

AMENDED IN SENATE APRIL 20, 2015

**SENATE BILL**

**No. 334**

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**Introduced by Senator Leyva**

February 23, 2015

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An act to amend Section 38086 of, *to add Sections 32241.5, 32246, 32247, 32248, and 32249 to*, and to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to pupil ~~nutrition~~: *health*.

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as amended, Leyva. Pupil ~~nutrition~~: *health*: drinking water.

(1) Existing law requires a school district to provide access to free, fresh drinking water during meal times in school food service areas, unless the governing board of a school district adopts a resolution stating that it is unable to comply with this requirement and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns. Existing law requires the resolution to be publicly noticed on at least 2 consecutive meeting agendas and approved by at least a majority of the governing board of the school district.

This bill would delete the provision authorizing a school district to adopt a resolution stating that it is unable to provide access to free, fresh drinking water during meal times. The bill would instead specify that a school district shall provide access to free, fresh, ~~clean~~, and ~~cold~~ *clean* drinking water during meal times through the use of drinking water access points, as defined. The bill also would require a school district to provide access to free, fresh, ~~clean~~, and ~~cold~~ *clean* drinking water throughout the schoolday, including, but not limited to, during recreation times, as specified. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

~~This bill would require a school district to, before the beginning of each school year, test, or provide for the testing of, drinking water for contaminants to ensure the drinking water meets specified drinking water quality standards, as provided. If the drinking water does not meet the specified drinking water quality standards, the bill would require a school district to provide alternative sources of free, fresh, clean, and cold drinking water to pupils. The bill also would require schools to provide public notices of the drinking water quality test results, as specified.~~ *that has drinking water sources with drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead or any other contaminant to close access to those drinking water sources, to provide alternative drinking water sources, as specified, and to notify specified persons if the school district is required to provide those alternative drinking water sources.* By imposing additional duties on schools and school districts, this bill would impose a state-mandated local program.

*(2) Under existing law, known as the Lead-Safe Schools Protection Act, the State Department of Public Health is required to perform various activities related to reducing the risk of exposure to lead hazards in public schools.*

*This bill would require the State Department of Education to work with the State Department of Public Health to develop guidelines and best practices to ensure that lead hazards are minimized in the course of school repair and maintenance and abatement procedures. The bill would prohibit drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead from being provided at a school facility and would require a school district that has such drinking water to identify the most urgent mitigation needs and develop a protocol or plan for mitigation. The bill would require the State Department of Public Health to test drinking water sources at all schoolsites for lead in the drinking water and would require a school district to report information related to this testing to the State Department of Education and the State Department of Public Health. The bill would require a school that has lead-containing plumbing components to flush all drinking water sources at the beginning of each schoolday, as provided. By imposing additional duties on schools and school districts, this bill would impose a state-mandated local program.*

(3) 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 32241.5 is added to the Education Code,  
2     to read:

3     32241.5. *The department shall work with the State Department*  
4     *of Public Health to develop guidelines and best practices to ensure*  
5     *that lead hazards are minimized in the course of school repair and*  
6     *maintenance and abatement procedures. The data sent by school*  
7     *districts to the department pursuant to subdivision (b) of Section*  
8     *33247 shall be considered in the development of the guidelines*  
9     *and best practices.*

10    SEC. 2. Section 32246 is added to the Education Code, to read:

11    32246. *Drinking water that does not meet the United States*  
12    *Environmental Protection Agency drinking water standards for*  
13    *lead shall not be provided at a school facility.*

14    SEC. 3. Section 32247 is added to the Education Code, to read:

15    32247. (a) *The State Department of Public Health shall test*  
16    *drinking water sources at all schoolsites for lead in the drinking*  
17    *water.*

18    (b) *A school district shall report drinking water lead testing*  
19    *information, including, but not limited to, dates of testing, number*  
20    *and type of drinking water sources tested, test results, and adopted*  
21    *protocols or plans for mitigation, to the State Department of Public*  
22    *Health and the department.*

23    (c) *The State Department of Public Health and the department*  
24    *shall do both of the following:*

25    (1) *Establish a process for receiving, recording, and making*  
26    *public the data received from school districts.*

27    (2) *Post the data received from school districts on the*  
28    *departments' respective Internet Web sites.*

1     *SEC. 4. Section 32248 is added to the Education Code, to read:*  
2     32248. (a) A school district that has drinking water sources  
3 with drinking water that does not meet the United States  
4 Environmental Protection Agency drinking water standards for  
5 lead shall work with the State Department of Public Health and  
6 the local department of public health to identify the most urgent  
7 mitigation needs and develop a protocol or plan for mitigation.  
8     (b) The protocol or plan shall identify timelines and funding  
9 sources for mitigation.  
10    (c) The protocol or plan shall be presented to and adopted by  
11 the governing board of the school district at a regularly scheduled  
12 public meeting within six months of the school district's receipt  
13 of the drinking water test results.

