

AMENDED IN ASSEMBLY MAY 15, 2013

AMENDED IN ASSEMBLY MAY 7, 2013

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 626

**Introduced by Assembly Members Skinner and Lowenthal
(Coauthor: Assembly Member Pan)**

February 20, 2013

An act to amend Sections 8482.3, 35182.5, 38091, 38100, 49430, 49431, 49431.2, 49431.5, 49431.7, and 49432 of, to repeal Sections 38092, 38102, 49433, 49433.5, 49433.7, 49433.9, 49435, and 49436 of, and to repeal and add Section 49434 of, the Education Code, relating to school nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 626, as amended, Skinner. School nutrition.

(1) Existing law, the After School Education and Safety Program Act of 2002, enacted by initiative statute, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, and requires an entity that applies to operate a program to agree that snacks made available by the program conform to specified nutrition standards.

This bill would also require an entity that applies to operate a program to agree that meals made available by the program conform to specified federal nutrition standards.

(2) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of ~~the a~~ school district as necessary for the operation of school cafeterias, including, but not limited to, ~~certain~~ expenditures ~~related to~~ *for the lease or purchase of additional cafeteria equipment for a central food processing plant. Existing law authorizes the governing board of a school district to also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.* Existing law authorizes the governing board of any school district with an average daily attendance of over 100,000 to allow as an expenditure from its cafeteria fund a share of money, agreed upon pursuant to a contract, that is generated from the joint sale of items between the cafeteria and an associated student body store. Existing law also authorizes the governing board of a school district to authorize the establishment of one or more cafeteria revolving accounts whenever a cafeteria fund is operated.

This bill would *instead include as an authorized expenditure of the cafeteria fund expenditures for the lease or purchase of additional equipment for the kitchen or central food processing plant. The bill would instead authorize the governing board of a school district to make expenditures from the cafeteria fund for the purchase and installation of additional preparation, cooking, or service equipment for a kitchen or central food processing plant, including necessary alterations as specified, and for the lease or purchase of vehicles used solely in connection with the kitchen or central food processing plant. The bill would* repeal the authority of the governing board of a school district to ~~use moneys in the cafeteria fund for certain expenditures related to a central food processing plant, to~~ allow as an expenditure from that fund a share of money generated from the joint sale of items between the cafeteria and an associated student body ~~store, store~~ and to create one or more cafeteria revolving accounts.

(3) Existing law requires the cost of housing and equipping cafeterias to be a charge against the funds of the school district except that the

governing board of a school district is authorized to make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds if the governing board of the school district deems it necessary. Existing law also authorizes the governing board of a school district, if school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, to reimburse school funds from cafeteria funds within 5 years after the expenditure.

This bill would instead require the cost of providing adequate housing for cafeterias, including, but not limited to, kitchen facilities, to be a charge against the funds of the school district. The bill would require the cost of the lease or purchase of cafeteria equipment and of vending machines and their installation and housing to be a charge against cafeteria funds. However, the governing board of a school district would be authorized to make ~~these costs~~ *the cost of the lease or purchase of cafeteria equipment for a kitchen or central food processing plant* a charge against the funds of the school district if the governing board of the school district deems it necessary. The bill would also authorize the governing board of the school district, if school district funds are expended for the lease or purchase of ~~cafeteria kitchen~~ equipment, or for the lease, purchase, installation, or housing of vending machines, as specified, to reimburse school funds from cafeteria funds during the same fiscal year. The bill would require the governing board of a school district to only approve reimbursement for vending machines if specified conditions apply.

Existing law authorizes the governing board of a school district to make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment, and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

This bill would instead authorize the governing board of a school district to make the cost of maintenance of ~~kitchen facilities~~, *facilities* and the cost of replacement or maintenance of ~~kitchen equipment~~ *equipment a charge against cafeteria funds*, and ~~would add the reasonable costs of providing drinking water in the cafeteria and garbage disposal related to food service and delivery~~ a charge against cafeteria funds.

(4) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment.

This bill would repeal that provision.

