

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 302

**Introduced by Senator Cannella
(Coauthors: Senators Gaines and Huff)**

February 15, 2013

An act to amend ~~Sections~~ *Section* 14501 and 14502.1 of, to add Sections 38087, 38096, 38097, 38098, and 38104 to, and to repeal Sections 38092 and 38102 of, the Education Code, relating to school cafeterias.

LEGISLATIVE COUNSEL'S DIGEST

SB 302, as amended, Cannella. School cafeterias: cafeteria fund.

(1) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits, and with representatives of other entities, to recommend the statements and other information to be included in the audit reports filed with the state by local educational agencies, and to propose the content of an audit guide. *For these purposes, existing law defines "compliance audit" as an audit that ascertains and verifies whether or not specific funds provided have been properly disbursed and expended and includes the verification of specific information.*

This bill would additionally require ~~compliance audits and the audit guide~~ *a compliance audit* to include *the verification of cafeteria fund expenditures.*

(2) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of the school district that are defined in the California School Accounting Manual.

This bill would require the State Department of Education to assess its food services workload and staffing needs for purposes of carrying out the state's oversight responsibilities of cafeteria funds and to request sufficient federal funding to hire the appropriate number of staff based on that assessment. The bill would require the department to prepare simplified guidelines that address most of the common acceptable and unacceptable charges to cafeteria funds. The bill would require the department to post on its Internet Web site all enforcement actions for the misappropriation of cafeteria funds. The bill would require a school district to maintain all financial records related to its cafeteria fund for 5 years, thereby imposing a state-mandated local program. The bill would prohibit a school district from withholding from its food service director any financial records involving school nutrition programs.

(3) Existing law authorizes the governing board of any school district with an average daily attendance of over 100,000 to allow as an expenditure from its cafeteria fund a share of money agreed upon pursuant to a contract that is generated from the joint sale of items between the cafeteria and an associated student body student store.

This bill would repeal that provision.

(4) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, as specified.

This bill would repeal that provision.

(5) 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 14501 of the Education Code is amended
2 to read:

3 14501. (a) As used in this chapter, “financial and compliance
4 audit” shall be consistent with the definition provided in the
5 “Standards for Audits of Governmental Organizations, Programs,
6 Activities, and Functions” promulgated by the Comptroller General
7 of the United States. Financial and compliance audits conducted
8 under this chapter shall fulfill federal single audit requirements.

9 (b) As used in this chapter, “compliance audit” means an audit
10 that ascertains and verifies whether or not funds provided through
11 apportionment, contract, or grant, either federal or state, have been
12 properly disbursed and expended as required by law or regulation,
13 or both, and includes the verification of each of the following:

14 (1) The reporting requirements for the sufficiency of textbooks
15 or instructional materials, or both, as defined in Section 60119.

16 (2) Teacher misassignments pursuant to Section 44258.9.

17 (3) The accuracy of information reported on the School
18 Accountability Report Card required by Section 33126. The
19 requirements set forth in paragraphs (1), (2), and (4) and this
20 paragraph shall be added to the audit guide requirements pursuant
21 to subdivision (b) of Section 14502.1.

22 (4) Cafeteria fund expenditures pursuant to Chapter 3
23 (commencing with Section 38080) of Part 23 of Division 3 of Title
24 2.

25 ~~SEC. 2. Section 14502.1 of the Education Code is amended to~~
26 ~~read:~~

27 ~~14502.1. (a) The Controller, in consultation with the~~
28 ~~Department of Finance and the department, shall develop a plan~~
29 ~~to review and report on financial and compliance audits. The plan~~
30 ~~shall commence with the 2003–04 fiscal year for audits of school~~
31 ~~districts, other local educational agencies, and the offices of county~~
32 ~~superintendents of schools. The Controller, in consultation with~~
33 ~~the Department of Finance, the department, and representatives~~
34 ~~of the California School Boards Association, the California~~
35 ~~Association of School Business Officials, the California County~~

1 Superintendents Educational Services Association, the California
2 Teachers Association, and the California Society of Certified Public
3 Accountants, shall recommend the statements and other information
4 to be included in the audit reports filed with the state, and shall
5 propose the content of an audit guide to carry out the purposes of
6 this chapter. A supplement to the audit guide may be suggested in
7 the audit year, following the above process, to address issues
8 resulting from new legislation in that year that changes the
9 conditions of apportionment. The proposed content of the audit
10 guide and any supplement to the audit guide shall be submitted by
11 the Controller to the Education Audit Appeals Panel for review
12 and possible amendment.