14     *SEC. 5. Section 32249 is added to the Education Code, to read:*  
15     32249. A school that has lead-containing plumbing components  
16 shall flush all drinking water sources for a minimum of 30 seconds  
17 at the beginning of each schoolday, consistent with protocols  
18 recommended by the United States Environmental Protection  
19 Agency.

20     **SECTION 1.**

21     *SEC. 6. Section 38086 of the Education Code is amended to*  
22 *read:*

23     38086. (a) A school district shall provide access to free, fresh,  
24 ~~clean, and cold~~ *clean* drinking water during meal times in the food  
25 service areas of the schools under its jurisdiction, including, but  
26 not necessarily limited to, areas where reimbursable meals under  
27 the *federal* National School Lunch Program or the federal School  
28 Breakfast Program are served or consumed. A school district may  
29 comply with this section by, among other means, providing cups  
30 and containers of water or soliciting or receiving donated bottled  
31 water.

32     (b) A school district shall comply with this section through the  
33 use of drinking water access points, as prescribed by Section 49580.

34     ~~SEC. 2.~~

35     *SEC. 7. Article 13 (commencing with Section 49580) is added*  
36 *to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education*  
37 *Code, to read:*

Article 13. Drinking Water

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2  
3 49580. (a) A school district shall provide access to free, fresh,  
4 ~~clean,~~ and ~~cold~~ *clean* drinking water throughout the schoolday,  
5 including, but not limited to, during both of the following:

6 (1) Meal times, as provided for in Section 38086.

7 (2) Recreation times, including, but not limited to, while pupils  
8 are engaged in physical activity, in the recreation areas of the  
9 schools under its jurisdiction. Recreation areas are any areas in  
10 which pupils participate in recreation, including, but not limited  
11 to, playgrounds, gymnasiums, cafeterias, and recreation centers.

12 (b) A school district shall comply with this section by providing  
13 one or more drinking water access ~~points for every 100 pupils~~  
14 ~~enrolled in the school:~~ *points*.

15 (c) For purposes of this section, “drinking water access point”  
16 is defined as a station, plumbed or unplumbed, where pupils can  
17 access free, fresh, ~~clean,~~ and ~~cold~~ *clean* drinking water. An  
18 unplumbed access point may include water bottles and portable  
19 water dispensers.

20 ~~49581. (a) Before the beginning of each school year, a school~~  
21 ~~district shall test, or provide for the testing of, drinking water for~~  
22 ~~contaminants, including, but not limited to, lead and perchlorates,~~  
23 ~~that the school district receives from municipal water systems or~~  
24 ~~other water systems that the school district is going to provide in~~  
25 ~~school facilities, at the schoolsite at which the drinking water will~~  
26 ~~be provided, to ensure the drinking water meets drinking water~~  
27 ~~quality standards prescribed by the California Safe Drinking Water~~  
28 ~~Act (Chapter 4 (commencing with Section 116270) of Part 12 of~~  
29 ~~Division 104 of the Health and Safety Code) and any implementing~~  
30 ~~regulations and the federal Safe Drinking Water Act of 1996 (42~~  
31 ~~U.S.C. Sec. 300f et seq.) and any implementing regulations.~~

32 ~~(b) If the drinking water the school district receives from a~~  
33 ~~municipal water system or other water system does not meet the~~  
34 ~~standards specified in subdivision (a), the school district shall~~  
35 ~~provide alternative sources of free, fresh, clean, and cold drinking~~  
36 ~~water to pupils.~~

37 ~~(c) Each school shall provide a public notice of the drinking~~  
38 ~~water quality test results obtained pursuant to subdivision (a) to~~  
39 ~~pupils, parents, and teachers. The notice shall clearly specify~~

1 whether the drinking water provided at the school is potable water,  
2 as defined in Section 113869 of the Health and Safety Code.

3 49581. (a) A school district that has drinking water sources  
4 with drinking water that does not meet the United States  
5 Environmental Protection Agency drinking water standards for  
6 lead or any other contaminant shall close access to those drinking  
7 water sources immediately upon receipt of test results or  
8 notification from the public water system.

9 (b) (1) If, as a result of closing access to a drinking water  
10 source pursuant to subdivision (a), a schoolsite within a school  
11 district no longer has the minimum number of drinking fountains  
12 required pursuant to Chapter 4 (commencing with Section 401.0)  
13 of the California Plumbing Code (Part 5 of Title 24 of the  
14 California Code of Regulations), the school district shall provide  
15 alternative drinking water sources at that schoolsite.

16 (2) An alternative drinking water source provided pursuant to  
17 this subdivision while the source of contamination is being  
18 mitigated may be from plumbed or unplumbed sources. Unplumbed  
19 sources may include, but are not limited to, portable water sources  
20 and bottled water.

21 (c) A school district shall notify parents, pupils, teachers, and  
22 other school personnel of drinking water test results, immediately  
23 upon receipt of those test results, if the school district is required  
24 to provide alternative drinking water sources.

25 ~~SEC. 3.~~

26 SEC. 8. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.