



JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION
Fiscal Impact Review
2013 Session

Bill Number: SB 993

Review Requested By: Senator Stosch

JLARC Staff Fiscal Estimates

SB 993 would add a requirement to the Standards of Quality for school divisions to make at least 30 minutes of physical activity available each day for all students in kindergarten through eighth grade. The bill would also require divisions to continue to have a goal of at least 150 minutes per week of physical activity on average for students in ninth through twelfth grade.

The fiscal impact of SB 993 depends on how localities interpret the requirement and change their current approach to offering physical education more broadly, and providing physical activity opportunities more specifically. It is unlikely that SB 993 will have a substantial fiscal impact on the state's funding of the Standards of Quality. However, depending on how a division chooses to interpret the requirements of SB 993—in particular if the school day needs to be lengthened or additional teachers hired—it would likely increase local school division costs. JLARC staff discussion with two large school divisions indicated that their interpretation of SB 993 and consequent changes to their current approach could increase their local costs by \$3.5 million and \$18.5 million, respectively. This would represent an increase in those divisions' local spending of about one to two percent.

An explanation of the JLARC staff review is included on the following pages.

Authorized for Release:

Hal E. Greer
Director

Bill Summary

SB 993 would add a requirement to the Standards of Quality for school divisions to make at least 30 minutes of physical activity available each day for all students in kindergarten through eighth grade. The bill would also require divisions to have a goal of at least 150 minutes per week of physical activity on average for students in ninth through twelfth grade.

As shown in the table below, SB 993 would make three substantive changes to the current standards. First, divisions would make a program of physical *activity* available instead of a program of physical *fitness*. This standard of physical activity, rather than physical fitness, would likely be interpreted as a less restrictive standard by school divisions. Physical activity could likely include any form of body movement that uses energy, such as walking or jumping, which is less structured than physical fitness. Despite this change from physical fitness to physical activity, the standard that indicates what a program may include would not change under SB 993 but would remain any combination of physical education classes, extracurricular athletics, or other program and physical activities deemed appropriate by the local school board. Second, the bill would change the current standard for grades kindergarten through eight from a goal of at least 150 minutes per week, on average, to a daily 30 minute standard. Finally, the bill would require local school divisions to implement a program, instead of simply making a program a goal.

Current Standard	SB 993	Change
A program of physical <i>fitness</i> ...	A program of physical <i>activity</i> ...	The change from “physical fitness” to “physical activity” is less restrictive as physical activity can include a variety of movement such as walking, jumping, and stretching.
...available to all students with a goal of at least 150 minutes per week on average during the regular school year.	... available to all students in grades kindergarten through eight consisting of at least 30 minutes per day during the regular school year and available to all students in grades nine through 12 with a goal of at least 150 minutes per week on average during the regular school year.	Adding specific grade ranges creates two categories for compliance. Instead of a weekly goal, grades kindergarten through eight must have a daily program of 30 minutes of activity available to them (however they are not required to participate). The requirement for students in grades nine through twelve does <i>not</i> change to a daily requirement, and remains a “goal of at least 150 minutes per week.”
Each local school board shall incorporate into its local wellness policy a goal for the implementation of such a program during the regular school year.	Each local school board shall implement such a program during the regular school year.	The change from “goal for the implementation” to “shall implement” indicates that local school boards must implement a program of physical activity, rather than just have a goal to do so. This change may have considerable impact on high schools in divisions that only have a goal, but no implemented program.

Current Approach to SOQ Funding and Providing Physical Fitness

The state provides Standards of Quality funding to school divisions, a small portion of which is provided by a formula for staffing for arts, music, and physical education. For example, funding is

JLARC offers Fiscal Impact Reviews in accordance with Item 31D of Chapter 806 (2013 Acts of Assembly). JLARC Fiscal Impact Reviews do not comment on the merits of the bill under review.

provided based on a ratio of five staff per 1,000 students in kindergarten through fifth grade. Divisions can use this funding at their discretion to meet the current standard of a goal of at least 150 minutes per week of physical fitness, but also for staffing to provide arts and music education to students.

Divisions provide physical fitness in different ways, including formalized physical education classes. Staff at the Department of Education indicated that elementary school students typically have about 90 minutes of physical education class each week. Depending on the physical infrastructure of the school, their approach to staffing the physical education classes, and other instructional requirements, schools provide these 90 minutes in different ways, such as multiple periods of physical education per grade per week, or combining some grades into one physical education class.

In addition, the Standards of Accreditation require all elementary schools to offer daily recess, defined as “a segment of free time exclusive of time provided for meals during the standard school day in which students are given a break from instruction.” (8VAC 20-131). The amount of recess varies by division and is set by the local school board or, in some cases, by individual school principals. DOE staff indicated that schools typically offer about 15 minutes of potential physical activity through recess each day, or about 75 minutes per week.

