

AMENDED IN SENATE JUNE 16, 2005

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1392

Introduced by Assembly Member Umberg

February 22, 2005

An act to amend ~~Section 49548~~ *Sections 49548 and 49550* of the Education Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 1392, as amended, Umberg. ~~Summer school: free~~ *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 *for Children site* 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,~~ *as specified.* 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. *The bill would, for purposes of providing nutritionally adequate free or reduced-price meals, authorize a school district or county superintendent of schools to use funds provided by specified programs.*

(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 if ~~either~~ *any* of the following conditions exist:
9 (1) (A) A summer school session serving pupils enrolled in
10 ~~elementary or middle school,~~ *elementary school* shall be granted
11 a waiver if a Summer Food Service Program for Children site is
12 available within one-half mile of the schoolsite and either of the
13 following conditions ~~exist~~ *exists*:
14 (i) The hours of operation of the Summer Food Service
15 Program for Children ~~commence~~ *site commence* no later than

1 one-half hour after the completion of the summer school session
2 day.

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

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

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

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

18 (2) (A) Serving meals during the summer school session
19 would result in a financial loss to the school district, documented
20 *in a financial analysis performed* by the school district, in an
21 amount equal to *one-third of net cash resources, or, if there are*
22 *no net cash resources, an amount equal to* the operating costs of
23 one month as averaged over the ~~school year~~.

24 ~~(b) Additionally, schools shall be encouraged to "open" their~~
25 ~~meal sites to all children~~ *previous school year, as reported in the*
26 *reimbursement claim of the school district for the previous*
27 *school year.*

28 (B) *The financial analysis required by subparagraph (A) shall*
29 *include a projection of future meal program participation based*
30 *on either of the following:*

31 (i) *Commencement of a meal service period after the*
32 *commencement of the summer school session day and conclusion*
33 *of a meal service period before the completion of the summer*
34 *school session day.*

35 (ii) *Operation of a schoolsite as an open Summer Food Service*
36 *Program for Children site, and providing adequate notification*
37 *thereof, including flyers and banners, in order to fulfill*
38 *community needs under the Summer Food Service Program for*
39 *Children (7 C.F.R. 225.14(d)(3)).* ~~The~~

1 (b) The state board and the Superintendent shall provide
2 leadership to encourage and support schools and public agencies
3 to participate in the Summer Food Service Program for Children,
4 consistent with the intent of Section 49504.

5 ~~(e) A waiver shall not be granted from meeting the~~
6 ~~requirements of Section 49550 for a pupil attending summer~~
7 ~~school session pursuant to subdivision (a) of Section 53029,~~
8 ~~paragraph (1) of subdivision (a) of Section 53093, or Section~~
9 ~~54444.3.~~

10 ~~(d)~~
11 (c) An application for a waiver shall be submitted no later than
12 60 30 days prior to the last regular meeting of the state board
13 before the commencement of the summer school session for
14 which the waiver is sought.

15 (d) The Superintendent shall investigate acts of alleged
16 noncompliance with this section. If the Superintendent finds that
17 a school district or county superintendent of schools has failed to
18 comply with this section, the Superintendent shall certify that
19 noncompliance to the Attorney General. The Attorney General
20 shall conduct investigations necessary to document the
21 noncompliance. The Attorney General shall seek injunctive relief
22 to secure compliance with this section, when that action is
23 requested by the Superintendent.

24 SEC. 2. Section 49550 of the Education Code is amended to
25 read:

26 49550. ~~Notwithstanding~~—(a) Notwithstanding any other
27 provision of law, each school district—and or county
28 superintendent of schools maintaining any kindergarten or any of
29 grades 1 to 12, inclusive, shall, ~~commencing on July 1, 1977,~~
30 provide for each needy pupil ~~enrolled therein,~~ one nutritionally
31 adequate free or reduced-price meal during each schoolday,
32 except for family day care homes ~~which~~ that shall be reimbursed
33 for 75 percent of the meals served.

34 The amendments to this section enacted by the Legislature in
35 the 1981 portion of the 1981–82 Regular Session of the
36 Legislature shall apply retroactively to July 1, 1981, to the extent
37 that they may legally do so.

38 (b) In order to comply with subdivision (a), a school district or
39 county office of education may use funds made available through
40 any federal or state program the purpose of which includes the

1 *provision of meals to a pupil, including the federal School*
2 *Breakfast Program, the federal National School Lunch Program,*
3 *the federal Summer Food Service Program, the federal Seamless*
4 *Summer Option, or the state meal program, or may do so at the*
5 *expense of the school district or county office of education.*

6 ~~SEC. 2.—~~

7 SEC. 3. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

12
13
14 CORRECTIONS: _____

15 Text — Page 4.
16 _____