

**ASSEMBLY BILL**

**No. 459**

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**Introduced by Assembly Member Mitchell**

February 19, 2013

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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 459, as introduced, Mitchell. Public 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 content 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 that at least 50% of the food offered by a vendor in a vending machine on state property, as defined, meet accepted nutritional guidelines by January 1, 2015. The bill would then require 75% compliance with accepted nutritional guidelines by January 1, 2016, and 100% compliance by January 1, 2017. On and after January 1, 2016, the bill would also require that 100% of beverages offered by

a vendor in a vending machine on state property also meet the accepted nutritional guidelines. The bill would revise the definition of accepted nutritional guidelines for this purpose.

The bill would also require, on and after January 1, 2015, or upon expiration of an existing contract, whichever occurs later, any food or beverages sold in a state-owned or state-leased building to meet the standard criteria for food and nutrition guidelines for concessions as determined under the United States General Services Administration’s Health and Sustainability Guidelines for Federal Concessions and Vending Operations.

The bill would also require the Department of General Services, when approving contracts for the purchase of food or beverages sold in any state-owned or state-leased building, to give preference to, and not include disincentives for, food or beverage items that meet certain criteria, as specified, and would require the Department of General Services to provide state agencies with the United States General Services Administration’s Health and Sustainability Guidelines for Federal Concessions and Vending Operations.

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. Section 11005.4 of the Government Code is  
 2 amended to read:  
 3 11005.4. (a) For purposes of this section, the following terms  
 4 have the following meanings:  
 5 (1) “Accepted nutritional guidelines” as used in this section  
 6 means the following:  
 7 (A) Beverages that are the following or meet the following  
 8 standards:  
 9 (i) ~~Water.~~  
 10 (i) *Drinking water, including carbonated water products without*  
 11 *added caloric sweeteners.*  
 12 (ii) ~~Milk, including, but not limited to, soy milk, rice milk, and~~  
 13 ~~other similar dairy or nondairy milk that is 2 percent, 1 percent,~~  
 14 ~~or fat-free with no added caloric sweeteners.~~  
 15 (iii) ~~Electrolyte replacement beverages that do not contain more~~  
 16 ~~than 42 grams of added sweetener per 20-ounce serving.~~

- 1 (iii) Soy, rice, almond, or other plant-derived nondairy milk  
2 beverages without added caloric sweeteners.
- 3 (iv) One hundred percent fruit juice.
- 4 (v) Fruit-based drinks that are composed of no less than 50  
5 percent fruit juice ~~and that have no~~, limited to 12 ounce containers,  
6 and containing no added caloric sweeteners.
- 7 (vi) Unsweetened or artificially sweetened beverages that  
8 contain no calories.
- 9 (vii) One hundred percent vegetable juice with less than 200  
10 milligrams of sodium per serving.
- 11 (B) Food that meets the following standards:
- 12 (i) Not more than 35 percent of its total calories are from fat.  
13 This clause ~~does~~ shall not apply to legumes, nuts, nut butters,  
14 seeds, ~~or whole grain products~~ eggs, nonfried vegetables, or cheese  
15 packaged for individual sale.
- 16 (ii) Not more than 10 percent of its total calories are from  
17 saturated fats.
- 18 (iii) Not more than 35 percent of its total weight is from sugar  
19 and no more than 10 grams of total sugars in an individual snack  
20 item. This clause does not apply to fresh, frozen, or canned in its  
21 own juice or water fruits with no added caloric sweetener, and  
22 fresh, frozen, or canned vegetables with low sodium.
- 23 (iv) Contains zero grams of trans fat as labeled.
- 24 (v) Individual snack items shall not exceed 200 calories.
- 25 (vi) Individual snack items shall not exceed 230 milligrams of  
26 sodium per serving.
- 27 (vii) Individual entrée items shall not exceed 500 calories per  
28 serving.
- 29 (viii) Individual entrée items shall not exceed 480 milligrams  
30 of sodium per serving.
- 31 (2) “Added caloric sweetener” means ~~any additive that enhances~~  
32 ~~the sweetness of a beverage~~ sugars and syrups that are added to  
33 foods during processing or preparation that also add calories to  
34 the item, including, but not limited to, ~~added~~ sugar, fructose, and  
35 high fructose corn syrup, but does not include the natural sugar or  
36 sugars that are contained ~~within the~~ in fruit juice or milk that is a  
37 naturally occurring component of the beverage.
- 38 (3) “Individual entrée item” means food generally regarded as  
39 the primary food in a meal and that contains either:

1 (A) *Two or more of the following groups: meat or meat*  
2 *alternatives such as tofu or other similar alternatives, grains or*  
3 *bread, or vegetables or fruit that are eaten together, including,*  
4 *but not limited to, sandwiches, pizza, hamburger on a bun, burrito,*  
5 *chef's salad, fruit and cheese platter, baked potato with chili, or*  
6 *chicken stir-fry.*

7 (B) *A meat or meat alternative alone, such as a sausage patty,*  
8 *eggs, and chicken nuggets. Nuts, nut butters, seeds, cheese, and*  
9 *yogurt served alone shall not be included for purposes of this*  
10 *subparagraph.*

11 (4) *“Individual snack item” means a food item that does not*  
12 *meet the definition of an “individual entrée item.”*

13 ~~(3)~~

14 (5) *“State property” as used in this section means all real*  
15 *property, or part thereof, used for state purposes and either owned,*  
16 *leased, rented, or otherwise controlled by, and occupied by, any*  
17 *state agency.*

