

ASSEMBLY BILL

No. 1667

Introduced by Assembly Member Williams

February 12, 2014

An act to amend Section 49406 of the Education Code, and to amend Sections 121525, 121535, 121545, and 121555 of the Health and Safety Code, relating to tuberculosis testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1667, as introduced, Williams. Tuberculosis testing in schools.

Existing law prohibits a person being initially employed by a school district in a certificated or classified position, or who is employed or volunteering at a private or parochial school or nursery school, unless the person has submitted to a tuberculosis examination within the past 60 days, and requires the person to undergo an examination to determine that he or she is free of active tuberculosis at least once every 4 years thereafter. Existing law requires the governing board of a school district to reimburse the employee for the cost of the examination.

This bill would instead require a person to submit to a tuberculosis risk assessment, and if risk factors are identified, would then require the person to submit to a tuberculosis examination to determine that the person is free of infectious tuberculosis. The bill would also make those provisions applicable to persons under contract in any school, or volunteering in a public school. To the extent that this bill imposes a new duty on a school district, the bill would impose a state-mandated local program. The bill would delete requirements for followup care when an employee has tested positive for tuberculosis infection, and would make other conforming and nonsubstantive changes.

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 49406 of the Education Code is amended
2 to read:

3 49406. (a) (1) Except as provided in subdivision ~~(h)~~, ~~no~~ (g),
4 a person shall *not* be initially employed by a school district, *or*
5 *employed under contract*, in a certificated or classified position
6 unless the person has submitted to ~~an examination~~ *a tuberculosis*
7 *risk assessment* within the past 60 days, *and if tuberculosis risk*
8 *factors are identified, has been examined* to determine that he or
9 she is free of ~~active tuberculosis, infectious tuberculosis~~ by a
10 physician and surgeon licensed under Chapter 5 (commencing
11 with Section 2000) of Division 2 of the Business and Professions
12 Code or a physician assistant practicing in compliance with Chapter
13 7.7 (commencing with Section 3500) of Division 2 of the Business
14 and Professions Code. ~~This~~ *If no risk factors are identified, an*
15 *examination is not required. The examination shall consist of either*
16 *an approved intradermal tuberculin test or any other test for*
17 *tuberculosis infection that is recommended by the federal Centers*
18 *for Disease Control and Prevention (CDC) and licensed by the*
19 *federal Food and Drug Administration (FDA), which, if (FDA).*
20 *If the test is positive, the test shall be followed by an X-ray of the*
21 *lungs in accordance with subdivision (f) of Section 120115 of the*
22 *Health and Safety Code. The*

23 (2) *The X-ray film may be taken by a competent and qualified*
24 *X-ray technician if the X-ray film is subsequently interpreted by*
25 *a physician and surgeon licensed under Chapter 5 (commencing*
26 *with Section 2000) of Division 2 of the Business and Professions*
27 *Code.*

28 ~~The~~

1 (3) *The* district superintendent of *schools* or his or her designee
2 may exempt, for a period not to exceed 60 days following
3 termination of the pregnancy, a pregnant employee from the
4 requirement that a positive ~~intradermal tuberculin~~ test *for*
5 *tuberculosis infection* be followed by an X-ray of the lungs.

6 (b) Thereafter, ~~employees who are test an employee who has~~
7 *no identified risk factors or who tests negative by either the*
8 *tuberculin skin test or any other test for the tuberculosis infection*
9 ~~recommended by the CDC and licensed by the FDA~~ shall be
10 required to undergo the ~~foregoing tuberculosis risk assessment~~
11 *and, if risk factors are identified, the examination*, at least once
12 each four years or more often if directed by the governing board
13 *of the school district* upon recommendation of the local health
14 ~~officer for so long as the employee's test remains negative.~~ *officer.*
15 Once an employee has a documented positive test for tuberculosis
16 infection conducted pursuant to this subdivision ~~which that~~ has
17 been followed by an X-ray, the ~~foregoing examination tuberculosis~~
18 *risk assessment* is no longer required, ~~and a referral shall be made~~
19 ~~within 30 days of completion of the examination to the local health~~
20 ~~officer to determine the need for followup care.~~ *required.*

