

AMENDED IN SENATE JUNE 9, 2014
AMENDED IN ASSEMBLY MAY 23, 2014
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 *by a physician and surgeon or a physician assistant, as specified*, 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 allow a*

person who is subject to these requirements to take an examination instead of submitting to a tuberculosis risk assessment, as specified. 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~~

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 administered by a health care provider, 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) (A) Except as provided in subdivision ~~(g)~~, (j),
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 a tuberculosis risk assessment
7 within the past 60 days, and, if tuberculosis risk factors are
8 identified, has been examined to determine that he or she is free
9 of infectious tuberculosis by a physician and surgeon licensed
10 under Chapter 5 (commencing with Section 2000) of Division 2
11 of the Business and Professions Code or a physician assistant
12 practicing in compliance with Chapter 7.7 (commencing with
13 Section 3500) of Division 2 of the Business and Professions Code.
14 If no risk factors are identified, an examination is not required.
15 ~~The examination~~ *A person who is subject to the requirements of*
16 *this subdivision may take an examination that complies with*

1 *subparagraph (B) instead of submitting to a tuberculosis risk*
2 *assessment.*

3 (B) *The examination required by this subdivision shall consist*
4 *of either an approved intradermal tuberculin test or any other test*
5 *for tuberculosis infection that is recommended by the federal*
6 *Centers for Disease Control and Prevention (CDC) and licensed*
7 *by the federal Food and Drug Administration (FDA). If the test is*
8 *positive, the test shall be followed by an X-ray of the lungs in*
9 *accordance with subdivision (f) of Section 120115 of the Health*
10 *and Safety Code.*

11 (2) *The X-ray may be taken by a competent and qualified X-ray*
12 *technician if the X-ray is subsequently interpreted by a physician*
13 *and surgeon licensed under Chapter 5 (commencing with Section*
14 *2000) of Division 2 of the Business and Professions Code.*

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

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

31 (c) *After the tuberculosis risk assessment and, if indicated, the*
32 *examination, the employee shall file with the district superintendent*
33 *of schools a certificate from the examining physician and surgeon*
34 *or physician assistant showing the employee was examined and*
35 *found free from infectious tuberculosis. The county board of*
36 *education may require, by rule, that the certificates be filed in the*
37 *office of the county superintendent of schools or maintained in the*
38 *office of the county superintendent of schools if a majority of the*
39 *governing boards of the school districts within the county petition*
40 *the county board of education. A school district, or school districts*

1 with a common governing board, having an average daily
2 attendance of 60,000 or more may elect to maintain the files for
3 its employees in that school district.

4 (d) As used in this section, “certificate” means a certificate
5 signed by the examining physician and surgeon or physician
6 assistant practicing in compliance with Chapter 7.7 (commencing
7 with Section 3500) of Division 2 of the Business and Professions
8 Code or a notice from a public health agency that indicates freedom
9 from infectious tuberculosis. The latter, regardless of form, shall
10 constitute evidence of compliance with this section.

11 (e) Nothing in this section shall prevent the governing board of
12 a school district, upon recommendation of the local health officer,
13 from establishing a rule requiring a more extensive or more
14 frequent physical examination than required by this section. The
15 rule shall provide for reimbursement on the same basis as required
16 in this section.

17 (f) The tuberculosis risk assessment and, if indicated, the
18 examination is a condition of initial employment and the expense
19 shall be borne by the applicant unless otherwise provided by rules
20 of the governing board of the school district. However, the
21 governing board of a school district may, if an applicant is accepted
22 for employment, reimburse that person in a like manner prescribed
23 in this section for employees.

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

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

36 (i) If the governing board of a school district determines by
37 resolution, after hearing, that the health of pupils in the school
38 district would not be jeopardized, this section shall not apply to
39 an employee of the school district who files an affidavit stating
40 that he or she adheres to the faith or teachings of a well-recognized

1 religious sect, denomination, or organization and, in accordance
2 with its creed, tenets, or principles, depends for healing upon prayer
3 in the practice of religion, and that to the best of his or her
4 knowledge and belief, he or she is free from infectious tuberculosis.
5 If at any time there is probable cause to believe that the affiant is
6 afflicted with infectious tuberculosis, he or she may be excluded
7 from service until the governing board of the school district is
8 satisfied that he or she is not afflicted.

9 (j) A person who transfers employment from one school or
10 school district to another school or school district shall be deemed
11 to meet the requirements of subdivision (a) if that person can
12 produce a certificate that shows he or she was found to be free of
13 infectious tuberculosis within 60 days of initial hire, or the school
14 previously employing the person verifies that the person has a
15 certificate on file showing that the person is free from infectious
16 tuberculosis.

17 (k) A person who transfers his or her employment from a private
18 or parochial elementary school, secondary school, or nursery school
19 to a school or school district subject to this section shall be deemed
20 to meet the requirements of subdivision (a) if that person can
21 produce a certificate as provided for in Section 121525 of the
22 Health and Safety Code that shows that he or she was found to be
23 free of infectious tuberculosis within 60 days of initial hire, or if
24 the school previously employing the person verifies that the person
25 has a certificate on file showing that the person is free from
26 infectious tuberculosis.

27 (l) A governing board or county superintendent of schools
28 providing for the transportation of pupils under contract authorized
29 by Section 39800, 39801, or any other provision of law shall
30 require as a condition of the contract the tuberculosis risk
31 assessment and, if indicated, the examination for infectious
32 tuberculosis within 60 days of initial hire, as provided by
33 subdivision (a), of all drivers transporting pupils. At the discretion
34 of the governing board or county superintendent of schools, this
35 paragraph shall not apply to a private contracted driver who
36 transports pupils infrequently without prolonged contact with the
37 pupils.

