

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 727

Introduced by Assembly Member Mitchell

February 17, 2011

An act to amend Section 11005.4 of, and to add Section 11005.8 to, the Government Code, and to amend Section 12401 of, and to add Section 10300.1 to, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 727, as amended, Mitchell. ~~Public contracts~~ *contracts*: healthy and sustainable food.

Existing law regulates various aspects of the provision of food and beverages in vending machines, including requiring a vendor that operates or maintains a vending machine on designated state property to offer food and beverages in the vending machine that meet accepted nutritional guidelines, as defined, in accordance with certain percentages. Existing law governing contracting between state agencies and private contractors sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would require, beginning January 1, 2014, at least 50% of food and beverages offered by a vendor in a vending machine on ~~designated~~ state property, *as defined*, to meet accepted nutritional

guidelines, and by January 1, 2016, ~~at least~~ 100% of the food and beverages offered by such a vendor to meet those nutritional guidelines. The bill also would revise the definition of accepted nutritional guidelines for this purpose.

This bill would additionally require, beginning January 1, 2014, any food sold in a state-owned or ~~leased~~ *state-leased* building to meet the standard criteria for food and nutrition guidelines for concessions as determined under the federal Health and Sustainability Guidelines for Federal Concessions and Vending Operations.

This bill would also require the Department of General Services, when approving ~~contractors~~ *contracts* for the purchase of food sold in any state-owned or ~~leased~~ *state-leased* building, to give preference to, *and not include disincentives for*, food which meets certain criteria, as specified, and would require the Department of General Services to provide state agencies with the federal Health and Sustainability Guidelines for Federal Concessions and Vending Operations. The bill would make related legislative findings regarding its purpose.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) More than six million California adults, 23 percent of the
- 4 state’s population, are obese and an additional 9.3 million adults,
- 5 34 percent of the state’s population, are overweight, resulting in
- 6 \$21 billion in estimated health care costs for California in 2006.
- 7 Therefore, offering healthy and sustainable food and beverage
- 8 options at state workplaces would help increase the consumption
- 9 of foods that are low in fat, sodium, and sugars, thereby reducing
- 10 the instances of obesity, diabetes, heart disease, and other
- 11 preventable health conditions.
- 12 (2) Buying local and sustainable food and beverage options
- 13 reduces vehicle miles traveled, which positively impacts the
- 14 environment. In 2008, the agriculture sector contributed 6.1 percent
- 15 of the total United States greenhouse gas emissions. Further, 11
- 16 percent of *the total agriculture sector* the greenhouse gas emissions
- 17 are a result of “food miles,” while wholesaling and retailing food
- 18 contribute 5 percent, and food production practices account for

1 the majority, 83 percent, of greenhouse gas emissions from the
2 food system.

3 (3) The federal Centers for Disease Control and Prevention has
4 published a guide entitled “Improving the Food Environment
5 Through Nutrition Standards: A Guide for Government
6 Procurement,” which finds that states and localities can develop,
7 adopt, and implement food procurement policies in order to model
8 healthier food environments to positively impact government
9 settings, including employee cafeterias, correctional facilities,
10 schools, child care centers, public hospitals, senior centers, and
11 parks.

12 (b) It is the intent of the Legislature to amend existing law
13 regarding nutritional guidelines in order to further assist vendors
14 and contractors that provide food and beverages through vending
15 operations in increasing well-balanced and healthy food and snack
16 items.

17 SEC. 2. Section 11005.4 of the Government Code is amended
18 to read:

19 11005.4. (a) For purposes of this section, the following terms
20 have the following meanings:

21 (1) “Accepted nutritional guidelines” as used in this section
22 means the following:

23 (A) Beverages that are the following or meet the following
24 standards:

25 (i) Drinking water, including carbonated water products *without*
26 *added sweeteners*.

27 (ii) Milk products, including, but not limited to, 2 percent, 1
28 percent, or nonfat milk, soy milk, rice milk, and other similar
29 nondairy milk without added sweeteners. This clause shall not
30 apply to nuts, seeds, eggs, and cheese packaged for individual sale.

31 (iii) Sugar sweetened or artificially sweetened beverages that
32 do not exceed 25 calories per 8 ounces.