(5) Existing law, the Pupil Nutrition, Health, and Achievement Act of 2001, requires each elementary school to sell only certain foods to a pupil during the schoolday, except for food items sold as part of a school fundraising event, if the items are sold by pupils of the school and the sale of those items either takes place away from school premises or takes place at least $\frac{1}{2}$ hour after the end of the schoolday. Existing law defines “sold” for purposes of those provisions.

This bill would instead make those provisions applicable from $\frac{1}{2}$ hour before the start of the schoolday to $\frac{1}{2}$ hour after the schoolday, and would include individually sold dairy or whole grain foods among the list of foods that may be sold. The bill would revise the requirements for the sale of food at school fundraising events by deleting the requirement that the items be sold by pupils. The bill would also revise the definition of “sold” for purposes of those provisions.

(6) Existing law, and excluding food served as part of a United States Department of Agriculture (USDA) meal program, requires snacks and entrée items sold to a pupil in middle, junior, or high school to meet specified nutritional standards, and requires entrée items to also be categorized as entrée items in the School Breakfast Program or National School Lunch Program. Existing law authorizes the sale of food items that do not comply with these provisions in specific circumstances, including, but not limited to, if the sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

This bill would apply these restrictions to the sale of snacks and entrées to a pupil in middle school or high school from $\frac{1}{2}$ hour before the start of the schoolday to $\frac{1}{2}$ hour after the schoolday, and would remove the requirement that entrée items be categorized as entrée items in the School Breakfast Program or National School Lunch Program. The bill would also repeal the authority of a middle school or high school to permit the sale of food items that do not comply with the specified nutritional standards if the sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

(7) Existing law requires beverages that are sold to a pupil at an elementary school to meet specified nutritional standards, unless the school authorizes the items to be sold by pupils of the school as part of

a fundraising event, and the sale of those items either takes place away from school premises or takes place $\frac{1}{2}$ hour or more after the end of the schoolday.

This bill would delete the provision requiring the items to be sold by pupils of the school.

(8) Existing law requires that only beverages that meet specified nutritional standards may be sold to a pupil at a middle or junior high school from $\frac{1}{2}$ hour before the start of the schoolday to $\frac{1}{2}$ hour after the end of the schoolday. Existing law authorizes a middle or junior high school to permit the sale of beverages that do not meet the specified nutritional standards as part of a school event if the sale of those items occurs during a school-sponsored event and takes place at the location of the event at least $\frac{1}{2}$ hour after the end of the schoolday and vending machines, pupil stores, and cafeterias are used later than $\frac{1}{2}$ hour after the end of the schoolday.

This bill would require that only beverages that meet the same specified nutritional standards may be sold to a pupil at a high school for $\frac{1}{2}$ hour before the start of the schoolday to $\frac{1}{2}$ hour after the end of the schoolday. The bill would also authorize a middle school or high school to permit the sale of beverages that do not meet specified nutritional standards as part of a school event if either the sale of those items takes place away from the premises of the school or the sale of those items takes place on school premises at least $\frac{1}{2}$ hour after the end of the schoolday.

(9) Existing law prohibits a school or school district, during school hours and $\frac{1}{2}$ hour before and after school hours, through a vending machine or school food service establishment, as defined, from making available to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, or use food containing artificial trans fat in the preparation of a food item served to those pupils unless the food is provided as part of a USDA meal program.

This bill would instead prohibit a school or school district, from $\frac{1}{2}$ hour before the start of the schoolday to $\frac{1}{2}$ hour after the end of the schoolday, from selling to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, unless the food is provided as part of a USDA meal program.

(10) Existing law requires the State Department of Education to establish a 3-year pilot program related to the Pupil Nutrition, Health, and Achievement Act of 2001, commencing in the fall of the 2002–03 school year, in which a total of not less than 10 high schools, middle

schools, or any combination of high schools and middle schools that apply are selected to participate.

This bill would repeal the provisions related to the pilot program.

(11) Existing law authorizes the Superintendent of Public Instruction to monitor school districts for compliance with the Pupil Nutrition, Health, and Achievement Act of 2001, and requires each school district so monitored to report to the Superintendent in the coordinated review effort regarding the extent of the school district’s compliance. Existing law requires a school district found to be noncompliant with certain provisions of that act to adopt a corrective action plan, as specified.