21 (c) After the *tuberculosis risk assessment and, if indicated, the*
22 *examination*, ~~each the~~ employee shall ~~cause to be on~~ file with the
23 district superintendent of schools a certificate from the examining
24 physician and surgeon or physician assistant showing the employee
25 was examined and found free from ~~active infectious~~ tuberculosis.
26 The county board of education may require, by rule, that ~~all their~~
27 *the* certificates be filed in the office of the county superintendent
28 of schools or ~~shall require their files be~~ maintained in the office
29 of the county superintendent of schools if a majority of the
30 governing boards of the *school* districts within the county ~~so~~
31 petition the county board of education, ~~except that in either case~~
32 ~~a district or education.~~ *A school district, or school* districts with a
33 common governing board, having an average daily attendance of
34 60,000 or more may elect to maintain the files for its employees
35 in that *school* district. ~~“Certificate,” as used in this section, means~~

36 a

37 (d) *As used in this section, “certificate” means a certificate*
38 *signed by the examining physician and surgeon or physician*
39 *assistant practicing in compliance with Chapter 7.7 (commencing*
40 *with Section 3500) of Division 2 of the Business and Professions*

1 Code or a notice from a public health agency ~~or unit of the~~
2 ~~American Lung Association~~ that indicates freedom from active
3 *infectious* tuberculosis. The latter, regardless of form, shall
4 constitute evidence of compliance with this section. ~~Nothing~~

5 (e) ~~Nothing~~ in this section shall prevent the governing board of
6 a school district, upon recommendation of the local health officer,
7 from establishing a rule requiring a more extensive or more
8 frequent physical examination than required by this section, ~~but~~
9 ~~the section~~. The rule shall provide for reimbursement on the same
10 basis as required in this section.

11 ~~(d) This~~

12 (f) ~~The tuberculosis risk assessment and, if indicated, the~~
13 examination is a condition of initial employment and the expense
14 ~~incident thereto~~ shall be borne by the applicant unless otherwise
15 provided by rules of the governing board of the school district.
16 However, the governing board of a school district may, if an
17 applicant is accepted for employment, reimburse that person in a
18 like manner prescribed in this section for employees.

19 ~~(e)~~

20 (g) The governing board of each a school district shall reimburse
21 the employee for the cost, if any, of ~~this the tuberculosis risk~~
22 ~~assessment and the examination~~. The governing board of a school
23 district may provide for the *tuberculosis risk assessment and*
24 examination required by this section or may establish a reasonable
25 fee for the examination that is reimbursable to employees of the
26 school district complying with the provisions of this section.

27 ~~(f)~~

28 (h) At the discretion of the governing board of a school district,
29 this section shall not apply to those employees not requiring
30 certification qualifications who are employed for any period of
31 time less than a school year whose functions do not require frequent
32 or prolonged contact with pupils.

33 ~~The governing board may, however, require an examination~~
34 ~~described in subdivision (b) and may, as a contract condition,~~
35 ~~require the examination of persons employed under contract, other~~
36 ~~than those persons specified in subdivision (a), if the board believes~~
37 ~~the presence of these persons in and around school premises would~~
38 ~~constitute a health hazard to pupils.~~

39 ~~(g)~~

1 (i) If the governing board of a school district determines by
2 resolution, after hearing, that the health of pupils in the *school*
3 district would not be jeopardized ~~thereby~~, this section shall not
4 apply to ~~any~~ *an* employee of the *school* district who files an
5 affidavit stating that he or she adheres to the faith or teachings of
6 ~~any~~ *a* well-recognized religious sect, denomination, or organization
7 and, in accordance with its creed, tenets, or principles, depends
8 for healing upon prayer in the practice of religion, and that to the
9 best of his or her knowledge and belief, he or she is free from
10 ~~active~~ *infectious* tuberculosis. If at any time there ~~should be~~ *is*
11 probable cause to believe that the affiant is afflicted with ~~active~~
12 *infectious* tuberculosis, he or she may be excluded from service
13 until the governing board ~~of the employing district of the school~~
14 *district* is satisfied that he or she is not ~~so~~ afflicted.

