

**ASSEMBLY BILL**

**No. 1916**

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**Introduced by Assembly Member Garcia**

January 30, 2006

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An act to amend Section 49550 of, and to add Section 49550.2 to, the Education Code, relating to school meals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1916, as introduced, Garcia. Pupil nutrition: school meals.

Existing law requires each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, to provide one nutritionally adequate free or reduced-price meal for each needy pupil during each schoolday, except as specified. Existing law permits a school district or county office of education to use funds made available through any applicable federal or state program or to use its own funds to provide the required meals.

This bill would require each schoolsite at which 85% or more of the enrolled pupils have applied for and qualify for free or reduced-price school meals to participate in the federal National School Lunch Program and the federal School Breakfast Program using the eligibility determination alternative known as Provision 2. The bill would require a school district or a county office of education that maintains schoolsites at which 85% or more of the enrolled pupils qualify for free or reduced-price school meals and that includes schoolsites at which 70 to 85% of the enrolled pupils have applied for and qualify for free or reduced-price school meals, to examine the feasibility of implementing the federal school meal programs using Provision 2 by grouping schools, as permitted under federal law.

Existing law requires the State Department of Education to award grants, as specified, to school districts and county offices of education

for the initiation and expansion of school breakfast programs and summer food service programs.

This bill would require each schoolsite at which 40% of the enrolled pupils have applied for and qualify for free or reduced-price school meals through the federal National School Lunch Program to offer breakfast through the federal School Breakfast Program beginning with the 2007–08 school year. The bill would authorize the State Department of Education to consider granting waivers of this requirement if the local school governing board declares that the operation of the program is financially infeasible even with a startup or expansion grant, and requires the department to provide the school district or county office of education seeking a waiver with technical assistance to attempt to overcome any barriers the school district or county office of education is experiencing prior to granting the waiver. This bill would require that schools offering the federal School Breakfast Program for the first time pursuant to these provisions receive a priority for funding through the startup and expansion grant program.

By requiring schoolsites that meet certain requirements to participate in specific federal school meal programs, requiring school districts or county offices of education that meet certain requirements to examine the feasibility of participating in specific federal school meal programs, and requiring all schools to provide breakfast unless they receive a waiver, this bill would impose a state-mandated local program.

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 49550 of the Education Code is
- 2 amended to read:

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

8 (b) In order to comply with subdivision (a), a school district or  
9 county office of education may use funds made available through  
10 any federal or state program the purpose of which includes the  
11 provision of meals to a pupil, including the federal School  
12 Breakfast Program; (41 U.S.C. Sec. 1773); the federal National  
13 School Lunch Program; (42 U.S.C. Sec. 1751 et seq.); the federal  
14 Summer Food Service Program (42 U.S.C. Sec. 1761), including  
15 the federal Seamless Summer Option; or the state meal program,  
16 or may do so at the expense of the school district or county office  
17 of education.

18 (c) (1) *Each schoolsite at which 85 percent or more of the*  
19 *enrolled pupils have applied for and qualify for free or*  
20 *reduced-price school meals shall participate in the federal*  
21 *National School Lunch Program and federal School Breakfast*  
22 *Program using the eligibility determination alternative known as*  
23 *Provision 2 (7 C.F.R. Sec. 245.9 (b) and (c) no later than the*  
24 *start of the 2007–08 school year.*

25 (2) *Each school district or county office of education that*  
26 *maintains schoolsites at which 85 percent or more of the enrolled*  
27 *pupils qualify for free or reduced-price school meals and*  
28 *includes schoolsites at which 70 to 85 percent of the enrolled*  
29 *pupils have applied for and qualify for free or reduced-price*  
30 *school meals shall examine the feasibility of implementing the*  
31 *federal National School Lunch Program and federal School*  
32 *Breakfast Program using the eligibility determination alternative*  
33 *known as Provision 2 by grouping these schools that are part of*  
34 *the same school district or governed by the same county office of*  
35 *education, as allowed under federal law. For the purposes of this*  
36 *paragraph, a school district or county office of education to*  
37 *which this paragraph applies shall be considered a school food*  
38 *authority, as the term is used under federal law, unless the school*  
39 *district or county office of education designates another entity to*  
40 *serve as the school food authority on its behalf.*

1 SEC. 2. Section 49550.2 is added to the Education Code, to  
2 read:

3 49550.2. (a) Commencing with the 2007–08 school year,  
4 each schoolsite at which 40 percent of the enrolled pupils have  
5 applied for and qualify for free or reduced-price school meals  
6 through the federal National School Lunch Program (42 U.S.C.  
7 Sec. 1751 et seq.) shall offer breakfast through the federal School  
8 Breakfast Program (42 U.S.C. Sec. 1773).

9 (b) The department may grant a waiver of the meal  
10 requirement pursuant to subdivision (a) only if the local school  
11 governing board declares that the operation of the program is  
12 financially infeasible for the school and the school district or  
13 county office of education even with a startup or expansion grant  
14 pursuant to Section 49550.3. Prior to granting a waiver, the  
15 department shall provide the school district or county office of  
16 education seeking the waiver with technical assistance to attempt  
17 to overcome any barriers the school district or county office of  
18 education is experiencing in implementing the meal requirement  
19 pursuant to subdivision (a).

20 (c) Schools offering the federal School Breakfast Program for  
21 the first time pursuant to subdivision (a) shall receive a priority  
22 for funding through Section 49550.3.

23 SEC. 3. If the Commission on State Mandates determines that  
24 this act contains costs mandated by the state, reimbursement to  
25 local agencies and school districts for those costs shall be made  
26 pursuant to Part 7 (commencing with Section 17500) of Division  
27 4 of Title 2 of the Government Code.