This bill would repeal those provisions and require that compliance with the act be monitored by the State Department of Education in conformity with the USDA’s administrative review process, as specified.

(12) This bill would also make conforming and nonsubstantive changes to these provisions.

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 8482.3 of the Education Code is amended
2 to read:

3 8482.3. (a) The After School Education and Safety Program
4 shall be established to serve pupils in kindergarten and grades 1
5 to 9, inclusive, at participating public elementary, middle, junior
6 high, and charter schools.

7 (b) A program may operate a before school component of a
8 program, an after school component, or both the before and after
9 school components of a program, on one or multiple schoolsites.
10 If a program operates at multiple schoolsites, only one application
11 shall be required for its establishment.

12 (c) Each component of a program established pursuant to this
13 article shall consist of the following two elements:

14 (1) An educational and literacy element in which tutoring or
15 homework assistance is provided in one or more of the following
16 areas: language arts, mathematics, history and social science,
17 computer training, or science.

18 (2) An educational enrichment element, that may include, but
19 need not be limited to, fine arts, career technical education,
20 recreation, physical fitness, and prevention activities.

1 (3) Notwithstanding any other provision of this article, the
2 majority of the time spent by a pupil who is in kindergarten or any
3 of grades 1 to 9, inclusive, and who is participating in a career
4 technical education element of a program established pursuant to
5 this article shall be at a site that complies with Section 8484.6.

6 (d) (1) Applicants shall agree that snacks made available
7 through a program shall conform to the nutrition standards in
8 Article 2.5 (commencing with Section 49430) of Chapter 9 of Part
9 27 of Division 4 of Title 2.

10 (2) Applicants shall agree that meals made available through a
11 program shall conform to the nutrition standards of the United
12 States Department of Agriculture’s at-risk afterschool meal
13 component of the Child and Adult Care Food Program (42 U.S.C.
14 Sec. 1766) or the National School Lunch Program (42 U.S.C. Sec.
15 1751 et seq.).

16 (e) Applicants for programs established pursuant to this article
17 may include any of the following:

18 (1) A local educational agency, including, but not limited to, a
19 charter school, the California School for the Deaf (northern
20 California), the California School for the Deaf (southern
21 California), and the California School for the Blind.

22 (2) A city, county, or nonprofit organization in partnership with,
23 and with the approval of, a local educational agency or agencies.

24 (f) Applicants for grants pursuant to this article shall ensure that
25 each of the following requirements is fulfilled, if applicable:

26 (1) The application documents the commitments of each partner
27 to operate a program on that site or sites.

28 (2) The application has been approved by the school district, or
29 the charter school governing board, and the principal of each
30 participating school for each schoolsite or other site.

31 (3) Each partner in the application agrees to share responsibility
32 for the quality of the program.

33 (4) The application designates the public agency or local
34 educational agency partner to act as the fiscal agent. For purposes
35 of this section, “public agency” means only a county board of
36 supervisors or if the city is incorporated or has a charter, a city
37 council.

38 (5) Applicants agree to follow all fiscal reporting and auditing
39 standards required by the department.

- 1 (6) Applicants agree to incorporate into the program both of the
- 2 elements required pursuant to subdivision (c).
- 3 (7) Applicants agree to provide information to the department
- 4 for the purpose of program evaluation pursuant to Section 8483.55.
- 5 (8) Applicants shall certify that program evaluations will be
- 6 based upon Section 8484 and upon any requirements recommended
- 7 by the Advisory Committee on Before and After School Programs
- 8 and adopted by the state board, in compliance with subdivision
- 9 (g) of Section 8482.4.
- 10 (9) The application states the targeted number of pupils to be
- 11 served by the program.
- 12 (10) Applicants agree to provide the following information on
- 13 participating pupils to the department:
- 14 (A) Schoolday attendance rates.
- 15 (B) Pupil test scores from the Standardized Testing and
- 16 Reporting Program established under Section 60640, reflecting
- 17 achievement in the areas addressed by required program elements,
- 18 if assessments have been established in that area.
- 19 (C) Program attendance.
- 20 (g) (1) Grantees shall review their after school program plans
- 21 every three years, including, but not limited to, all of the following:
- 22 (A) Program goals. A grantee may specify any new program
- 23 goals that will apply to the following three years during the grant
- 24 renewal process.
- 25 (B) Program content, including the elements identified in
- 26 subdivision (c).
- 27 (C) Outcome measures selected from those identified in
- 28 subdivision (a) of Section 8484 that the grantee will use for the
- 29 next three years.
- 30 (D) Any other information requested by the department.
- 31 (E) If the program goals or outcome measures change as a result
- 32 of this review, the grantee shall notify the department in a manner
- 33 prescribed by the department.
- 34 (F) The grantee shall maintain documentation of the after school
- 35 program plan for a minimum of five years.
- 36 (2) The department shall monitor this review as part of its onsite
- 37 monitoring process.
- 38 SEC. 2. Section 35182.5 of the Education Code is amended to
- 39 read:

