, and developmentally appropriate physical education ~~program on a regular basis as outlined in this code, the Physical Education Model Content Standards for California Public Schools, and the Physical Education Framework for California Public Schools.~~

(b) (1) Each school district selected by the Superintendent ~~of Public Instruction~~ pursuant to paragraph (2) shall report to the ~~Superintendent of Public Instruction~~ in the Coordinated Compliance Review as to the extent of its compliance with subdivision (g) of Section 51210 for grades 1 to 6, inclusive, during that school year.

(2) The ~~Superintendent of Public Instruction~~ shall select not less than 10 percent of the school districts of the state to report compliance with the provisions set forth in paragraph (1). The school districts selected shall provide a random and accurate sampling of the state as a whole.

(c) For purposes of determining compliance with paragraphs (1) and (2) of subdivision (b), the ~~Superintendent of Public Instruction~~ shall not count the time spent in recesses and the lunch period.

(d) A school district that fails to comply with the existing statutory requirements shall issue a corrective action plan to the ~~State Department of Education~~ *department* in accordance with the ~~Coordinated Compliance Review~~ *coordinated compliance review* process.

1 (e) This section ~~shall not be applicable~~ *does not apply* to high
2 schools.

3 SEC. 3. Section 51210.2 of the Education Code is amended to
4 read:

5 51210.2. (a) The Legislature hereby finds and declares that
6 the physical fitness and motor development of children in the
7 public elementary schools is of equal importance to that of other
8 elements of the curriculum.

9 (b) It is, therefore, the intent of the Legislature to encourage
10 each school district maintaining an elementary school composed
11 of any of grades 1 to 6, inclusive, to do one of the following:

12 (1) Employ a credentialed physical education teacher to provide
13 instruction in physical education for each class of grades 1 to 6,
14 inclusive, within any elementary school in the district for a total
15 period of time of not less than 200 minutes each 10 schooldays,
16 exclusive of recesses and the lunch period.

17 (2) Provide each teacher providing instruction in physical
18 education to any of grades 1 to 6, inclusive, within any elementary
19 school in the district with ~~yearly theoretical practical training in~~
20 ~~developmental physical education, as set forth in the Physical~~
21 ~~Education Framework adopted by the State Department of~~
22 ~~Education pursuant to Section 33350, except that any teacher who~~
23 ~~has successfully completed one college level course in elementary~~
24 ~~physical education shall not be subject to this paragraph~~
25 *professional development in the content, instruction, and*
26 *assessment of pupil learning in physical education, as set forth in*
27 *the Physical Education Model Content Standards for California*
28 *Public Schools and the Physical Education Framework adopted*
29 *by the state board.*

30 SEC. 4. Section 51220.7 is added to the Education Code, to
31 read:

32 51220.7. Instruction required by subdivision (d) of Section
33 51220 in courses of physical education shall provide pupils with
34 instruction and assessment in each of the following content areas
35 of physical education: the effects of physical activity on health,
36 principles of biomechanics, exercise physiology, psychology,
37 sociology, motor learning, and motor development as they relate
38 to the learning and performance of movement skills and specifically
39 to rhythms and dance, gymnastics and tumbling, individual and
40 dual activities, combatives, aquatics, and team physical activities.

SEC. 5. Section 51223 of the Education Code is repealed.

~~51223. Notwithstanding the provisions of Sections 51210 and 51222, instruction in physical education in an elementary school maintaining any of grades 1 to 8 shall be for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.~~

SEC. 6. Section 51451 of the Education Code is amended to read:

51451. A ~~student~~ *pupil* who meets the following requirements shall qualify for a Golden State Seal Merit Diploma:

(a) The completion of all requirements for a high school diploma.

(b) A demonstration of the mastery of the curriculum in at least six subject matter areas, ~~four of which shall be including~~ mathematics, English language arts, science, ~~and~~ United States history, ~~with the remaining two subject matter areas selected by the student~~ *physical education, and visual and performing arts.*

SEC. 7. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least ~~five~~ six basic instructional materials for all applicable grade levels in each of the following categories:

(1) Language arts, including, but not limited to, spelling and reading. However, the state board ~~may~~ *shall* not adopt basic instructional materials in this category or the category specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(2) Mathematics. However, the state board ~~may~~ *shall* not adopt basic instructional materials in this category or the category specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this category for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) *Physical education.*

1 ~~(6)~~

2 (7) Any other subject, discipline, or interdisciplinary areas for
3 which the state board determines the adoption of instructional
4 materials to be necessary or desirable.