18 ~~(4)~~

19 (6) *“Vending machine” means any mechanical device the*  
20 *operation of which depends upon the insertion of a coin or other*  
21 *thing representative of value and that dispenses or vends a food*  
22 *product or beverage, but does not include any mechanical device*  
23 *that is unable to dispense any food or beverage meeting accepted*  
24 *nutritional guidelines without physical alteration or any mechanical*  
25 *device that solely dispenses or vends hot beverages or ice cream.*

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

28 (1) ~~Offer~~ *Until January 1, 2015, offer at least 35 percent of the*  
29 *food in a vending machine that meets accepted nutritional*  
30 *guidelines established by this section.*

31 (2) *On and after January 1, 2015, offer at least 50 percent of*  
32 *the food in a vending machine that meets the accepted nutritional*  
33 *guidelines established by this section.*

34 (3) *On and after January 1, 2016, offer at least 75 percent of*  
35 *the food in a vending machine that meets the accepted nutritional*  
36 *guidelines established by this section.*

37 (4) *On and after January 1, 2017, offer 100 percent of the food*  
38 *in a vending machine that meets the accepted nutritional guidelines*  
39 *established by this section.*

40 ~~(2) Offer~~

1 (5) (A) *Until January 1, 2016, offer at least one-third of the*  
2 *beverages in a vending machine that meets accepted nutritional*  
3 *guidelines. A separate one-third of the beverages offered in the*  
4 *vending machine shall either meet accepted nutritional guidelines*  
5 *or be flavored milk, beverages containing less than 20 calories per*  
6 *12 ounce serving, or beverages that are composed of at least 50*  
7 *percent fruit juice that may contain noncaloric sweetener. The*  
8 *remaining one-third of the beverages offered in the vending*  
9 *machine may be any beverage allowed by law.*

10 ~~(e) A vendor may meet the requirements in subdivision (b) by~~  
11 ~~offering 25 percent of the food in a vending machine that meets~~  
12 ~~accepted nutritional guidelines by January 1, 2009, and by offering~~  
13 ~~the total 35 percent of the food required to meet accepted~~  
14 ~~nutritional guidelines by January 1, 2011.~~

15 (B) *On and after January 1, 2016, offer 100 percent of beverages*  
16 *that meet the accepted nutritional guidelines established by this*  
17 *section.*

18 ~~(d)~~

19 (c) *If a vendor operates or maintains two or more vending*  
20 *machines that are located next to each other, the provisions of*  
21 ~~subdivisions subdivision (b) and (e)~~ *may be met by calculating the*  
22 *percentage of the total food and beverages offered in all of the*  
23 *adjacent machines.*

24 ~~(e) This section shall remain in effect only until four years after~~  
25 ~~the last date that a vendor may meet the requirements of paragraph~~  
26 ~~(1) of subdivision (b), as specified in subdivision (c), and as of~~  
27 ~~that date is repealed, unless a later enacted statute, that is enacted~~  
28 ~~before that date, deletes or extends that date.~~

29 SEC. 2. Section 11005.8 is added to the Government Code, to  
30 read:

31 11005.8. On and after January 1, 2015, or upon expiration of  
32 an existing contract, whichever occurs later, food or beverages  
33 sold in any state-owned or state-leased building at food concessions  
34 and cafeterias shall meet at least the standard criteria for food and  
35 nutrition guidelines for concessions as determined by the United  
36 States Department of Health and Human Services and the United  
37 States General Services Administration's Health and Sustainability  
38 Guidelines for Federal Concessions and Vending Operations.

39 SEC. 3. Section 10300.1 is added to the Public Contract Code,  
40 to read:

1 10300.1. (a) When approving contracts for the purchase of  
2 food or beverages to be sold in any state-owned or state-leased  
3 building at food concessions, cafeterias, or vending operations,  
4 the Department of General Services shall give preference to  
5 purchasing food or beverage items grown, packaged, or produced  
6 within the State of California.

7 (b) When approving contracts for the purchase of food or  
8 beverages to be sold in any state-owned or state-leased building  
9 for food concessions, cafeterias, or vending operations, the  
10 Department of General Services shall give preference to purchasing  
11 food or beverage items that meet the sustainability guidelines for  
12 general food as determined by the United States Department of  
13 Health and Human Services and the United States General Services  
14 Administration’s Health and Sustainability Guidelines for Federal  
15 Concessions and Vending Operations.

16 (c) When approving contracts for the purchase of food or  
17 beverages to be sold in any state-owned or state-leased building  
18 at food concessions, cafeterias, or vending operations, the  
19 Department of General Services shall not include provisions that  
20 provide a disincentive for the purchase of food or beverage items  
21 that are grown, packaged, or produced within the State of California  
22 or for food items that meet the sustainability guidelines in  
23 subdivision (b).

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

26 12401. The Department of General Services, in consultation  
27 with the California Environmental Protection Agency, members  
28 of the public, industry, and public health and environmental  
29 organizations, shall provide state agencies with information and  
30 assistance regarding environmentally preferable purchasing,  
31 including, but not limited to, the following:

32 (a) The promotion of environmentally preferable purchasing.

33 (b) The development and implementation of a strategy to  
34 increase environmentally preferable purchasing. This may include  
35 the development of statewide policies, guidelines, programs, and  
36 regulations.

37 (c) The coordination with other state and federal agencies, task  
38 forces, workgroups, regulatory efforts, research and data collection  
39 efforts, and other programs and services relating to environmentally  
40 preferable purchasing.

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

4 (e) The development, to the extent fiscally feasible, of an  
5 environmentally preferable purchasing best practices manual for  
6 state purchasing employees.

7 (f) *The United States Department of Health and Human Services*  
8 *and the United States General Services Administration's Health*  
9 *and Sustainability Guidelines for Federal Concessions and Vending*  
10 *Operations to assist in developing practices to promote the*  
11 *acquisition of healthy, sustainable, and environmentally preferable*  
12 *purchasing.*