1 35182.5. (a) The Legislature finds and declares all of the
2 following:

3 (1) State and federal laws require all schools participating in
4 meal programs to provide nutritious food and beverages to pupils.

5 (2) State and federal laws restrict the sale of food and beverages
6 in competition with meal programs to enhance the nutritional goals
7 for pupils, and to protect the fiscal and nutritional integrity of the
8 school food service programs.

9 (3) Parents, pupils, and community members should have the
10 opportunity to ensure, through the review of food and beverage
11 contracts, that food and beverages sold on school campuses provide
12 nutritious sustenance to pupils, promote good health, help pupils
13 learn, provide energy, and model fit living for life.

14 (b) For purposes of this section, the following terms have the
15 following meanings:

16 (1) “Nonnutritious beverages” means any beverage that is not
17 any of the following:

18 (A) Drinking water.

19 (B) Milk, including, but not limited to, chocolate milk, soy milk,
20 rice milk, and other similar dairy or nondairy milk.

21 (C) An electrolyte replacement beverage that contains 42 grams
22 or less of added sweetener per 20 ounce serving.

23 (D) A 100 percent fruit juice, or fruit-based drink that is
24 composed of 50 percent or more fruit juice and that has no added
25 sweeteners.

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

30 (3) “Nonnutritious food” means food that is not sold as part of
31 the school breakfast or lunch program as a full meal, and that meets
32 any of the following standards:

33 (A) More than 35 percent of its total calories are from fat.

34 (B) More than 10 percent of its total calories are from saturated
35 fat.

36 (C) More than 35 percent of its total weight is composed of
37 sugar. This subparagraph does not apply to the sale of fruits or
38 vegetables.

39 (c) The governing board of a school district shall not do any of
40 the following:

1 (1) Enter into or renew a contract or permit a school within the
 2 district to enter into or renew a contract that grants exclusive or
 3 nonexclusive advertising or grants the right to the exclusive or
 4 nonexclusive sale of carbonated beverages or nonnutritious
 5 beverages or nonnutritious food within the district to a person,
 6 business, or corporation, unless the governing board of the school
 7 district does all of the following:
 8 (A) Adopts a policy after a public hearing of the governing
 9 board to ensure that the district has internal controls in place to
 10 protect the integrity of the public funds and to ensure that funds
 11 raised benefit public education, and that the contracts are entered
 12 into on a competitive basis pursuant to procedures contained in
 13 Section 20111 of the Public Contract Code or through the issuance
 14 of a Request for Proposal.
 15 (B) Provides to parents, guardians, pupils, and members of the
 16 public the opportunity to comment on the contract by holding a
 17 public hearing on the contract during a regularly scheduled board
 18 meeting. The governing board shall clearly, and in a manner
 19 recognizable to the general public, identify in the agenda the
 20 contract to be discussed at the meeting.
 21 (2) Enter into a contract that prohibits a school district employee
 22 from disparaging the goods or services of the party contracting
 23 with the governing board.
 24 (3) Enter into a contract or permit a school within the district
 25 to enter into a contract for electronic products or services that
 26 requires the dissemination of advertising to pupils, unless the
 27 governing board of the school district does all of the following:
 28 (A) Enters into the contract at a noticed public hearing of the
 29 governing board.
 30 (B) Makes a finding that the electronic product or service in
 31 question is or would be an integral component of the education of
 32 pupils.
 33 (C) Makes a finding that the school district cannot afford to
 34 provide the electronic product or service unless it contracts to
 35 permit dissemination of advertising to pupils.
 36 (D) Provides written notice to the parents or guardians of pupils
 37 that the advertising will be used in the classroom or other learning
 38 centers. This notice shall be part of the district’s normal ongoing
 39 communication to parents or guardians.