33 (iv) One hundred-percent fruit juice.

34 (v) Fruit-based drinks that are composed of no less than
35 50-percent fruit juice and that have no added sweeteners.

36 (B) Food that meets the following standards:

37 (i) Not more than 35 percent of its total calories are from fat.
38 This clause shall not apply to legumes, nuts, nut butters, seeds,
39 eggs, ~~nonfried~~ vegetables, and cheese packaged for individual sale
40 *and without added fats or oils*.

1 (ii) Not more than 10 percent of its total calories are from
2 saturated fats. *This clause shall not apply to nuts, nut butters, seeds,*
3 *eggs, and cheese.*

4 (iii) Not more than 35 percent of its total weight is from sugar.
5 This clause does not apply to fruits and vegetables.

6 (iv) Individual snack items shall not exceed 250 calories.

7 (v) Individual snack items shall not exceed 230 milligrams of
8 sodium per serving. This clause shall not apply to refrigerated
9 meals.

10 (vi) Individual entrée items shall not exceed 480 milligrams of
11 sodium per serving.

12 (c) *The accepted nutritional guidelines described in this*
13 *paragraph shall be assessed when the Center for Nutrition Policy*
14 *and Promotion within the United States Department of Agriculture*
15 *revises the Federal Dietary Guidelines for Americans for the*
16 *purpose of ensuring that the accepted nutritional guidelines meet*
17 *the guidelines of the United States Department of Agriculture.*

18 (2) “Added sweetener” means any additive that enhances the
19 sweetness of a beverage, including, but not limited to, added sugar,
20 but does not include the natural sugar or sugars that are contained
21 within the fruit juice that is a component of the beverage.

22 (3) “State property” as used in this section means all real
23 property, or part thereof, used for state purposes and either owned,
24 leased, rented, or otherwise controlled by, and occupied by, any
25 state agency.

26 (4) “Vending machine” means any mechanical device, the
27 operation of which depends upon the insertion of a coin or other
28 thing representative of value and that dispenses or vends a food
29 product or beverage, but does not include any mechanical device
30 that is unable to dispense any food or beverage meeting accepted
31 nutritional guidelines without physical alteration or any mechanical
32 device that solely dispenses or vends hot beverages or ice cream.

33 (5) “Individual entrée item” means food generally regarded as
34 the primary food in a meal and which contains either:

35 (A) Two or more of the following groups: meat or meat
36 alternatives such as tofu or other similar alternatives, grain or
37 bread, vegetable or fruit that are eaten together, including, but not
38 limited to, sandwiches, pizza, hamburger on a bun, bean burrito,
39 chef’s salad, fruit and cheese platter, baked potato with chili,
40 chicken vegetable stir-fry, or vegetable sandwich.

1 (B) A meat or meat alternative alone, including, but not limited
2 to, sausage patty, egg, and chicken nuggets. Nuts, nut butters,
3 seeds, cheese, and yogurt served alone shall not be included for
4 purposes of this subparagraph.

5 (6) “Individual snack item” means an item that does not meet
6 the definition of an “individual entrée item.”

7 (b) A vendor that operates or maintains a vending machine on
8 state property shall do all of the following:

9 (1) Until January 1, 2014, offer in the vending machine at least
10 35 percent of food that meets accepted nutritional guidelines.

11 (i)

12 (A) Beginning January 1, 2014, offer in the vending machine
13 at least 50 percent of food that meets accepted nutritional
14 guidelines.

15 (ii)

16 (B) Beginning January 1, 2016, offer in the vending machine
17 100 percent of food that meets accepted nutritional guidelines.

18 (2) Until January 1, 2014, offer in the vending machine at least
19 one-third of the beverages that meet accepted nutritional guidelines.
20 At least one beverage option shall be drinking water and the price
21 of the drinking water shall not be higher than the other beverage
22 options. A separate one-third of the beverages offered in the
23 vending machine shall either meet accepted nutritional guidelines
24 or be flavored milk, beverages containing less than 20 calories per
25 12 ounce serving, or beverages that are composed of at least
26 50-percent fruit juice that may contain noncaloric sweetener. The
27 remaining one-third of the beverages offered in the vending
28 machine may be any beverage allowed by law.

