

AMENDED IN SENATE JUNE 23, 2014

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~~ *submit to* 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. *With respect to school district personnel, the bill would also authorize nurse practitioners to administer the examination.*

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 (j), a
4 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 Code~~, 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~~.

1 *Code, or a nurse practitioner practicing in compliance with*
2 *Chapter 6 (commencing with Section 2700) of Division 2 of the*
3 *Business and Professions Code. If no risk factors are identified,*
4 *an examination is not required. A person who is subject to the*
5 *requirements of this subdivision may ~~take~~ submit to an examination*
6 *that complies with subparagraph (B) instead of submitting to a*
7 *tuberculosis risk assessment.*

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

16 (2) The X-ray may be taken by a competent and qualified X-ray
17 technician if the X-ray is subsequently interpreted by a physician
18 and surgeon licensed under Chapter 5 (commencing with Section
19 2000) of Division 2 of the Business and Professions Code.

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

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

36 (c) After the tuberculosis risk assessment and, if indicated, the
37 examination, the employee shall file with the district superintendent
38 of schools a certificate from the examining physician and ~~surgeon~~
39 ~~or surgeon, physician-assistant~~ *assistant, or nurse practitioner*
40 showing the employee was examined and found free from

1 infectious tuberculosis. The county board of education may require,
2 by rule, that the certificates be filed in the office of the county
3 superintendent of schools or maintained in the office of the county
4 superintendent of schools if a majority of the governing boards of
5 the school districts within the county petition the county board of
6 education. A school district, or school districts with a common
7 governing board, having an average daily attendance of 60,000 or
8 more may elect to maintain the files for its employees in that school
9 district.

10 (d) As used in this section, “certificate” means a certificate
11 signed by the examining physician and surgeon ~~or~~ *licensed under*
12 *Chapter 5 (commencing with Section 2000) of Division 2 of the*
13 *Business and Professions Code, a physician assistant practicing*
14 *in compliance with Chapter 7.7 (commencing with Section 3500)*
15 *of Division 2 of the Business and Professions Code Code, or a*
16 *nurse practitioner practicing in compliance with Chapter 6*
17 *(commencing with Section 2700) of Division 2 of the Business and*
18 *Professions Code, or a notice from a public health agency that*
19 *indicates freedom from infectious tuberculosis. The latter,*
20 *regardless of form, shall constitute evidence of compliance with*
21 *this section.*

22 (e) Nothing in this section shall prevent the governing board of
23 a school district, upon recommendation of the local health officer,
24 from establishing a rule requiring a more extensive or more
25 frequent physical examination than required by this section. The
26 rule shall provide for reimbursement on the same basis as required
27 in this section.

28 (f) The tuberculosis risk assessment and, if indicated, the
29 examination is a condition of initial employment and the expense
30 shall be borne by the applicant unless otherwise provided by rules
31 of the governing board of the school district. However, the
32 governing board of a school district may, if an applicant is accepted
33 for employment, reimburse that person in a like manner prescribed
34 in this section for employees.

35 (g) The governing board of a school district shall reimburse the
36 employee for the cost, if any, of the tuberculosis risk assessment
37 and the examination. The governing board of a school district may
38 provide for the tuberculosis risk assessment and examination
39 required by this section or may establish a reasonable fee for the

1 examination that is reimbursable to employees of the school district
2 complying with this section.

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

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

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

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

39 (l) A governing board or county superintendent of schools
40 providing for the transportation of pupils under contract authorized

1 by Section 39800, 39801, or any other provision of law shall
 2 require as a condition of the contract the tuberculosis risk
 3 assessment and, if indicated, the examination for infectious
 4 tuberculosis within 60 days of initial hire, as provided by
 5 subdivision (a), of all drivers transporting pupils. At the discretion
 6 of the governing board or county superintendent of schools, this
 7 ~~paragraph~~ *subdivision* shall not apply to a private contracted driver
 8 who transports pupils infrequently without prolonged contact with
 9 the pupils.