1 (E) Offers the parents the opportunity to request in writing that
2 the pupil not be exposed to the program that contains the
3 advertising. Any request shall be honored for the school year in
4 which it is submitted, or longer if specified, but may be withdrawn
5 by the parents or guardians at any time.

6 (d) A governing board may meet the public hearing requirement
7 set forth in subparagraph (B) of paragraph (1) of subdivision (c)
8 for those contracts that grant the right to the exclusive or
9 nonexclusive sale of carbonated beverages or nonnutritious
10 beverages or nonnutritious food within the district, by an annual
11 public hearing to review and discuss existing and potential
12 contracts for the sale of food and beverages on campuses, including
13 food and beverages sold as full meals, through competitive sales,
14 as fundraisers, and through vending machines.

15 (1) The public hearing shall include, but not be limited to, a
16 discussion of all of the following:

17 (A) The nutritional value of food and beverages sold within the
18 district.

19 (B) The availability of fresh fruit, vegetables, and grains in
20 school meals and snacks, including, but not limited to, locally
21 grown and organic produce.

22 (C) The amount of fat, sugar, and additives in the food and
23 beverages discussed.

24 (D) Barriers to pupil participation in school breakfast and lunch
25 programs.

26 (2) A school district that holds an annual public hearing
27 consistent with this subdivision is not released from the public
28 hearing requirements set forth in subparagraph (B) of paragraph
29 (1) of subdivision (c) for those contracts not discussed at the annual
30 public hearing.

31 (e) The governing board of the school district shall make
32 accessible to the public any contract entered into pursuant to
33 paragraph (1) of subdivision (c) and may not include in that
34 contract a confidentiality clause that would prevent a school or
35 school district from making any part of the contract public.

36 (f) The governing board of a school district may sell advertising,
37 products, or services on a nonexclusive basis.

38 (g) The governing board of a school district may post public
39 signs indicating the district's appreciation for the support of a
40 person or business for the district's education program.

1 (h) Contracts entered into before January 1, 2004, may remain
2 in effect, but may not be renewed if they are in conflict with this
3 section.

4 ~~SEC. 3. Section 38091 of the Education Code is amended to~~
5 ~~read:~~

6 ~~38091. The cafeteria fund shall be used only for those~~
7 ~~expenditures authorized by the governing board of a school district~~
8 ~~as necessary for the operation of school cafeterias, including, but~~
9 ~~not limited to, expenditures for the lease or purchase of additional~~
10 ~~cafeteria equipment, vending machines and their installation and~~
11 ~~housing, and computer equipment and related software.~~

12 ~~SEC. 3. Section 38091 of the Education Code is amended to~~
13 ~~read:~~

14 ~~38091. (a) The cafeteria fund shall be used only for those~~
15 ~~expenditures authorized by the governing board of a school district~~
16 ~~as necessary for the operation of school cafeterias, including, but~~
17 ~~not limited to, expenditures for the lease or purchase of additional~~
18 ~~cafeteria equipment for the central food processing plant, equipment~~
19 ~~for the kitchen or central food processing plant, vending machines~~
20 ~~and their installation and housing, and computer equipment and~~
21 ~~related software.~~

22 ~~Whenever a cafeteria fund is operated pursuant to these~~
23 ~~provisions, the governing board may authorize the establishment~~
24 ~~of one or more cafeteria revolving accounts. For accounting~~
25 ~~purposes, a cafeteria revolving account is to be treated as a~~
26 ~~revolving cash account of the cafeteria fund, providing that the~~
27 ~~receipt of income and expenditures made from a cafeteria revolving~~
28 ~~account become recorded as income and expenditures of the~~
29 ~~cafeteria fund. Appropriate transfers, replenishments, and deposits~~
30 ~~between the cafeteria fund and a cafeteria revolving account may~~
31 ~~occur as are necessary to comply with accounting requirements.~~
32 ~~A cafeteria revolving account may receive and expend moneys in~~
33 ~~the same manner and for the same purposes as authorized for a~~
34 ~~cafeteria account.~~

