

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Policy Committee

BILL: CS/CS/SB 2746

INTRODUCER: Health Policy Committee, Pre-K-12 Education Committee, and Senator Constantine

SUBJECT: Physical Education

DATE: April 20, 2007 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
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I. Summary:

This bill requires the Commissioner of Education to provide professional development in physical education for physical education teachers, elementary and secondary school teachers whose assignments include physical education courses, and developers of physical education curricula. The bill authorizes a school principal to designate any instructional personnel, regardless of certification, to teach physical education. The bill defines “physical education,” and requires each district school board to provide 150 minutes of physical education each week for students in kindergarten through grade 5. The bill requires the Department of Education (DOE) to review and revise the Sunshine State Standards regarding physical education in 2007-08. The bill also requires each public school to have an automated external defibrillator on the school grounds.

This bill amends sections 1001.11, 1003.01, and 1003.455, Florida Statutes.

This bill creates two undesignated sections of law.

II. Present Situation:

Florida Laws Governing Physical Education in Elementary School

Each district school board is responsible for developing a physical education program that consists of “physical activities of at least a moderate intensity level and for a duration sufficient to provide a significant health benefit to students, subject to the differing capabilities of

students.”¹ Each school district must have a physical education policy that describes the district’s physical education program and expected program outcomes.²

Physical education is not required in elementary and middle school. The statute encourages each district school board to provide 150 minutes of physical education each week for students in kindergarten through grade 5 and 225 minutes each week for students in grades 6 through 8.³

The Sunshine State Standards

The Sunshine State Standards establish expectations for students’ achievement in physical education from prekindergarten through grade 12.⁴ The standards for physical education address physical education literacy, responsible physical education behaviors, and advocating and promoting physically active lifestyles. The 2006 Legislature required the State Board of Education to establish a schedule for the periodic review of the Sunshine State Standards to ensure adequate rigor, relevance, logical student progression, and integration of reading, writing, and mathematics across all subject areas.⁵ The review must address the instructional requirements of different learning styles. The standards for physical education are scheduled for review in 2009-10.⁶

Fitness Measures

The 2004 Legislature required the DOE to report on the status of physical education instruction in the public schools and to select or develop a fitness assessment and support materials for use by school districts.⁷ According to the department’s 2005 report on physical education:

The overall mission of fitness testing is to: 1) determine the overall fitness level of each individual student and develop individualized fitness education plans enabling the student to improve his or her fitness status, and 2) to assist physical education teachers in evaluating their present curriculum to determine if there is adequate fitness education provided to the students to improve their fitness level. Typically, fitness assessments [*sic*] programs include an instructor’s guide, assessment software, and assessment report forms. The most commonly used programs in the state of Florida include the President’s Challenge Physical Fitness Program and Health Related Fitness Test and the FITNESSGRAM . . .⁸

¹ See s. 1003.455(1), F.S.

² See s. 1003.455(2), F.S.

³ See s. 1003.455(3), F.S.

⁴ See the Florida Department of Education’s website for the Sunshine State Standards at: <<http://www.firn.edu/doe/curric/prek12/index.html>> (Last visited on April 16, 2007).

⁵ Section 6, ch. 2006-74, Laws of Florida.

⁶ Florida Department of Education. Sunshine State Standards Proposed Six-Year Cycle: Standards Revisions, Instructional Materials Adoption, and Assessment Alignment. June 20, 2006. Readable at: http://www.fldoe.org/APlusPlus/pdf/sss_revision.pdf (Last visited on April 16, 2007).

⁷ See s. 2, ch. 2004-255, Laws of Florida.

⁸ Florida Department of Education. “Physical Education Report and Recommendations”. 2005. p. 30.

The President's Challenge,⁹ which encourages Americans of all ages to make being active a part of their daily lives, was developed by the President's Council on Physical Fitness and Sports. The program assists participants to develop individualized goals and to record personal activity logs, and the program rewards participant achievements through a standardized award system. In Florida, 52 percent of schools surveyed in 2005 reported using the President's Challenge.

