

AMENDED IN ASSEMBLY APRIL 2, 2014
AMENDED IN ASSEMBLY MARCH 24, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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, except as specified. *The bill would require the State Department of Public Health, in consultation with the California Tuberculosis Controllers Association, to develop a risk*

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

1 and surgeon licensed under Chapter 5 (commencing with Section
2 2000) of Division 2 of the Business and Professions Code.

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

8 (b) Thereafter, an employee who has no identified risk factors
9 or who tests negative for the tuberculosis infection shall be required
10 to undergo the tuberculosis risk assessment and, if risk factors are
11 identified, the examination, at least once each four years or more
12 often if directed by the governing board of the school district upon
13 recommendation of the local health officer. Once an employee has
14 a documented positive test for tuberculosis infection conducted
15 pursuant to this subdivision that has been followed by an X-ray,
16 the tuberculosis risk assessment is no longer required. A referral
17 shall be made within 30 days of completion of the examination to
18 the local health officer to determine the need for followup care.

19 (c) After the tuberculosis risk assessment and, if indicated, the
20 examination, the employee shall file with the district superintendent
21 of schools a certificate from the examining physician and surgeon
22 or physician assistant showing the employee was examined and
23 found free from infectious tuberculosis. The county board of
24 education may require, by rule, that the certificates be filed in the
25 office of the county superintendent of schools or maintained in the
26 office of the county superintendent of schools if a majority of the
27 governing boards of the school districts within the county petition
28 the county board of education. A school district, or school districts
29 with a common governing board, having an average daily
30 attendance of 60,000 or more may elect to maintain the files for
31 its employees in that school district.

32 (d) As used in this section, "certificate" means a certificate
33 signed by the examining physician and surgeon or physician
34 assistant practicing in compliance with Chapter 7.7 (commencing
35 with Section 3500) of Division 2 of the Business and Professions
36 Code or a notice from a public health agency that indicates freedom
37 from infectious tuberculosis. The latter, regardless of form, shall
38 constitute evidence of compliance with this section.

39 (e) Nothing in this section shall prevent the governing board of
40 a school district, upon recommendation of the local health officer,

1 from establishing a rule requiring a more extensive or more
2 frequent physical examination than required by this section. The
3 rule shall provide for reimbursement on the same basis as required
4 in this section.

5 (f) The tuberculosis risk assessment and, if indicated, the
6 examination is a condition of initial employment and the expense
7 shall be borne by the applicant unless otherwise provided by rules
8 of the governing board of the school district. However, the
9 governing board of a school district may, if an applicant is accepted
10 for employment, reimburse that person in a like manner prescribed
11 in this section for employees.

12 (g) The governing board of a school district shall reimburse the
13 employee for the cost, if any, of the tuberculosis risk assessment
14 and the examination. The governing board of a school district may
15 provide for the tuberculosis risk assessment and examination
16 required by this section or may establish a reasonable fee for the
17 examination that is reimbursable to employees of the school district
18 complying with of this section.

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

24 (i) If the governing board of a school district determines by
25 resolution, after hearing, that the health of pupils in the school
26 district would not be jeopardized, this section shall not apply to
27 an employee of the school district who files an affidavit stating
28 that he or she adheres to the faith or teachings of a well-recognized
29 religious sect, denomination, or organization and, in accordance
30 with its creed, tenets, or principles, depends for healing upon prayer
31 in the practice of religion, and that to the best of his or her
32 knowledge and belief, he or she is free from infectious tuberculosis.
33 If at any time there is probable cause to believe that the affiant is
34 afflicted with infectious tuberculosis, he or she may be excluded
35 from service until the governing board of the school district is
36 satisfied that he or she is not afflicted.

37 (j) A person who transfers employment from one school or
38 school district to another school or school district shall be deemed
39 to meet the requirements of subdivision (a) if that person can
40 produce a certificate that shows he or she was found to be free of

1 infectious tuberculosis within 60 days of initial hire, or the school
2 previously employing the person verifies that the person has a
3 certificate on file showing that the person is free from infectious
4 tuberculosis.

5 (k) A person who transfers his or her employment from a private
6 or parochial elementary school, secondary school, or nursery school
7 to a school or school district subject to this section shall be deemed
8 to meet the requirements of subdivision (a) if that person can
9 produce a certificate as provided for in Section 121525 of the
10 Health and Safety Code that shows that he or she was found to be
11 free of infectious tuberculosis within 60 days of initial hire, or if
12 the school previously employing the person verifies that the person
13 has a certificate on file showing that the person is free from
14 infectious tuberculosis.