35 ~~The~~

36 ~~(b) The governing board of any school district, or of two or~~
37 ~~more school districts governed by governing boards of identical~~
38 ~~personnel, may also make expenditures from the cafeteria fund~~
39 ~~for the construction, alteration, or improvement of a purchase and~~
40 ~~installation of additional preparation, cooking, or service~~

1 *equipment for a kitchen or central food processing plant, for*
2 *including necessary alterations incidental to the installation of*
3 ~~additional cafeteria equipment for the central food processing~~
4 ~~plant, the equipment,~~ and for the lease or purchase of vehicles used
5 ~~primarily solely~~ in connection with the *kitchen or central food*
6 *processing plant.*

7 SEC. 4. Section 38092 of the Education Code is repealed.

8 SEC. 5. Section 38100 of the Education Code is amended to
9 read:

10 38100. (a) The cost of providing adequate housing for
11 cafeterias, including, but not limited to, kitchen facilities, is a
12 charge against the funds of the school district. The cost of the lease
13 or purchase of cafeteria equipment and of vending machines and
14 their installation and housing shall be a charge against cafeteria
15 funds, in accordance with Section 38091. However, when the
16 governing board of a school district deems it necessary, the
17 governing board of a school district may make the cost of the lease
18 or purchase of cafeteria equipment *for a kitchen or central food*
19 *processing plant*, and vending machines and their installation and
20 housing a charge against the funds of the school district. If school
21 district funds are expended for the lease or purchase of ~~cafeteria~~
22 *kitchen* equipment or for the lease, purchase, installation, or
23 housing of vending machines, the governing board of the school
24 district may at any time during the same fiscal year after the
25 expenditure reimburse school district funds from cafeteria funds.
26 The governing board of a school district shall only approve
27 reimbursement for vending machines if one, or both, of the
28 following apply:

29 (1) The vending machines are owned and operated by the school
30 food services department, sell meals that qualify for federal meal
31 program reimbursement, and are equipped with appropriate point
32 of service meal counting software.

33 (2) The vending machines sell only food, or only beverages, or
34 both that comply with state and federal competitive food laws and
35 regulations.

36 (b) The governing board of a school district may by resolution
37 make the cost of maintenance of the kitchen facilities, the cost of
38 replacement or maintenance of kitchen equipment, and ~~the~~
39 ~~reasonable costs of providing~~ *telephone charges, water, drinking*
40 *water in the cafeteria cafeteria, electricity, gas, coal, wood, fuel,*

1 *oil*, and garbage disposal related to food service and delivery a
2 charge against cafeteria funds, provided that the school district
3 complies with all applicable state and federal laws and regulations.

4 SEC. 6. Section 38102 of the Education Code is repealed.

5 SEC. 7. Section 49430 of the Education Code is amended to
6 read:

7 49430. As used in this article, the following terms have the
8 following meanings:

9 (a) “Elementary school” means a school operated and maintained
10 by a school district or county office of education that maintains
11 any grade from kindergarten to grade 6, inclusive, but no grade
12 higher than grade 6.

13 (b) “Middle school” means a school operated and maintained
14 by a school district or county office of education that maintains
15 grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

16 (c) “High school” means a school operated and maintained by
17 a school district or county office of education maintaining any of
18 grades 9 to 12, inclusive.

19 (d) “Full meal” means a combination of food items that meet
20 USDA-approved School Breakfast Program or National School
21 Lunch Program meal pattern requirements or the menu planning
22 options of Shaping Health as Partners in Education developed by
23 the state (SHAPE California network).

24 (e) “Added sweetener” means an additive other than 100 percent
25 fruit juice that enhances the sweetness of a beverage.

26 (f) “Sold” means the exchange of food or beverages for money,
27 coupons, vouchers, or order forms, when any part of the exchange
28 occurs on a school campus.

29 (g) “Entrée” means a food that is generally regarded as being
30 the primary food in a meal, and shall include, but not be limited
31 to, sandwiches, burritos, pasta, and pizza.

