

BILL ANALYSIS

Senate Research Center
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S.B. 426
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Many of today's youth suffer from obesity, which has reached epidemic proportions. There is a much higher percentage of children who are overweight, and many children have increasingly sedentary lifestyles. Moreover, the number one risk factor for adult obesity is obesity in adolescence. Poor diet and physical inactivity account for an estimated 300,000 deaths each year; only tobacco use causes more preventable deaths. That reality not only threatens quality of life but indicates looming health care costs for the state in the future. Studies show that comprehensive prevention programs have reduced obesity and prevented the onset of diabetes and that children who are physically fit perform better academically.

As proposed, S.B. 426 would better use schools to address the issue of obesity and to improve the health and productivity of school-age children. S.B. 426 requires physical education for all students in middle school, to be phased in by the 2010 school year; requires TEA to collect best practices and develop incentives to provide access to school campuses after regular school hours; and allows comp-ed funding to be used for transportation. S.B. 426 also requires school districts to report to TEA on the activities of the School Health Advisory Councils and the implementation of S.B. 19, 77th Legislature, Regular Session, 2001, requiring elementary students to take physical education. It also creates a Texas Fruit and Vegetable Pilot Project to provide free snacks for students throughout the school day in Tarrant County and another district to be determined in the lower Rio Grande Valley.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Board of Education in SECTION 5 (Section 28.008, Education Code) and to the Texas Department of Agriculture in SECTION 6 (Section 38.018, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth legislative findings regarding childhood obesity.

SECTION 2. Amends Subchapter B, Chapter 7, Education Code, by adding Section 7.029, as follows:

Sec. 7.029. INCENTIVES TO PROVIDE ACCESS TO SCHOOL CAMPUSES AFTER REGULAR SCHOOL HOURS. Requires the Texas Education Agency (TEA) to study incentives that could be provided to the board of trustees of a school district to adopt rules or to otherwise provide community access to school campuses after regular school hours for indoor and outdoor recreational purposes. Requires TEA to prepare a report recommending incentives, based on the study. Requires TEA to submit a copy of the report, no later than November 1, 2006, to specific government entities. Requires TEA to post the report on its website. Provides that this section expires December 31, 2006.

SECTION 3. Amends Section 28.004, Education Code, by adding Subsection (d-1), to require a district to report to TEA concerning the activities of the local school health advisory council, in accordance with rules adopted by the commissioner of education.

SECTION 4. Amends Section 28.004(k), Education Code, by transferring it to Subchapter A, Chapter 38, Education Code, and redesignating it as Section 38.017, Education Code, as follows:

Sec. 38.017. STUDENT HEALTH INFORMATION. (a) Requires a school district to make available for reasonable public inspection a statement of the policies noting the date the district anticipates adopting the policies, if it has not yet adopted the policies described by Paragraph (A), and a statement noting the meetings of the district's local school health advisory council.

(b) Requires the school district to include the information in the district's Public Education Information Management System (PEIMS) report for the 2006-2007 school year. Requires TEA to investigate a district that does not include the information in the PEIMS report to ensure the district has adopted the policies described by Subsection (a). Provides that this subsection expires September 1, 2008.

SECTION 5. Amends Subchapter A, Chapter 28, Education Code, by adding Section 28.008, as follows:

Sec. 28.008. PHYSICAL EDUCATION INSTRUCTION. (a) Requires the State Board of Education (board), by rule, after consulting with certain individuals, to require a student enrolled in kindergarten or a grade level below grade seven in an elementary school to participate in daily physical activity as part of a school district's physical education curriculum or through structured activity during a school's daily recess, yet prohibits the board from requiring more than 30 minutes a day of physical activity. Requires the rules to provide for an exemption for a student who is unable to participate in daily physical activity because of illness or disability.

(b) Requires each student enrolled in a middle school or junior high school to participate in a physical education program for at least one semester per school year as part of the curriculum for the grade level unless the student is unable to participate because of illness or disability. Requires the board to adopt rules for a school district to use in determining whether a student is unable to participate in a physical education program. Prohibits a student from substituting participation in an extracurricular activity that does not include a physical component for participating in a physical education program.

(c) Requires the board, by rule, to ensure that each student participating in a physical education program actively engages in the activities and receives individualized instruction, if necessary.

(d) Requires the school district to implement a physical education program for middle school or junior high school students no later than the 2010-2011 school year. Authorizes a school district to implement a physical education program for Subsections (b) and (c) before the start of the 2010-2011 school year. Provides that this subsection expires September 1, 2011.

SECTION 6. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.018, as follows:

Sec. 38.018. TEXAS FRUIT AND VEGETABLE PILOT PROGRAM. (a) Defines "department" and "program."

(b) Provides that this section applies only to a middle or junior high school in a district selected by the Texas Department of Agriculture (department) under Subsection (c) and that meets specific requirements.

(c) Requires the department to select two school districts to participate in the pilot program. Provides the guidelines by which the districts are to be selected.

(d) Requires the department to implement and make the program available to participating schools during the 2006-2007 school year. Requires the department to implement the program with specific guidelines.

(e) Requires the department to evaluate the effectiveness of the program after its completion. Requires the department to consider specific criteria in evaluating the program.

(f) Requires the department to prepare and deliver a report based on the evaluation to each member of the legislature by January 1, 2009.

(g) Authorizes the department to adopt rules to implement this section, as necessary.

(h) Provides that this section expires September 1, 2009.

SECTION 7. Reenacts and amends Section 42.152(c-1), Education Code, as added by Chapters 253 and 783, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(c-1) Authorizes funds allocated under this section to be used to fund a district's mentoring services program under 29.089, as added by Chapter 783, Acts of the 78th Legislature, Regular Session, 2003, or the operation of a district's school buses for the purpose of transporting students to and from after-school activities. Makes nonsubstantive changes.

SECTION 8. Amends Section 42.155(h), Education Code, to authorize funds allotted under this section to be used in providing transportation services for students to and from after-school activities.

SECTION 9. Repealer: Section 28.002(l) (relating to required participation in daily physical activity), Education Code.

SECTION 10. Provides that this Act begins with the 2005-2006 school year, except as otherwise provided.

SECTION 11. Effective date: upon passage or September 1, 2005.