

AMENDED IN ASSEMBLY MAY 23, 2014
AMENDED IN ASSEMBLY APRIL 2, 2014
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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~~; *questionnaire, to be administered by a health care provider*, 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 the
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.

1 (2) The X-ray may be taken by a competent and qualified X-ray
2 technician if the X-ray is subsequently interpreted by a physician
3 and surgeon licensed under Chapter 5 (commencing with Section
4 2000) of Division 2 of the Business and Professions Code.

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

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

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

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

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

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

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

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

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

39 (j) A person who transfers employment from one school or
40 school district to another school or school district shall be deemed

1 to meet the requirements of subdivision (a) if that person can
2 produce a certificate that shows he or she was found to be free of
3 infectious tuberculosis within 60 days of initial hire, or the school
4 previously employing the person verifies that the person has a
5 certificate on file showing that the person is free from infectious
6 tuberculosis.

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

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

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

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

1 *be administered by a health care provider, which shall be specified*
2 *on the questionnaire.*

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

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

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

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

32 (d) The governing authority of a private school providing for
33 the transportation of pupils under authorized contract shall require
34 as a condition of the contract that every person transporting pupils
35 produce a certificate showing that within the last 60 days the person
36 has submitted to a tuberculosis risk assessment, and if tuberculosis
37 risk factors are identified, has been examined and has been found
38 to be free of infectious tuberculosis. At the discretion of the
39 governing authority, this section shall not apply to a private

1 contracted driver who transports pupils infrequently and without
2 prolonged contact with the pupils.

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

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

11 (g) Nothing in this section shall prevent the governing authority
12 of a private, parochial, or nursery school, upon recommendation
13 of the local health officer, from establishing a rule requiring a more
14 extensive or more frequent examination than required by this
15 section.

16 (h) The State Department of Public Health, in consultation with
17 the California Tuberculosis Controllers Association, shall develop
18 a risk assessment questionnaire, to be used to conduct tuberculosis
19 risk assessments pursuant to this section. *The questionnaire shall*
20 *be administered by a health care provider, which shall be specified*
21 *on the questionnaire.*

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

24 121535. The X-ray may be taken by a competent and qualified
25 X-ray technician if the X-ray is subsequently interpreted by a
26 licensed physician and surgeon.

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

29 121545. (a) A volunteer in a school subject to this chapter
30 shall also be required to have on file with the school a certificate
31 showing that, upon initial volunteer assignment, the person
32 submitted to a tuberculosis risk assessment, and, if tuberculosis
33 risk factors were identified, the person was examined and found
34 to be free of infectious tuberculosis. If no risk factors are identified,
35 an examination is not required.

36 (b) At the discretion of the governing authority of a school
37 subject to this chapter this section shall not apply to a volunteer
38 whose functions do not require frequent or prolonged contact with
39 pupils.

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

3 121555. (a) A person who transfers his or her employment
4 from one of the schools specified in subdivision (a) of Section
5 121525 to another shall be deemed to meet the requirements of
6 subdivision (a) of Section 121525 if the person can produce a
7 certificate that shows that he or she was found to be free of
8 infectious tuberculosis within 60 days of initial hire, or the school
9 previously employing the person verifies that the school has a
10 certificate on file showing that the person is free from infectious
11 tuberculosis.

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

22 SEC. 6. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.