32 (h) “Snack” means a food that is generally regarded as
33 supplementing a meal, including, but not limited to, chips, crackers,
34 onion rings, nachos, french fries, donuts, cookies, pastries,
35 cinnamon rolls, and candy.

36 (i) “Deep fried” means a food item is cooked by total submersion
37 in oil or fat.

38 (j) “Par fried” means a food item is fried to reach an internal
39 temperature of 160 degrees Fahrenheit then is cooled to room

1 temperature so that it may be refrigerated or frozen for future
2 frying.

3 (k) “Flash fried” means a food item is quickly fried on both
4 sides in oil with a temperature of 400 degrees Fahrenheit or higher.

5 SEC. 8. Section 49431 of the Education Code is amended to
6 read:

7 49431. (a) (1) From one-half hour before the start of the
8 schoolday to one-half hour after the schoolday, at each elementary
9 school, the only food that may be sold to a pupil are full meals,
10 individually sold dairy or whole grain foods, and individually sold
11 portions of nuts, nut butters, seeds, eggs, cheese packaged for
12 individual sale, fruit, vegetables that have not been deep fried, and
13 legumes.

14 (2) An individually sold dairy or whole grain food item, and
15 individually sold portions of nuts, nut butters, seeds, eggs, cheese
16 packaged for individual sale, fruit, vegetables that have not been
17 deep fried, and legumes may be sold to pupils at an elementary
18 school, except food sold as part of a USDA meal program, if they
19 meet all of the following standards:

20 (A) Not more than 35 percent of its total calories shall be from
21 fat. This subparagraph shall not apply to individually sold portions
22 of nuts, nut butters, seeds, eggs, cheese packaged for individual
23 sale, fruit, vegetables that have not been deep fried, or legumes.

24 (B) Not more than 10 percent of its total calories shall be from
25 saturated fat. This subparagraph shall not apply to eggs or cheese
26 packaged for individual sale.

27 (C) Not more than 35 percent of its total weight shall be
28 composed of sugar, including naturally occurring and added sugar.
29 This subparagraph shall not apply to fruit or vegetables that have
30 not been deep fried.

31 (D) Not more than 175 calories per individual food item.

32 (b) An elementary school may permit the sale of food items that
33 do not comply with subdivision (a) as part of a school fundraising
34 event in either of the following circumstances:

35 (1) The sale of those items takes place off of and away from
36 school premises.

37 (2) The sale of those items takes place on school premises at
38 least one-half hour after the end of the schoolday.

1 (c) It is the intent of the Legislature that the governing board of
2 a school district annually review its compliance with the nutrition
3 standards described in this section and Section 49431.5.

4 SEC. 9. Section 49431.2 of the Education Code is amended to
5 read:

6 49431.2. (a) From one-half hour before the start of the
7 schoolday to one-half hour after the schoolday, snacks sold to a
8 pupil in middle school or high school, except food served as part
9 of a USDA meal program, shall meet all of the following standards:

10 (1) Not more than 35 percent of its total calories shall be from
11 fat. This paragraph does not apply to the sale of nuts, nut butters,
12 seeds, eggs, cheese packaged for individual sale, fruits, vegetables
13 that have not been deep fried, or legumes.

14 (2) Not more than 10 percent of its total calories shall be from
15 saturated fat. This subparagraph does not apply to eggs or cheese
16 packaged for individual sale.

17 (3) Not more than 35 percent of its total weight shall be
18 composed of sugar, including naturally occurring and added sugars.
19 This paragraph does not apply to the sale of fruits or vegetables
20 that have not been deep fried.

21 (4) No more than 250 calories per individual food item.

22 (b) From one-half hour before the start of the schoolday to
23 one-half hour after the schoolday, entrée items sold to a pupil in
24 middle school or high school, except food served as part of a
25 USDA meal program, shall contain no more than 400 calories per
26 entrée, and shall contain no more than 4 grams of fat per 100
27 calories contained in each entrée.

28 (c) A middle school or high school may permit the sale of food
29 items that do not comply with subdivision (a) or (b) in any of the
30 following circumstances:

31 (1) The sale of those items takes place off of and away from
32 school premises.

33 (2) The sale of those items takes place on school premises at
34 least one-half hour after the end of the schoolday.