The FITNESSGRAM®,¹⁰ a health-related fitness assessment tool, helps identify the individual fitness levels of students within the five components of health-related fitness: aerobic capacity, muscular strength, muscular endurance, flexibility, and body composition. The FITNESSGRAM® was developed by the Cooper Institute and is sponsored by the American Alliance for Health, Physical Education, Recreation and Dance (AAHPERD). In Florida, 11 percent of schools surveyed in 2005 used the FITNESSGRAM®.

The department has selected the President's Challenge Physical Fitness Program and FITNESSGRAM® as the fitness measures it will recommend to school districts.

Clearinghouse for Physical Education Professional Development

The 2004 Legislature also established an internet-based clearinghouse, funded primarily by private sources, for physical education professional development.¹¹ The DOE was required to approve a state university to develop this clearinghouse, and the department selected Florida State University. The clearinghouse became available to teachers and to the public in October 2006.

School District Wellness Policies

The 2006 Legislature required school districts to submit to the DOE copies of the school wellness policies¹² they are required to develop under the Child Nutrition and WIC Reauthorization Act of 2004 (Act).¹³ Most school districts' policies are accessible through the DOE's website.¹⁴ Under the Act, all schools that participate in a program that provides free and reduced price school lunches, and/or breakfast, were required to establish a local wellness policy before the first day of school after June 30, 2006. The policy must include goals for physical activity. The DOE reports that seven school districts require 30 minutes or more of physical activity in elementary school during the school day; four districts require daily physical activity of less than 30-minute duration; 38 districts offer physical activity during the day and seven of those districts specify a number of minutes per day.

⁹See the webpage of the President's Council on Physical Fitness and Sports within the U.S. Department of Health and Human Services at: <http://www.fitness.gov/home_pres_chall.htm> (Last visited on April 16, 2007).

¹⁰ See the webpage of the Cooper Institute at <<http://www.cooperinst.org/products/grams/index.cfm>> or the institute's homepage at <<http://www.cooperinst.org/index.cfm>> (Last visited on April 16, 2007).

¹¹ See s. 5, ch. 2004-255, Laws of Florida.

¹² See s. 18, ch. 2006-301, Laws of Florida.

¹³On June 30, 2004, President Bush signed the *Child Nutrition and WIC Reauthorization Act of 2004* into law (P.L. 108-265).

¹⁴ See links to Local Wellness Policies on the Florida Department of Education's website at: <<http://www.fldoe.org/FNM/wellness/localpolicies.asp>> (Last visited on April 16, 2007).

Other 2006 Physical Education Requirements

The 2006 Legislature also:

- Required the DOE to post links on its website to resources for school districts and the public concerning classroom instruction on health-related topics, examples of school wellness policies for school districts, and other information related to school health policy and measures of school health;
- Required school districts to submit copies of their physical education policies to the DOE;
- Required all physical education programs and curricula to be reviewed by a certified physical education instructor; and
- Encouraged each district school board to provide 150 minutes of physical education each week in kindergarten through grade 5 and 225 minutes each week in grades 6 through 8.

School District Physical Education Initiatives

School district wellness policies establish goals for physical activity. Some school districts require physical education in elementary and middle school, and some districts have formed partnerships with private businesses and local governments to implement innovative physical education programs designed to motivate students to be physically active outside of school.

The Escambia County School District's wellness plan requires elementary schools to provide a daily 15-minute recess for all students, and requires students in grades 6 through 8 to have daily, scheduled physical education. High school students in Escambia County public schools must complete 1.5 credits in physical education—one-half credit more than is required by the state. Through grants and partnerships with agencies and organizations, Escambia County has established the Special Activities in Physical Education Program that provides equipment and teacher materials for special programs in bicycle safety, softball, bowling, skating, fitness, martial arts and golf.

