

**ASSEMBLY BILL**

**No. 1917**

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**Introduced by Assembly Member Dickinson**

February 22, 2012

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An act to add Section 38085.5 to, and to add Article 9.5 (commencing with Section 66095) to Chapter 2 of Part 40 of Division 5 of Title 3 of, the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1917, as introduced, Dickinson. Education finance: acquisition of food services.

(1) Existing law establishes a system of public education in this state, consisting of the public elementary and secondary schools and the 3 segments of public postsecondary education, which are the California Community Colleges, the California State University, and the University of California. With respect to public elementary and secondary schools, existing law authorizes school district governing boards to establish cafeterias, which are defined as synonymous with food service. With respect to the public postsecondary segments, existing law authorizes them to enter into agreements for the purchase of goods and services, including food services.

This bill would require school district governing boards, the Board of Governors of the California Community Colleges, and the Trustees of the California State University, and would request the Regents of the University of California, to develop and adopt policies and procedures for the acquisition of food services to ensure a service contractor fully discloses to the school district, campus, auxiliary organization, or other unit of the public postsecondary segment, as appropriate, all discounts, rebates, as defined, allowances, and incentives

received by the service contractor from its suppliers, as specified, and to disclose and pay to the school district, campus, auxiliary organization, or other unit of the public postsecondary segment, as appropriate, the full amount of the discount, rebate, or applicable credit, as specified.

The bill would require these discounts, rebates, allowances, and incentives to be paid as agreed, and a record of these transactions to be available for review as part of any audit conducted pursuant to statute. The bill would require any necessary changes to the policies and procedures for the acquisition of services be implemented upon the renewal, extension, or amendment of an existing agreement or as part of any new service agreement.

To the extent that this bill would impose new duties on school districts and community college districts, it would constitute 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 38085.5 is added to the Education Code,  
2 to read:  
3 38085.5. Notwithstanding any other law, the governing board  
4 of each school district maintaining a cafeteria shall develop and  
5 adopt policies and procedures for the acquisition of food service  
6 that are in accordance with both of the following:  
7 (a) The policies and procedures for the acquisition of food  
8 services shall ensure that a service contractor fully discloses to the  
9 school district all discounts, rebates, allowances, and incentives  
10 received by the service contractor from its suppliers. If the service  
11 contractor receives a discount, rebate, allowance, or other incentive  
12 from any supplier, the service contractor shall disclose and pay to  
13 the school district the full amount of the discount, rebate, or  
14 applicable credit that is received based on the purchases made on

1 behalf of the school district. Language stating this requirement  
2 shall be placed in agreements covered by this section.

3 (b) Any discount, rebate, allowance, and incentive shall be paid  
4 to the school district during a mutually agreed upon time frame,  
5 and a record of these transactions shall be available for review as  
6 part of any audit conducted pursuant to statute. Any changes  
7 required pursuant to this section shall be implemented upon the  
8 renewal, extension, or amendment of an existing agreement or as  
9 part of any new service agreement.

10 (c) As used in this section, “rebate” includes any return of  
11 monetary value, including, but not necessarily limited to, a volume  
12 discount, allowance, or discount purchase incentive.

13 SEC. 2. Article 9.5 (commencing with Section 66095) is added  
14 to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education  
15 Code, to read:

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17 Article 9.5. Policies and Procedures for Acquisition of Food  
18 Services

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20 66095. (a) Notwithstanding any other law, the Board of  
21 Governors of the California Community Colleges and the Trustees  
22 of the California State University shall, and the Regents of the  
23 University of California are requested to, develop and adopt  
24 policies and procedures for the acquisition of food service that are  
25 in accordance with both of the following:

26 (1) The policies and procedures for the acquisition of food  
27 services shall ensure that a service contractor fully discloses to the  
28 campus, auxiliary organization, or other unit of the public  
29 postsecondary segment all discounts, rebates, allowances, and  
30 incentives received by the service contractor from its suppliers. If  
31 the service contractor receives a discount, rebate, allowance, or  
32 other incentive from any supplier, the service contractor shall  
33 disclose and pay to the campus the full amount of the discount,  
34 rebate, or applicable credit that is received based on the purchases  
35 made on behalf of the campus, auxiliary organization, or other unit  
36 of the public postsecondary segment. Language stating this  
37 requirement shall be placed in agreements covered by this section.

38 (2) Any discount, rebate, allowance, and incentive shall be paid  
39 to the campus, auxiliary organization, or other unit of the public  
40 postsecondary segment during a mutually agreed upon time frame,

1 and a record of these transactions shall be available for review as  
2 part of any audit conducted pursuant to statute. Any changes  
3 required pursuant to this section shall be implemented upon the  
4 renewal, extension, or amendment of an existing agreement or as  
5 part of any new service agreement.

6 (b) As used in this section:

7 (1) "Auxiliary organization" means an entity defined in Section  
8 89901.

9 (2) "Rebate" includes any return of monetary value, including,  
10 but not necessarily limited to, a volume discount, allowance, or  
11 discount purchase incentive.

12 SEC. 3. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.

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