Discussion of Fiscal Implications

The fiscal impact of SB 993 depends on how localities interpret the requirement and change their current approach to offering physical education more broadly, and providing physical activity opportunities more specifically.

The interpretation of recess has a significant impact on compliance with SB 993. DOE, in its review of SB 993, does not include recess as an option to meet the requirements of the bill, noting that the Board of Education indicated recess should be considered a break--but not be used to meet physical education, physical fitness, or physical activity requirements. However, JLARC staff interviews with several local school divisions found that at least some divisions consider recess a physical activity that would allow them to comply with SB 993 without making any changes. The proposed changes to SB 993 do not specifically indicate whether or not recess will be considered in the daily 30 minutes.

State Fiscal Impact

According to DOE staff, it is unlikely that SB 993 would substantially affect state SOQ funding currently provided under the current ratio of five arts, music and physical education staff per 1,000 students. SB 993 does not change this current ratio. However, local school divisions may use local funds to increase the number of physical education, art, and music staff beyond five per 1,000 students.

To the extent that compliance with SB 993 leads to a widespread school day expansion and consequent increase in teacher compensation, there could be some long term fiscal impact on the state. This impact would occur through increased state SOQ funding if teacher salaries are increased to reflect the longer school day and then re-benchmarked over time. It is not possible to calculate the timing or magnitude of this effect because (1) it is unclear whether and to what extent divisions would provide additional teacher compensation and (2) whether these divisions would be included in those sampled to calculate the prevailing salary through the re-benchmarking process.

Local Fiscal Impact

The local fiscal impact of SB 993 could be substantial in certain divisions, depending on (1) how they interpret and choose to comply with the requirement and (2) their current approach to staffing physical education, scheduling the school day, and their school facilities infrastructure.

According to DOE and based on the definition of recess as “a segment of free time” (8VAC 20-131-05), the Board of Education has said that recess should be considered as a break, and should not be used to meet physical education, physical fitness, or physical activity requirements. When the Board developed the physical fitness guidelines in 2006, it deliberately did not include recess, and the proposed physical education guidelines that went to the Board for first review in October 2013 also do not include recess. As a result, counting recess toward the daily 30 minutes of physical activity will not be presented as an option below, though it is not specifically prohibited in the language of SB 993.

If recess is *not* considered part of the daily required physical activity under SB 993, then some schools will likely need to make substantial changes to their schedules and school day to comply. Certain schools may also not have sufficient indoor space to provide physical education to all students each day during inclement weather.

Elementary schools could incorporate physical activity into the classroom, lengthen the school day, or choose to hire additional staff to conduct daily physical education classes. If a school chooses to incorporate physical activity into class time, the school would need to devote a portion of class time (for example currently devoted to instruction) to physical activity. The physical activity could take the form of short breaks before, during, or after instruction. These short breaks could be used for physical activities such as walking, skipping, jumping jacks, or stretching. This approach could require additional staff training, schedule changes, and/or purchasing additional recreational equipment.

If a school chooses to add a physical education class each day for all students, the school would switch some other portion of the school day or lengthen the school day. This approach could require schedule changes, hiring additional staff to conduct the physical education classes, renegotiating teacher contracts to account for a longer school day, and/or renovating existing or building new space to accommodate daily physical education classes.

Two of the state’s larger school divisions estimated complying with SB 993 in this manner could cost their localities about \$3.5 million or \$18.5 million per year, respectively, in additional local funding. The estimated costs for additional staff would represent an increase of between one and two percent in local spending by those two divisions. These estimates accounted for the additional staff required for a daily physical education class, but not costs associated with lengthening the school day.

Schools could add extracurricular athletics before or after school to meet the daily requirement. Extracurricular activities such as a walking group, running club, group exercise, or open gym before or after school would allow the school to maintain the current school-day structure while still making physical activity available to students. However, the extended hours could require a renegotiation of teacher contracts.

Middle schools with block scheduling and schools with shorter days, including half-day kindergarten, would also need to make changes. Middle schools often use a “block” schedule approach, so they would need to incorporate physical activity into class or add a daily physical education class.

Doing so would likely require similar changes as discussed above. Certain school divisions also have regularly-scheduled early release days typically used for teacher training and meetings. In both these cases, it would be challenging for schools to effectively meet the daily 30 minute physical activity requirement without lengthening the day and/or switching away from instructional time.

Budget Amendment Necessary: No.

Agencies Affected: Local school divisions.

Date Released, Prepared By: 11/1/2013, Bridget Farmer.