The Broward County School District and a private media company have created the "Commit 2B Fit"™ program to encourage students to improve their nutrition and increase their physical activity. In the program, all third grade students in 110 elementary schools in the district receive an agenda—a student planner—in which they write their academic activities for the day, their physical activity, and the fruits and vegetables they ate. Students assume responsibility for daily commitment to good nutrition and physical activity. Students who make a commitment to be fit receive a necklace with a charm, and they can earn a new charm every nine weeks. The Broward County Parks department sponsors events to encourage families to use the parks for physical activity.

Miami-Dade County public schools, through a partnership with the World Olympians Association, is implementing an Olympian Education Series in middle schools and high schools. Student ambassadors from participating schools attend educational sessions with Olympic athletes who overcame a health condition that could have been perceived as a barrier. Such conditions include diabetes, eating disorders, and asthma. After attending the educational program with an Olympic athlete, student ambassadors return to their schools to tell other students what they learned. The school district is conducting research in a program called "I Can

Do It, You Can Do It” that aims to increase the physical activity of students with physical and cognitive disabilities. The research is being funded by the US Department of Health and Human Services and the National Institutes of Health Foundation. Thirty senior high schools in Miami-Dade County have Wellness/Fitness centers under the Carol M. White Physical Education Program funded by the US Department of Education.

Senate Interim Project 2006-114—Physical Education in Public Schools

The Senate Committee on Education Pre-K-12 conducted an interim project on physical education in the public schools. The committee reviewed the implementation of recent legislation relating to physical education, obtained data from the DOE concerning participation in physical education in public schools, and consulted with the department’s physical education coordinator and physical education coordinators in selected school districts. The report concluded that the number of minutes of physical education provided by a school district is not an adequate indicator of the district’s commitment to physical activity, as is shown by the innovative partnerships in Broward, Escambia, and Miami-Dade Counties that enhance physical education and motivate students to be physically active.¹⁵ The report recommended that the Legislature should continue to monitor school districts’ provision of physical education classes, the number of students enrolled in physical education classes, and the number of minutes per week per physical education class. The report also recommended that the Legislature should monitor school district initiatives that enhance physical education and motivate students to be physically active.

Cardiac Arrest/Automated External Defibrillators

The American Heart Association (AHA) provides the following description of cardiac arrest:

“Cardiac arrest is the sudden, abrupt loss of heart function. The victim may or may not have diagnosed heart disease . . . Sudden death (also called sudden cardiac death) occurs within minutes after symptoms appear.”¹⁶

Time is of the essence in responding to cardiac arrest because brain death begins in just 4 to 6 minutes. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a procedure known as *defibrillation*. According to the AHA, a victim’s chances of survival are reduced by 7 to 10 percent with every minute that passes without defibrillation, and few attempts at resuscitation succeed after 10 minutes have elapsed.¹⁷

An automated external defibrillator (AED) is an electronic device that can shock a person’s heart back into rhythm when he or she is having a cardiac arrest. The 2006 Legislature required each public school that is a member of the Florida High School Athletic Association to have an operational AED on the school grounds.¹⁸ Section 1006.165, F.S., encourages public and private

¹⁵ The Florida Senate. Interim Project 2006-114, Physical Education in Public Schools.

¹⁶ See definition of “cardiac arrest” on the American Heart Association’s website at: <http://www.americanheart.org/presenter.jhtml?identifier=4481> (Last visited on April 16, 2007).

¹⁷ *Ibid.*

¹⁸ See ch. 2006-301, Laws of Florida.

partnerships to cover the cost associated with the purchase and placement of the AED and training in the use of the AED. School employees and volunteers who are expected to use the device must be trained. The location of each AED must be registered with the local emergency services director. Employees and volunteers who use an AED will be covered by the Good Samaritan Act¹⁹ and the Cardiac Arrest Survival Act.²⁰

Section 401.2915, F.S., provides the minimum training requirements for an individual who intends to use an AED in cases of cardiac arrest, as follows:

- A person must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an AED;
- A person or entity in possession of an AED is encouraged to register with the local emergency medical services medical director the existence and location of the AED; and
- A person who uses an AED is required to activate the emergency medical services system as soon as possible upon use of the AED.