29 (i)

30 (A) Beginning January 1, 2014, offer in the vending machine
31 at least 50 percent of beverages that meet accepted nutritional
32 guidelines.

33 (ii)

34 (B) Beginning January 1, 2016, offer in the vending machine
35 100 percent of beverages that meet accepted nutritional guidelines.

36 (c) A vendor may meet the requirements in subdivision (b) by
37 offering 25 percent of the food in a vending machine that meets
38 accepted nutritional guidelines by January 1, 2009, by offering the
39 total 35 percent of the food required to meet accepted nutritional
40 guidelines by January 1, 2011, by offering 50 percent of the food

1 required to meet accepted nutritional guidelines by January 1,
2 2014, and by offering the total 100 percent of the food required to
3 meet accepted nutritional guidelines by January 1, 2016.

4 (d) If a vendor operates or maintains two or more vending
5 machines that are located next to each other, the provisions of
6 subdivisions (b) and (c) may be met by calculating the percentage
7 of the total food and beverages offered in all of the adjacent
8 machines.

9 SEC. 3. Section 11005.8 is added to the Government Code, to
10 read:

11 11005.8. Beginning January 1, 2014, food sold in any
12 state-owned or ~~leased~~ *state-leased* building at food concessions
13 and cafeterias shall meet at least the standard criteria for food and
14 nutrition guidelines for concessions as determined by the federal
15 Department of Health and Human Services and the United States
16 General Services Administration's Health and Sustainability
17 Guidelines for Federal Concessions and Vending Operations.

18 SEC. 4. Section 10300.1 is added to the Public Contract Code,
19 to read:

20 10300.1. (a) When approving contracts for the purchase of
21 food to be sold in any state-owned or ~~leased~~ *state-leased* building
22 at food concessions, cafeterias, or vending operations, the
23 Department of General Services shall give preference to purchasing
24 food items ~~in the following order:~~

25 ~~(1) Food items grown, packaged, or produced within 150 miles~~
26 ~~of the building where the food will be sold.~~

27 ~~(2) Food items grown, packaged, or produced within the state~~
28 ~~State of California.~~

29 (b) When approving contracts for the purchase of food to be
30 sold in any state-owned or leased building for food concessions,
31 cafeterias, or vending operations, the Department of General
32 Services shall give preference to purchasing food items that meet
33 the sustainability guidelines for general food as determined by the
34 federal Department of Health and Human Services and the United
35 States General Services Administration's Health and Sustainability
36 Guidelines for Federal Concessions and Vending Operations.

37 (c) *When approving contracts for the purchase of food to be*
38 *sold in any state-owned or state-leased building at food*
39 *concessions, cafeterias, or vending operations, the Department of*
40 *General Services shall not include provisions that provide a*

1 *disincentive for the purchase of food items that are grown,*
2 *packaged, or produced within the State of California or for food*
3 *items that meet the sustainability guidelines in subdivision (b).*

4 SEC. 5. Section 12401 of the Public Contract Code is amended
5 to read:

6 12401. The Department of General Services, in consultation
7 with the California Environmental Protection Agency, members
8 of the public, industry, and public health and environmental
9 organizations, shall provide state agencies with information and
10 assistance regarding environmentally preferable purchasing,
11 including, but not limited to, the following:

12 (a) The promotion of environmentally preferable purchasing.

13 (b) The development and implementation of a strategy to
14 increase environmentally preferable purchasing. This may include
15 the development of statewide policies, guidelines, programs, and
16 regulations.

17 (c) The coordination with other state and federal agencies, task
18 forces, workgroups, regulatory efforts, research and data collection
19 efforts, and other programs and services relating to environmentally
20 preferable purchasing.

21 (d) The development and implementation, to the extent fiscally
22 feasible, of training programs designed to instill the importance
23 and value of environmentally preferable purchasing.

24 (e) The development, to the extent fiscally feasible, of an
25 environmentally preferable purchasing best practices manual for
26 state purchasing employees.

27 (f) The federal Department of Health and Human Services and
28 the United States General Services—~~Administrations~~
29 *Administration's* Health and Sustainability Guidelines for Federal
30 Concessions and Vending Operations to assist in developing
31 practices to promote the acquisition of healthy, sustainable, and
32 environmentally preferable purchasing.