35 (d) It is the intent of the Legislature that the governing board
36 of a school district annually review its compliance with the
37 nutrition standards described in this section.

38 SEC. 10. Section 49431.5 of the Education Code is amended
39 to read:

- 1 49431.5. (a) (1) Regardless of the time of day, only the
2 following beverages may be sold to a pupil at an elementary school:
3 (A) Fruit-based drinks that are composed of no less than 50
4 percent fruit juice and have no added sweetener.
5 (B) Vegetable-based drinks that are composed of no less than
6 50 percent vegetable juice and have no added sweetener.
7 (C) Drinking water with no added sweetener.
8 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
9 soy milk, rice milk, and other similar nondairy milk.
10 (2) An elementary school may permit the sale of beverages that
11 do not comply with paragraph (1) as part of a school fundraising
12 event in either of the following circumstances:
13 (A) The sale of those items takes place off and away from the
14 premises of the school.
15 (B) The sale of those items takes place on school premises at
16 least one-half hour after the end of the schoolday.
17 (3) From one-half hour before the start of the schoolday to
18 one-half hour after the end of the schoolday, only the following
19 beverages may be sold to a pupil at a middle school or high school:
20 (A) Fruit-based drinks that are composed of no less than 50
21 percent fruit juice and have no added sweetener.
22 (B) Vegetable-based drinks that are composed of no less than
23 50 percent vegetable juice and have no added sweetener.
24 (C) Drinking water with no added sweetener.
25 (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk,
26 soy milk, rice milk, and other similar nondairy milk.
27 (E) An electrolyte replacement beverage that contains no more
28 than 42 grams of added sweetener per 20-ounce serving.
29 (4) A middle school or high school may permit the sale of
30 beverages that do not comply with paragraph (3) as part of a school
31 event if the sale of those items meets either of the following
32 criteria:
33 (A) The sale of those items takes place off and away from the
34 premises of the school.
35 (B) The sale of those items takes place on school premises at
36 least one-half hour after the end of the schoolday.
37 (b) It is the intent of the Legislature that the governing board
38 of a school district annually review its compliance with this section.

1 (c) Notwithstanding Article 3 (commencing with Section 33050)
2 of Chapter 1 of Part 20 of Division 2, compliance with this section
3 may not be waived.

4 SEC. 11. Section 49431.7 of the Education Code is amended
5 to read:

6 49431.7. (a) From one-half hour before the start of the
7 schoolday to one-half hour after the end of the schoolday, a school
8 or school district shall not sell to pupils enrolled in kindergarten,
9 or any of grades 1 to 12, inclusive, food containing artificial trans
10 fat, as defined in subdivision (b).

11 (b) For purposes of this section, a food contains artificial trans
12 fat if a food contains vegetable shortening, margarine, or any kind
13 of partially hydrogenated vegetable oil, unless the manufacturer’s
14 documentation or the label required on the food, pursuant to
15 applicable federal and state law, lists the trans fat content as less
16 than 0.5 grams of trans fat per serving.

17 (c) This section shall not apply to food provided as part of a
18 USDA meal program.

19 SEC. 12. Section 49432 of the Education Code is amended to
20 read:

21 49432. Every public school may post a summary of nutrition
22 and physical activity laws and regulations, and shall post the school
23 district’s nutrition and physical activity policies, in public view
24 within all school cafeterias or other central eating areas. The
25 department shall develop the summary of state law and regulations.

26 SEC. 13. Section 49433 of the Education Code is repealed.

27 SEC. 14. Section 49433.5 of the Education Code is repealed.

28 SEC. 15. Section 49433.7 of the Education Code is repealed.

29 SEC. 16. Section 49433.9 of the Education Code is repealed.

30 SEC. 17. Section 49434 of the Education Code is repealed.

31 SEC. 18. Section 49434 is added to the Education Code, to
32 read:

33 49434. Compliance with this article shall be monitored by the
34 department in conformity with the United States Department of
35 Agriculture’s administrative review process, as published in the
36 Federal Register, Volume 77, Number 17, on January 26, 2012.

37 SEC. 19. Section 49435 of the Education Code is repealed.

38 SEC. 20. Section 49436 of the Education Code is repealed.

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