38 (m) A volunteer in a school shall also be required to have on
39 file with the school a certificate showing that, upon initial volunteer
40 assignment, the person submitted to a tuberculosis risk assessment

1 and, if tuberculosis risk factors were identified, was examined and
2 found to be free of infectious tuberculosis. If no risk factors are
3 identified, an examination is not required. At the discretion of the
4 governing board of a school district, this section shall not apply
5 to a volunteer whose functions do not require frequent or prolonged
6 contact with pupils.

7 (n) The State Department of Public Health, in consultation with
8 the California Tuberculosis Controllers Association, shall develop
9 a risk assessment questionnaire, to be used to conduct tuberculosis
10 risk assessments pursuant to this section. The questionnaire shall
11 be administered by a health care provider, which shall be specified
12 on the questionnaire.

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

15 121525. (a) Except as provided in Section 121555, a person
16 shall not be initially employed, or employed under contract, by a
17 private or parochial elementary or secondary school, or any nursery
18 school, unless that person produces or has on file with the school
19 a certificate showing that within the last 60 days the person has
20 submitted to a tuberculosis risk assessment and, if tuberculosis
21 risk factors are identified, has been examined and has been found
22 to be free of infectious tuberculosis. If no risk factors are identified,
23 an examination is not required. *A person who is subject to the*
24 *requirements of this subdivision may take an examination that*
25 *complies with the requirements of subdivision (b) instead of*
26 *submitting to a tuberculosis risk assessment.*

27 (b) Thereafter, an employee who has no identified risk factors
28 or who tests negative for the tuberculosis infection by either the
29 tuberculin skin test or any other test for tuberculosis recommended
30 by the federal Centers for Disease Control and Prevention (CDC)
31 and licensed by the federal Food and Drug Administration (FDA),
32 shall be required to undergo the foregoing tuberculosis risk
33 assessment and, if risk factors are identified, the examination, at
34 least once each four years, or more often if directed by the
35 governing authority *of the school* upon recommendation of the
36 local health officer. Once an employee has a documented positive
37 test for the tuberculosis infection conducted pursuant to this
38 subdivision, the tuberculosis risk assessment is no longer required.
39 A referral shall be made within 30 days of completion of the

1 examination to the local health officer to determine the need for
2 followup care.

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

7 (d) The governing authority of a private school providing for
8 the transportation of pupils under authorized contract shall require
9 as a condition of the contract that every person transporting pupils
10 produce a certificate showing that within the last 60 days the person
11 has submitted to a tuberculosis risk assessment, and, if tuberculosis
12 risk factors are identified, has been examined and has been found
13 to be free of infectious tuberculosis. At the discretion of the
14 governing ~~authority~~, *authority of the school*, this section shall not
15 apply to a private contracted driver who transports pupils
16 infrequently and without prolonged contact with the pupils.

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

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

25 (g) Nothing in this section shall prevent the governing authority
26 of a private, parochial, or nursery school, upon recommendation
27 of the local health officer, from establishing a rule requiring a more
28 extensive or more frequent examination than required by this
29 section.

30 (h) The State Department of Public Health, in consultation with
31 the California Tuberculosis Controllers Association, shall develop
32 a risk assessment questionnaire, to be used to conduct tuberculosis
33 risk assessments pursuant to this section. The questionnaire shall
34 be administered by a health care provider, which shall be specified
35 on the questionnaire.

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

38 121535. The X-ray may be taken by a competent and qualified
39 X-ray technician if the X-ray is subsequently interpreted by a
40 licensed physician and surgeon.

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

3 121545. (a) A volunteer in a school subject to this chapter
4 shall also be required to have on file with the school a certificate
5 showing that, upon initial volunteer assignment, the person
6 submitted to a tuberculosis risk assessment, and, if tuberculosis
7 risk factors were identified, the person was examined and found
8 to be free of infectious tuberculosis. If no risk factors are identified,
9 an examination is not required. *A person who is subject to the*
10 *requirements of this subdivision may take an examination that*
11 *complies with the requirements of subdivision (b) of Section 121525*
12 *instead of submitting to a tuberculosis risk assessment.*

13 (b) At the discretion of the governing authority of a school
14 subject to this chapter this section shall not apply to a volunteer
15 whose functions do not require frequent or prolonged contact with
16 pupils.

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

19 121555. (a) A person who transfers his or her employment
20 from one of the schools specified in subdivision (a) of Section
21 121525 to another shall be deemed to meet the requirements of
22 subdivision (a) of Section 121525 if the person can produce a
23 certificate that shows that he or she was found to be free of
24 infectious tuberculosis within 60 days of initial hire, or the school
25 previously employing the person verifies that the school has a
26 certificate on file showing that the person is free from infectious
27 tuberculosis.

28 (b) A person who transfers his or her employment from a public
29 elementary school or secondary school to any of the schools
30 specified in subdivision (a) of Section 121525 shall be deemed to
31 meet the requirements of subdivision (a) of Section 121525 if that
32 person can produce a certificate as provided for in Section 11708
33 of the Education Code that shows that he or she was found to be
34 free of infectious tuberculosis within 60 days of initial hire, or if
35 the school district previously employing the person verifies that
36 the school district has a certificate on file showing that the person
37 is free from infectious tuberculosis.

38 SEC. 6. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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