

AMENDED IN SENATE JUNE 23, 2005

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

(Coauthor: Senator Soto)

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1392, as amended, Umberg. 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, 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 any of the following conditions exist:
9 (1) (A) A summer school session serving pupils enrolled in
10 elementary school shall be granted a waiver if a Summer Food
11 Service Program for Children site is available within one-half
12 mile of the schoolsite and either of the following conditions
13 exists:
14 (i) The hours of operation of the Summer Food Service
15 Program for Children site commence no later than one-half hour
16 after the completion of the summer school session day.

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

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

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

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

(2) (A) Serving meals during the summer school session would result in a financial loss to the school district, documented in a financial analysis performed by the school district, in an amount equal to one-third of net cash resources, ~~or, if which for the purposes of this article, shall exclude funds that are encumbered for, or are restricted in use for the purpose, of purchasing replacement food service equipment, so long as those funds do not exceed three percent of the district's food service budget, or an amount determined by the district to meet the district's extraordinary needs, as approved by the State Board of Education. If there are no net cash resources, an amount equal to the operating costs of one month as averaged over the previous school year, as reported in the reimbursement claim of the school district for the previous school year.~~ *summer school sessions.*

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

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

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

1 (3) *The entire summer school day is two hours or less in*
2 *duration.*

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

7 (c) An application for a waiver shall be submitted no later than
8 30 days prior to the last regular meeting of the state board before
9 the commencement of the summer school session for which the
10 waiver is sought.

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

20 SEC. 2. Section 49550 of the Education Code is amended to
21 read:

22 49550. (a) Notwithstanding any other provision of law, each
23 school district or county superintendent of schools maintaining
24 any kindergarten or any of grades 1 to 12, inclusive, shall provide
25 for each needy pupil one nutritionally adequate free or
26 reduced-price meal during each schoolday, except for family day
27 care homes that shall be reimbursed for 75 percent of the meals
28 served.

29 (b) In order to comply with subdivision (a), a school district or
30 county office of education may use funds made available through
31 any federal or state program the purpose of which includes the
32 provision of meals to a pupil, including the federal School
33 Breakfast Program, the federal National School Lunch Program,
34 the federal Summer Food Service Program, the federal Seamless
35 Summer Option, or the state meal program, or may do so at the
36 expense of the school district or county office of education.

37 SEC. 3. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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