

**ASSEMBLY BILL**

**No. 1392**

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**Introduced by Assembly Member Umberg**

February 22, 2005

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An act to amend Section 49548 of the Education Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 1392, as introduced, Umberg. Summer school: free or reduced-price meal.

(1) Existing law requires a school district and a county superintendent of schools maintaining a kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday, except as specified.

Existing law requires the State Board of Education to grant a one-year waiver from that requirement during a summer school session if 2 of 4 enumerated conditions exist, including that the summer school session is less than 4 hours in duration and is completed by noon, that less than 10% of the needy pupils attending the summer school session are at the schoolsite for more than 3 hours per day, that a Summer Food Service Program for Children site is available within the attendance area of the school, and that compliance with the requirement would result in a financial loss in a specified amount relative to food service net cash resources, except as specified.

This bill would require a waiver to be granted if a Summer Food Service Program is available within a specified proximity to the schoolsite and as to specified hours of operation, or if compliance with the requirement would result in a financial loss equal to the operating costs of one month, averaged over the school year. The bill would not

permit a waiver of the requirement to provide a nutritionally adequate free or reduced-price meal for certain pupils enrolled in a summer school session. To the extent that these restrictions on granting a waiver from this requirement would impose additional duties on a school district, the bill would create a state-mandated local program.

(2) 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 49548 of the Education Code is  
2 amended to read:

3 49548. (a) The State Board of Education, in order to effect  
4 compliance with legislative findings expressed in Section 49547,  
5 shall restrict the criteria for the issuance of waivers from the  
6 requirements of Section 49550 to feed children during a summer  
7 school session. A waiver shall be granted for a period not to  
8 exceed one year ~~only if two of~~ *under* the following conditions  
9 exist:

10 ~~(a) The summer school session is of less than four hours~~  
11 ~~duration and is completed by noon, allowing pupils to go home~~  
12 ~~during the lunch period.~~

13 ~~(b) Less than 10 percent of needy pupils attending the summer~~  
14 ~~school session are at the schoolsite for more than three hours per~~  
15 ~~day.~~

16 ~~(c) A~~

17 (1) (A) *A summer school session serving pupils enrolled in*  
18 *elementary or middle school, shall be granted a waiver if a*  
19 *Summer Food Service Program for Children site is available*  
20 *within the school attendance area one-half mile of the schoolsite*  
21 *and either of the following conditions exist:*

1 (i) *The hours of operation of the Summer Food Service*  
2 *Program for Children commences no later than one-half hour*  
3 *after the completion of the summer school session day.*

4 (ii) *The hours of operation of the Summer Food Service*  
5 *Program for Children concludes no earlier than one hour after*  
6 *the completion of the summer school session day.*

7 (B) *A summer school session serving pupils enrolled in high*  
8 *school, shall be granted a waiver if a Summer Food Service*  
9 *Program for Children site is available within one mile of the*  
10 *schoolsite and either of the following conditions exist:*

11 (i) *The hours of operation of the Summer Food Service*  
12 *Program for Children site commences no later than one-half*  
13 *hour after the completion of the summer school session day.*

14 (ii) *The hours of operation of the Summer Food Service*  
15 *Program for Children site concludes no earlier than one hour*  
16 *after the completion of the summer school session day.*

17 ~~(d)~~

18 (2) *Serving meals during the summer school session would*  
19 *result in a financial loss to the school district, documented by the*  
20 *school district, in an amount equal to ~~one-third of the food~~*  
21 *service net cash resources or, if those cash resources are*  
22 *nonexistent, an amount equivalent to one month's the operating*  
23 *costs of one month as averaged over the school year.*

24 ~~Additionally~~

25 (b) *Additionally, schools shall be encouraged to "open" their*  
26 *meal sites to all children to fulfill community needs under the*  
27 *Summer Food Service Program for Children (7 C.F.R. 225.14(d)*  
28 *(3)). ~~The State Board of Education~~ state board and the*  
29 *Superintendent of Public Instruction shall provide leadership to*  
30 *encourage and support schools and public agencies to participate*  
31 *in the Summer Food Service Program for Children, consistent*  
32 *with the intent of Section 49504.*

33 (c) *A waiver shall not be granted from meeting the*  
34 *requirements of Section 49550 for a pupil attending summer*  
35 *school session pursuant to subdivision (a) of Section 53029,*  
36 *paragraph (1) of subdivision (a) of Section 53093, or Section*  
37 *54444.3.*

38 (d) *An application for a waiver shall be submitted no later*  
39 *than 60 days prior to the last regular meeting of the state board*

1 *before the commencement of the summer school session for*  
2 *which the waiver is sought.*

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

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