13 (b) ~~The audit guide and any supplement shall be adopted by the~~
14 ~~Education Audit Appeals Panel pursuant to the rulemaking~~
15 ~~procedures of the Administrative Procedure Act as set forth in~~
16 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
17 ~~3 of Title 2 of the Government Code. It is the intent of the~~
18 ~~Legislature that, for the 2003–04 fiscal year, the audit guide be~~
19 ~~adopted by July 1 of the fiscal year to be audited. A supplemental~~
20 ~~audit guide may be adopted to address legislative changes to the~~
21 ~~conditions of apportionment. It is the intent of the Legislature that~~
22 ~~supplements be adopted before March 1 of the audit year.~~
23 ~~Commencing with the 2004–05 fiscal year, and each fiscal year~~
24 ~~thereafter, the audit guide shall be adopted by July 1 of the fiscal~~
25 ~~year to be audited. A supplemental audit guide may be adopted to~~
26 ~~address legislative changes to the conditions of apportionment.~~
27 ~~The supplements shall be adopted before March 1 of the audit~~
28 ~~year. To meet these goals and to ensure the accuracy of the audit~~
29 ~~guide, the process for adopting emergency regulations set forth in~~
30 ~~Section 11346.1 of the Government Code may be followed to~~
31 ~~adopt the guide and supplemental audit guide. It is the intent of~~
32 ~~the Legislature that once the audit guide has been adopted for a~~
33 ~~fiscal year, as well as any supplement for that year, thereafter only~~
34 ~~suggested changes to the audit guide and any additional~~
35 ~~supplements need be adopted pursuant to the rulemaking~~
36 ~~procedures of the Administrative Procedure Act. The audit guide~~
37 ~~and any supplement shall be issued in booklet form and may be~~
38 ~~made available by any means deemed appropriate. The Controller~~
39 ~~and consultants in the development of the suggested audit guide~~
40 ~~and any supplement shall work cooperatively on a timeline that~~

1 will allow the Education Audit Appeals Panel to meet the July 1
 2 and March 1 issuance dates. Consistent with current practices for
 3 development of the audit guide before the 2003-04 fiscal year, the
 4 Controller shall provide for the adoption of procedures and
 5 timetables for the development of the suggested audit guide, any
 6 supplement, and the format for additions, deletions, and revisions.

7 (e) For the audit of school districts or county offices of education
 8 electing to take formal action pursuant to Sections 22714 and
 9 44929, the audit guide content proposed by the Controller shall
 10 include, but not be limited to, the following:

- 11 (1) The number and type of positions vacated.
- 12 (2) The age and service credit of the retirees receiving the
 13 additional service credit provided by Sections 22714 and 44929.
- 14 (3) A comparison of the salary and benefits of each retiree
 15 receiving the additional service credit with the salary and benefits
 16 of the replacement employee, if any.
- 17 (4) The resulting retirement cost, including interest, if any, and
 18 postretirement health care benefits costs, incurred by the employer.

19 (d) The Controller shall annually prepare a cost analysis, based
 20 on the information included in the audit reports for the prior fiscal
 21 year, to determine the net savings or costs resulting from formal
 22 actions taken by school districts and county offices of education
 23 pursuant to Sections 22714 and 44929 and shall report the results
 24 of the cost analysis to the Governor and the Legislature by April
 25 1 of each year.

26 (e) All costs incurred by the Controller to implement subdivision
 27 (e) shall be absorbed by the Controller.

28 (f) On or before July 1, 2014, the Education Audit Appeals
 29 Panel shall revise the audit guide to include clear and
 30 comprehensive guidance on what school districts may or may not
 31 do with moneys in a cafeteria fund pursuant to Chapter 3
 32 (commencing with Section 38080) of Part 23 of Division 3 of Title
 33 2 and applicable federal law.

34 (g) This section shall become operative July 1, 2003, and shall
 35 apply to the preparation of the audit guide for school district audits
 36 commencing with the 2003-04 fiscal year.

37 **SEC. 3.**

38 *SEC. 2.* Section 38087 is added to the Education Code, to read:
 39 38087. The department shall assess its food services workload
 40 and staffing needs for purposes of carrying out the state's oversight

1 responsibilities in accordance with federal law and regulations
2 adopted by the United States Department of Agriculture and shall
3 request sufficient federal funding to hire the appropriate number
4 of staff based on that assessment.

5 ~~SEC. 4.~~

6 *SEC. 3.* Section 38092 of the Education Code is repealed.

7 ~~SEC. 5.~~

8 *SEC. 4.* Section 38096 is added to the Education Code, to read:
9 38096. (a) The department shall prepare simplified guidelines
10 that address most of the common acceptable and unacceptable
11 charges to cafeteria funds.

12 (b) The department shall post on its Internet Web site all
13 enforcement actions for the misappropriation of cafeteria funds.

14 ~~SEC. 6.~~

15 *SEC. 5.* Section 38097 is added to the Education Code, to read:
16 38097. A school district shall maintain all financial records
17 related to its cafeteria fund for five years.

18 ~~SEC. 7.~~

19 *SEC. 6.* Section 38098 is added to the Education Code, to read:
20 38098. This chapter does not authorize a school district to
21 charge a food service program any charge prohibited by state or
22 federal law or regulation or guidance.

23 ~~SEC. 8.~~

24 *SEC. 7.* Section 38102 of the Education Code is repealed.

25 ~~SEC. 9.~~

26 *SEC. 8.* Section 38104 is added to the Education Code, to read:
27 38104. A school district shall not withhold from its food service
28 director any financial records involving school nutrition programs.

29 ~~SEC. 10.~~

30 *SEC. 9.* If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.

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