III. Effect of Proposed Changes:

Professional Development

This bill requires the Commissioner of Education to dedicate financial and departmental staff resources to provide professional development for physical education teachers, elementary and secondary teachers whose assignments include physical education courses, and developers of physical education curricula. The professional development must incorporate current physical education and nutrition philosophy and best practices that result in student participation in physical activities that promote lifelong physical and mental well-being. The bill authorizes a school principal to designate any instructional personnel defined in s. 1012.01, F.S.,²¹ regardless of certification, to teach physical education.

¹⁹ Section 768.13, F.S., the “Good Samaritan Act,” provides immunity from civil liability to health care providers and health care practitioners under specified conditions and to “Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, F.S., or a state of emergency which has been declared pursuant to s. 252.36, F.S., or at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.”

²⁰ Section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an AED in a perceived medical emergency under conditions specified in the Act.

²¹ Section 1012.01(2), F.S., defines “instructional personnel” to mean any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel (classroom teachers, student personnel services, librarian/media specialists, other instructional staff, and education paraprofessionals) whose functions provide direct support in the learning process of students.

Definition of Physical Education

The bill defines the term *physical education* to mean “the development or maintenance of skills related to strength, agility, flexibility, movement, and stamina, including dance; the development of knowledge and skills regarding teamwork and fair play; the development of knowledge and skills regarding nutrition and physical fitness as part of a healthy lifestyle; and the development of positive attitudes regarding sound nutrition and physical activity as a component of personal well-being.”

Required Instruction in Physical Education

The bill requires each district school board to provide 150 minutes of physical education each week for students in kindergarten through grade 5. Students enrolled in such instruction must be reported separately for funding through the periodic student membership surveys,²² and records of such enrollment must be audited pursuant to s. 1010.305, F.S. Each district school board is encouraged to provide 225 minutes of physical education each week for students in grades 6 through 8.

Revision of Standards for Physical Education

The bill requires the DOE to review and revise the Sunshine State Standards related to physical education skills during the 2007-08 school year to reflect state-of-the-art philosophy and practice. The revised standards must emphasize the role of physical education in promoting the knowledge, skills, and attitudes that prepare students to make healthy lifelong nutrition and physical fitness choices.

Required Defibrillators

The bill requires each public school to have at least one operational automated external defibrillator on the school grounds. Schools are encouraged to seek public and private partnerships to assist with the cost of purchasing, maintenance, and training associated with the requirement.

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

²² The Florida Education Finance Program student membership surveys are governed by Rule 6-A-1.0451, Florida Administrative Code.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The costs a teacher certified in elementary education would incur to add certification in physical education would vary. The application fee is \$56, and the fee to take the test to demonstrate competency in the subject area varies from \$25 for the pencil-and-paper test to \$75 for the test in a computer format. The education that a teacher would need in order to demonstrate competency in physical education would vary according to his or her expertise and previous education. Unless the employer agreed to cover the cost, a current elementary teacher wishing to teach physical education would bear the cost of becoming certified in physical education.

C. Government Sector Impact:

According to the DOE, each school district would experience additional costs for the delivery of the staff development program. The costs would vary depending on the method of delivery (on-line, demonstration, etc.), duration, and scheduled delivery time.

According to the DOE, there are currently 6,233 physical education teachers and an unknown additional number of other teachers involved in physical education. To the extent that school districts have to hire new physical education teachers to meet the requirements of the bill, the state would incur additional costs.

The DOE might incur a cost to expedite the review of the Sunshine State Standards.

Schools that do not have an AED on campus would incur the cost of purchasing the AED and training personnel in its use.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