15 ~~(h)~~

16 (j) A person who transfers ~~his or her~~ employment from one
17 school or school district to another *school or school district* shall
18 be deemed to meet the requirements of subdivision (a) if that
19 person can produce a certificate ~~which that~~ shows ~~that~~ he or she
20 ~~was examined within the past four years and~~ was found to be free
21 ~~of communicable~~ *infectious* tuberculosis *within 60 days of initial*
22 *hire*, or if it is verified by the school previously employing ~~him or~~
23 ~~her~~ *the person verifies that it the person* has a certificate on file
24 ~~which contains that showing. showing that the person is free from~~
25 *infectious tuberculosis.*

26 ~~A~~

27 (k) A person who transfers his or her employment from a private
28 or parochial elementary school, secondary school, or nursery school
29 to a school or school district subject to this section shall be deemed
30 to meet the requirements of subdivision (a) if that person can
31 produce a certificate as provided for in Section 121525 of the
32 Health and Safety Code that shows that he or she ~~was examined~~
33 ~~within the past four years and~~ was found to be free of
34 ~~communicable~~ *infectious* tuberculosis *within 60 days of initial*
35 *hire*, or if it is verified by the school previously employing ~~him or~~
36 ~~her~~ *the person verifies that it the person* has a certificate on file
37 ~~which contains that showing. showing that the person is free from~~
38 *infectious tuberculosis.*

39 ~~(i) Any~~

1 (l) A governing board or county superintendent of schools
 2 providing for the transportation of pupils under contract authorized
 3 by Section 39800, 39801, or any other provision of law shall
 4 require as a condition of the contract the *tuberculosis risk*
 5 *assessment and, if indicated, the examination for—active*
 6 ~~tuberculosis, infectious tuberculosis within 60 days of initial hire,~~
 7 as provided by subdivision (a), of all drivers transporting—these
 8 ~~pupils, provided that private pupils. Private~~ contracted drivers who
 9 transport these pupils on an infrequent basis, not to exceed once
 10 a month, infrequently without prolonged contact shall be excluded
 11 from this requirement.

12 (m) A volunteer in a school shall also be required to have on
 13 file with the school a certificate showing that, upon initial volunteer
 14 assignment, the person submitted to a tuberculosis risk assessment
 15 and, if tuberculosis risk factors were identified, was examined and
 16 found to be free of infectious tuberculosis. If no risk factors are
 17 identified, an examination is not required. At the discretion of the
 18 governing board of a school district, this section shall not apply
 19 to a volunteer whose functions do not require frequent or prolonged
 20 contact with pupils.

21 SEC. 2. Section 121525 of the Health and Safety Code is
 22 amended to read:

23 121525. (a) Except as provided in Section 121555, ~~no~~ a person
 24 shall *not* be initially employed, *or employed under contract*, by a
 25 private or parochial elementary or secondary school, or any nursery
 26 school, unless that person produces or has on file with the school
 27 a certificate showing that within the last 60 days the person has
 28 *submitted to a tuberculosis risk assessment and, if tuberculosis*
 29 *risk factors are identified, has been examined and has been found*
 30 *to be free of—communicable infectious tuberculosis. If no risk*
 31 *factors are identified, an examination is not required.*

32 (b) Thereafter, ~~those employees who are skin test negative, or~~
 33 ~~negative by an employee who has no identified risk factors or who~~
 34 *tests negative for the tuberculosis infection by either the tuberculin*
 35 *skin test or any other test for tuberculosis recommended by the*
 36 *federal Centers for Disease Control and Prevention (CDC) and*
 37 *licensed by the federal Food and Drug Administration (FDA), shall*
 38 *be required to undergo the foregoing—examination tuberculosis*
 39 *risk assessment and, if risk factors are identified, the examination,*
 40 *at least once each four years, or more often if directed by the school*

1 *governing authority* upon recommendation of the local health
2 officer, for so long as the employee remains test negative by any
3 test for tuberculosis infection that has been recommended by the
4 CDC and licensed by the FDA. *officer*. Once an employee has a
5 documented positive tuberculin test or any other test for
6 tuberculosis infection that has been recommended by the CDC
7 and licensed by the FDA, *test for the tuberculosis infection*
8 *conducted pursuant to this subdivision*, the foregoing examination
9 *tuberculosis risk assessment* is no longer required, and a referral
10 shall be made within 30 days of completion of the examination to
11 the local health officer to determine the need for followup care
12 *required*.