15 (l) A governing board or county superintendent of schools
16 providing for the transportation of pupils under contract authorized
17 by Section 39800, 39801, or any other provision of law shall
18 require as a condition of the contract the tuberculosis risk
19 assessment and, if indicated, the examination for infectious
20 tuberculosis within 60 days of initial hire, as provided by
21 subdivision (a), of all drivers transporting pupils. At the discretion
22 of the governing board or county superintendent of schools, this
23 paragraph shall not apply to a private contracted driver who
24 transports pupils infrequently without prolonged contact with the
25 pupils.

26 (m) A volunteer in a school shall also be required to have on
27 file with the school a certificate showing that, upon initial volunteer
28 assignment, the person submitted to a tuberculosis risk assessment
29 and, if tuberculosis risk factors were identified, was examined and
30 found to be free of infectious tuberculosis. If no risk factors are
31 identified, an examination is not required. At the discretion of the
32 governing board of a school district, this section shall not apply
33 to a volunteer whose functions do not require frequent or prolonged
34 contact with pupils.

35 (n) *The State Department of Public Health, in consultation with*
36 *the California Tuberculosis Controllers Association, shall develop*
37 *a risk assessment questionnaire, to be used to conduct tuberculosis*
38 *risk assessments pursuant to this section.*

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

1 121525. (a) Except as provided in Section 121555, a person
2 shall not be initially employed, or employed under contract, by a
3 private or parochial elementary or secondary school, or any nursery
4 school, unless that person produces or has on file with the school
5 a certificate showing that within the last 60 days the person has
6 submitted to a tuberculosis risk assessment and, if tuberculosis
7 risk factors are identified, has been examined and has been found
8 to be free of infectious tuberculosis. If no risk factors are identified,
9 an examination is not required.

10 (b) Thereafter, an employee who has no identified risk factors
11 or who tests negative for the tuberculosis infection by either the
12 tuberculin skin test or any other test for tuberculosis recommended
13 by the federal Centers for Disease Control and Prevention (CDC)
14 and licensed by the federal Food and Drug Administration (FDA),
15 shall be required to undergo the foregoing tuberculosis risk
16 assessment and, if risk factors are identified, the examination, at
17 least once each four years, or more often if directed by the
18 governing authority upon recommendation of the local health
19 officer. Once an employee has a documented positive test for the
20 tuberculosis infection conducted pursuant to this subdivision, the
21 tuberculosis risk assessment is no longer required. A referral shall
22 be made within 30 days of completion of the examination to the
23 local health officer to determine the need for followup care.

24 (c) At the discretion of the governing authority of a private
25 school, this section shall not apply to employees who are employed
26 for any period of time less than a school year whose functions do
27 not require frequent or prolonged contact with pupils.

28 (d) The governing authority of a private school providing for
29 the transportation of pupils under authorized contract shall require
30 as a condition of the contract that every person transporting pupils
31 produce a certificate showing that within the last 60 days the person
32 has submitted to a tuberculosis risk assessment, and if tuberculosis
33 risk factors are identified, has been examined and has been found
34 to be free of infectious tuberculosis. At the discretion of the
35 governing authority, this section shall not apply to a private
36 contracted driver who transports pupils infrequently and without
37 prolonged contact with the pupils.

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

1 (f) "Certificate," as used in this chapter, means a document
2 signed by the examining physician and surgeon who is licensed
3 under Chapter 5 (commencing with Section 2000) of Division 2
4 of the Business and Professions Code, or a notice from a public
5 health agency that indicates freedom from infectious tuberculosis.

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

11 (h) *The State Department of Public Health, in consultation with*
12 *the California Tuberculosis Controllers Association, shall develop*
13 *a risk assessment questionnaire, to be used to conduct tuberculosis*
14 *risk assessments pursuant to this section.*

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

17 121535. The X-ray may be taken by a competent and qualified
18 X-ray technician if the X-ray is subsequently interpreted by a
19 licensed physician and surgeon.

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

22 121545. (a) A volunteer in a school subject to this chapter
23 shall also be required to have on file with the school a certificate
24 showing that, upon initial volunteer assignment, the person
25 submitted to a tuberculosis risk assessment, and, if tuberculosis
26 risk factors were identified, the person was examined and found
27 to be free of infectious tuberculosis. If no risk factors are identified,
28 an examination is not required.

29 (b) At the discretion of the governing authority of a school
30 subject to this chapter this section shall not apply to a volunteer
31 whose functions do not require frequent or prolonged contact with
32 pupils.

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

35 121555. (a) A person who transfers his or her employment
36 from one of the schools specified in subdivision (a) of Section
37 121525 to another shall be deemed to meet the requirements of
38 subdivision (a) of Section 121525 if the person can produce a
39 certificate that shows that he or she was found to be free of
40 infectious tuberculosis within 60 days of initial hire, or the school

1 previously employing the person verifies that the school has a
2 certificate on file showing that the person is free from infectious
3 tuberculosis.

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

14 SEC. 6. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.