

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2298

Introduced by Assembly Member Torlakson

February 18, 2010

An act to amend Sections 33350, 51210.1, 51210.2, 51225.3, 51451, and 60200 of, to add Section 51220.7 to, and to repeal Section 51223 of, the Education Code, relating to physical education. An act to amend Sections 33350, 51210.1, 51210.2, and 51225.3 of, and to add Section 51220.7 to, the Education Code, relating to physical education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2298, as amended, 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 requires 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 consistent with the physical education model content standards, as specified.

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

~~(4) Existing law requires that each pupil complete specified courses while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school. Two courses in physical education are required, unless the pupil has been exempted.~~

~~This bill would delete the provision allowing a pupil to be exempted from the physical education requirement.~~

~~(5) 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 by specifying that the 6 subject matter areas include mathematics, English language arts, social studies, physical education, and either visual and performing arts or foreign language.~~

~~(6) 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.~~

(7)

(4) 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:

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

3 33350. The department shall do all of the following:

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

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

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

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

3 51210.1. (a) (1) The Legislature finds and declares all of the
4 following:

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

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

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

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

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

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

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

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

(c) For purposes of determining compliance with paragraphs (1) and (2) of subdivision (b), the Superintendent 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 department in accordance with the coordinated compliance review process.

(e) This section does not apply to high schools.

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

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

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

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

(2) Provide each teacher providing instruction in physical education to any of grades 1 to 6, inclusive, within any elementary school in the district with professional development in the content, instruction, and assessment of pupil learning in physical education, as set forth in the Physical Education Model Content Standards for California Public Schools and the Physical Education Framework adopted by the state board.

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

51220.7. Instruction required by subdivision (d) of Section 51220 in courses of physical education shall provide pupils with instruction and assessment consistent with the physical education model content standards adopted by the state board.

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

~~SEC. 5.5.~~

SEC. 5. Section 51225.3 of the Education Code is amended to read:

1 51225.3. (a) A pupil shall complete all of the following while
2 in grades 9 to 12, inclusive, in order to receive a diploma of
3 graduation from high school:

4 (1) At least the following numbers of courses in the subjects
5 specified, each course having a duration of one year, unless
6 otherwise specified:

7 (A) Three courses in English.

8 (B) Two courses in mathematics.

9 (C) Two courses in science, including biological and physical
10 sciences.

11 (D) Three courses in social studies, including United States
12 history and geography; world history, culture, and geography; a
13 one-semester course in American government and civics; and a
14 one-semester course in economics.

15 (E) One course in visual or performing arts or foreign language.
16 For the purposes of satisfying the requirement specified in this
17 subparagraph, a course in American Sign Language shall be
18 deemed a course in foreign language.

19 (F) Two courses in physical education.

20 (2) Other coursework requirements adopted by the governing
21 board of the school district.

22 (b) (1) The governing board, with the active involvement of
23 parents, administrators, teachers, and pupils, shall adopt alternative
24 means for pupils to complete the prescribed course of study that
25 may include practical demonstration of skills and competencies,
26 supervised work experience or other outside school experience,
27 career technical education classes offered in high schools, courses
28 offered by regional occupational centers or programs,
29 interdisciplinary study, independent study, and credit earned at a
30 postsecondary institution.

31 (2) Requirements for graduation and specified alternative modes
32 for completing the prescribed course of study shall be made
33 available to pupils, parents, and the public.

34 (c) Notwithstanding any other provision of law, a school district
35 shall exempt a pupil in foster care from all coursework and other
36 requirements adopted by the governing board of the district that
37 are in addition to the statewide coursework requirements specified
38 in this section if the pupil, while he or she is in grade 11 or 12,
39 transfers into the district from another school district or between
40 high schools within the district, unless the district makes a finding

1 that the pupil is reasonably able to complete the additional
2 requirements in time to graduate from high school while he or she
3 remains eligible for foster care benefits pursuant to state law. A
4 school district shall notify a pupil in foster care who is granted an
5 exemption pursuant to this subdivision, and, as appropriate, the
6 person holding the right to make educational decisions for the
7 pupil, if any of the requirements that are waived will affect the
8 pupil's ability to gain admission to a postsecondary educational
9 institution and shall provide information about transfer
10 opportunities available through the California Community
11 Colleges.

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

14 ~~51451. A pupil who meets the following requirements shall~~
15 ~~qualify for a Golden State Seal Merit Diploma:~~

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

18 ~~(b) A demonstration of the mastery of the curriculum in at least~~
19 ~~six subject matter areas, including mathematics, English language~~
20 ~~arts, science, United States history, physical education, and either~~
21 ~~visual and performing arts or foreign language.~~

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

24 ~~60200. The state board shall adopt basic instructional materials~~
25 ~~for use in kindergarten and grades 1 to 8, inclusive, for governing~~
26 ~~boards, subject to the following provisions:~~

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

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

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

1 ~~(3) Science.~~

2 ~~(4) Social science.~~

3 ~~(5) Bilingual or bicultural subjects.~~

4 ~~(6) Physical education.~~

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

8 ~~(b) The state board shall adopt procedures for the submission~~
9 ~~of basic instructional materials in order to comply with each of~~
10 ~~the following:~~

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

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

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

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

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

4 ~~(3) Are factually accurate and incorporate principles of~~
5 ~~instruction reflective of current and confirmed research.~~

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

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

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

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

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

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

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

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

~~(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (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 a subject for 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~~

1 be effective on the date prescribed by the state board pursuant to
2 this subdivision.

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

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

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

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

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

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

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

30 ~~SEC. 8.~~

31 *SEC. 6.* If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.