13 (c) At the discretion of the governing authority of a private
14 school, this section shall not apply to employees who are employed
15 for any period of time less than a school year whose functions do
16 not require frequent or prolonged contact with pupils. The
17 governing authority may, however, require the examination and
18 may as a contract condition require the examination of persons
19 employed under contract if the governing authority believes the
20 presence of the persons in and around the school premises would
21 constitute a health hazard to students.

22 (d) The governing authority of a private school providing for
23 the transportation of pupils under authorized contract shall require
24 as a condition of the contract that every person transporting pupils
25 produce a certificate showing that within the last 60 days the person
26 has *submitted to a tuberculosis risk assessment, and if tuberculosis*
27 *risk factors are identified, has been examined and has been found*
28 *to be free of communicable infectious tuberculosis, except that*
29 *any*. A private contracted driver who transports pupils ~~on an~~
30 ~~infrequent basis, not to exceed once a month, infrequently without~~
31 *prolonged contact* shall be excluded from this requirement.

32 (e) The examination attested to in the certificate required
33 pursuant to subdivision (d) of this section shall be made available
34 without charge by the local health officer.

35 “Certificate,”

36 (f) “*Certificate*,” as used in this chapter, means a document
37 signed by the examining physician and surgeon who is licensed
38 under Chapter 5 (commencing with Section 2000) of Division 2
39 of the Business and Professions Code, or a notice from a public

1 health agency or unit of the Tuberculosis Association that indicates
2 freedom from active *infectious* tuberculosis.

3 (f)

4 (g) Nothing in this section shall prevent the governing authority
5 of a private, parochial, or nursery school, upon recommendation
6 of the local health officer, from establishing a rule requiring a more
7 extensive or more frequent examination than required by this
8 section.

9 SEC. 3. Section 121535 of the Health and Safety Code is
10 amended to read:

11 121535. The X-ray ~~film~~ may be taken by a competent and
12 qualified X-ray technician if the X-ray ~~film~~ is subsequently
13 interpreted by a licensed physician and surgeon.

14 SEC. 4. Section 121545 of the Health and Safety Code is
15 amended to read:

16 121545. (a) ~~All volunteers~~ *A volunteer in schools covered*
17 ~~under a school subject to this chapter~~ shall also be required to have
18 on file with the school a certificate showing that ~~within the last~~
19 ~~four years the person has been examined and has been found to~~
20 ~~be, upon initial volunteer assignment, the person submitted to a~~
21 ~~tuberculosis risk assessment, and, if tuberculosis risk factors were~~
22 ~~identified, the person was examined and found to be free of~~
23 ~~communicable infectious tuberculosis. If no risk factors are~~
24 ~~identified, an examination is not required.~~

25 (b) At the discretion of the governing authority of a ~~private~~
26 ~~school, school subject to this chapter~~ this section shall not apply
27 to ~~volunteers~~ *a volunteer* whose functions do not ~~necessitate~~
28 *require* frequent or prolonged contact with pupils.

29 SEC. 5. Section 121555 of the Health and Safety Code is
30 amended to read:

31 121555. (a) A person who transfers his or her employment
32 from one of the schools specified in subdivision (a) of Section
33 121525 to another shall be deemed to meet the requirements of
34 subdivision (a) of Section 121525 if the person can produce a
35 certificate that shows that he or she was ~~examined within the past~~
36 ~~four years and was found to be free of communicable infectious~~
37 ~~tuberculosis within 60 days of initial hire, or if it is verified by the~~
38 ~~school previously employing him or her the person verifies that it~~
39 ~~the school has a certificate on file showing that the person is free~~
40 ~~from infectious tuberculosis.~~

1 (b) A person who transfers his or her employment from a public
2 elementary school or secondary school to any of the schools
3 specified in subdivision (a) of Section 121525 shall be deemed to
4 meet the requirements of subdivision (a) of Section 121525 if that
5 person can produce a certificate as provided for in Section 11708
6 of the Education Code that shows that he or she was ~~examined~~
7 ~~within the past four years and~~ was found to be free of
8 ~~communicable~~ *infectious tuberculosis within 60 days of initial*
9 *hire, or if it is verified by the school district previously employing*
10 ~~him or her~~ *the person verifies that it the school district has a*
11 *certificate on file showing that the person is free from infectious*
12 *tuberculosis.*

13 SEC. 6. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.