5 (b) The state board shall adopt procedures for the submission
6 of basic instructional materials in order to comply with each of
7 the following:

8 (1) Instructional materials may be submitted for adoption in any
9 of the subject areas pursuant to paragraphs (1) to ~~(5)~~ (6), inclusive,
10 of subdivision (a) not less than two times every six years and in
11 any of the subject areas pursuant to paragraph ~~(6)~~ (7) of subdivision
12 (a) not less than two times every eight years. The state board shall
13 ensure that curriculum frameworks are reviewed and adopted in
14 each subject area consistent with the six- and eight-year submission
15 cycles and that the criteria for evaluating instructional materials
16 developed pursuant to subdivision (b) of Section 60204 are
17 consistent with subdivision (c). The state board may prescribe
18 reasonable conditions to restrict the resubmission of materials that
19 have been previously rejected if those resubmitted materials have
20 no substantive changes.

21 (2) Submitted instructional materials shall be adopted or rejected
22 within six months of the submission date of the materials pursuant
23 to paragraph (1), unless the state board determines that a longer
24 period of time, not to exceed an additional three months, is
25 necessary due to the estimated volume or complexity of the
26 materials for that subject in that year, or due to other circumstances
27 beyond the reasonable control of the state board.

28 (c) In reviewing and adopting or recommending for adoption
29 submitted basic instructional materials, the state board shall use
30 the following criteria; and ensure that, in its judgment, the
31 submitted basic instructional materials meet all of the following
32 criteria:

33 (1) Are consistent with the criteria and the standards of quality
34 prescribed in the state board's adopted curriculum framework. In
35 making this determination, the state board shall consider both the
36 framework and the submitted instructional materials as a whole.

37 (2) Comply with the requirements of Sections 60040, 60041,
38 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
39 board's guidelines for social content.

1 (3) Are factually accurate and incorporate principles of
2 instruction reflective of current and confirmed research.

3 (4) Adequately cover the subject area for the grade level or
4 levels for which they are submitted.

5 (5) Do not contain materials, including illustrations, that provide
6 unnecessary exposure to a commercial brand name, product, or
7 corporate or company logo. Materials, including illustrations, that
8 contain a commercial brand name, product, or corporate or
9 company logo ~~may~~ *shall* not be used unless the *district governing*
10 board determines that the use of the commercial brand name,
11 product, or corporate or company logo is appropriate based on one
12 of the following specific findings:

13 (A) If text, the use of the commercial brand name, product, or
14 corporate or company logo in the instructional materials is
15 necessary for an educational purpose, as defined in the guidelines
16 or frameworks adopted by the state board.

17 (B) If an illustration, the appearance of a commercial brand
18 name, product, or corporate or company logo in an illustration in
19 instructional materials is incidental to the general nature of the
20 illustration.

21 (6) Meet other criteria ~~as are~~ established by the state board as
22 ~~being~~ necessary to accomplish the intent of Section 7.5 of Article
23 IX of the California Constitution and of Section 1 of Chapter 1181
24 of the Statutes of 1989, provided that the criteria are approved by
25 resolution at the time the resolution adopting the framework for
26 the current adoption is approved, or at least 30 months prior to the
27 date that the materials are to be approved for adoption.

28 (d) If basic instructional materials are rejected, the state board
29 shall provide a specific, written explanation of the reasons why
30 the submitted materials were not adopted, based upon one or more
31 of the criteria established under subdivision (c). In providing this
32 explanation, the state board may use, in whole or in part, materials
33 written by the commission or any other advisers to the state board.

34 (e) The state board may adopt fewer than five basic instructional
35 materials in each subject area for each grade level if either of the
36 following occurs:

37 (1) Fewer than five basic instructional materials are submitted.

38 (2) The state board specifically finds that fewer than five basic
39 instructional materials meet the criteria prescribed by paragraphs
40 (1) to (5), inclusive, of subdivision (c), or the materials fail to meet

the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in ~~any~~ *a* subject for ~~any~~ *a* grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) If a district board establishes to the satisfaction of the state board that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that district governing board to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

(h) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(i) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the *state* board for continuing items on that list shall be the date on which the state board adopts instructional materials based upon a new or revised curriculum framework. Lists of adopted materials shall be made available by subject and grade level. The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. ~~Any materials~~ *Materials* so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(l) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the *state* board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.