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

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

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

27 121525. (a) Except as provided in Section 121555, a person
 28 shall not be initially employed, or employed under contract, by a
 29 private or parochial elementary or secondary school, or any nursery
 30 school, unless that person produces or has on file with the school
 31 a certificate showing that within the last 60 days the person has
 32 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. If no risk factors are identified,
 35 an examination is not required. A person who is subject to the
 36 requirements of this subdivision may ~~take~~ *submit to* an examination
 37 that complies with the requirements of ~~subdivision (b)~~ *Section*
 38 *121530* instead of submitting to a tuberculosis risk assessment.

39 (b) Thereafter, an employee who has no identified risk factors
 40 or who tests negative for the tuberculosis infection by either the

1 tuberculin skin test or any other test for tuberculosis recommended
2 by the federal Centers for Disease Control and Prevention (CDC)
3 and licensed by the federal Food and Drug Administration (FDA),
4 shall be required to undergo the foregoing tuberculosis risk
5 assessment and, if risk factors are identified, the examination, at
6 least once each four years, or more often if directed by the
7 governing authority of the school upon recommendation of the
8 local health officer. Once an employee has a documented positive
9 test for the tuberculosis infection conducted pursuant to this
10 subdivision, the tuberculosis risk assessment is no longer required.
11 A referral shall be made within 30 days of completion of the
12 examination to the local health officer to determine the need for
13 followup care.

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

18 (d) The governing authority of a private school providing for
19 the transportation of pupils under authorized contract shall require
20 as a condition of the contract that every person transporting pupils
21 produce a certificate showing that within the last 60 days the person
22 has submitted to a tuberculosis risk assessment, and, if tuberculosis
23 risk factors are identified, has been examined and has been found
24 to be free of infectious tuberculosis. At the discretion of the
25 governing authority of the school, this section shall not apply to a
26 private contracted driver who transports pupils infrequently and
27 without prolonged contact with the pupils.

28 (e) The examination attested to in the certificate required
29 pursuant to subdivision (d) shall be made available without charge
30 by the local health officer.

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

36 (g) Nothing in this section shall prevent the governing authority
37 of a private, parochial, or nursery school, upon recommendation
38 of the local health officer, from establishing a rule requiring a more
39 extensive or more frequent examination than required by this
40 section.

1 (h) The State Department of Public Health, in consultation with
2 the California Tuberculosis Controllers Association, shall develop
3 a risk assessment questionnaire, to be used to conduct tuberculosis
4 risk assessments pursuant to this section. The questionnaire shall
5 be administered by a health care provider, which shall be specified
6 on the questionnaire.

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

9 121535. The X-ray may be taken by a competent and qualified
10 X-ray technician if the X-ray is subsequently interpreted by a
11 licensed physician and surgeon.

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

14 121545. (a) A volunteer in a school subject to this chapter
15 shall also be required to have on file with the school a certificate
16 showing that, upon initial volunteer assignment, the person
17 submitted to a tuberculosis risk assessment, and, if tuberculosis
18 risk factors were identified, the person was examined and found
19 to be free of infectious tuberculosis. If no risk factors are identified,
20 an examination is not required. A person who is subject to the
21 requirements of this subdivision may take an examination that
22 complies with the requirements of ~~subdivision (b) of Section~~
23 ~~121525~~ *Section 121530* instead of submitting to a tuberculosis risk
24 assessment.

25 (b) At the discretion of the governing authority of a school
26 subject to this chapter this section shall not apply to a volunteer
27 whose functions do not require frequent or prolonged contact with
28 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 found to be free of
36 infectious tuberculosis within 60 days of initial hire, or the school
37 previously employing the person verifies that the school has a
38 certificate on file showing that the person is free from infectious
39 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 *subdivision (c) of Section 49406* of the Education Code that shows
7 that he or she was found to be free of infectious tuberculosis within
8 60 days of initial hire, or if the school district previously employing
9 the person verifies that the school district has a certificate on file
10 showing that the person is free from infectious tuberculosis.

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

O