

PROPOSED CONFERENCE REPORT NO. 1  
SEPTEMBER 3, 1999

AMENDED IN SENATE JULY 13, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY MAY 25, 1999

AMENDED IN ASSEMBLY MAY 13, 1999

AMENDED IN ASSEMBLY MARCH 22, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 137**

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**Introduced by Assembly Member Firebaugh**

January 11, 1999

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An act to add Section 17214 to the Education Code, relating to schoolsite contamination.

LEGISLATIVE COUNSEL'S DIGEST

AB 137, as amended, Firebaugh. Schoolsites: hazardous materials.

**Existing**

(1) *Existing* law prohibits the governing board of a school district from approving a project involving the acquisition of a schoolsite by the school district unless specified actions are taken with regard to potential contamination of the site, including a determination by the lead agency, as defined, that the property purchased or to be built upon is not the site of

a current or former hazardous waste disposal site or solid waste disposal site, or a hazardous substance release site.

~~This bill would express a legislative finding and declaration that children have the right to attend school without the threat of illness from hazardous waste and related substances. The bill would express legislative intent that each school district conduct an environmental assessment of each proposed or existing site~~ *require the California Research Bureau in the office of the State Librarian to research and tabulate a census of schoolsites and to submit a report on its findings to specified committees of the Legislature by June 30, 2000. The bill would also require the State Allocation Board, by January 1, 2001, to adopt regulations to implement a pilot program to evaluate whether schoolsites are clean and free of all hazardous material, as defined. The regulations would be required to include the criteria to be used by the board to select 100 schoolsites for participation in the pilot program, including specifying the risk factors that affect the possibility that a schoolsite is subject to contamination, and the standards for an environmental assessment to be performed and submitted for each schoolsite subject to the pilot program. The regulations would also require each school district to submit specified information to the board for each schoolsite under the jurisdiction of the district, by a specified date. The bill would require the board to publish a list of the schoolsites to be included in the pilot program and would, to the extent that specified funds are provided, require each governing board that has jurisdiction over a schoolsite specified in the list to perform an environmental assessment on that schoolsite and to submit a copy of each completed environmental assessment to the board.*

*The bill would impose new duties upon school districts with regard to submitting information and performing environmental assessments, thereby imposing a state-mandated local program by imposing new duties upon school districts.*

*The bill would require the board, by March 1, 2002, to submit to specified committees of the Legislature a final report on the pilot project, including recommendations for*



criteria for determining which additional schoolsites, if any, should be subject to an environmental assessment.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. The Legislature finds and declares that~~

2 SECTION 1. (a) The Legislature finds and declares  
3 all of the following:

4 (1) As the number of children attending school  
5 increases across California, an increasing number of  
6 children may be exposed to dangerous levels of hazardous  
7 materials at their schoolsites.

8 (2) Schools are required to undergo a rigorous  
9 environmental assessment when they are first  
10 constructed and prior to being opened. However, there  
11 is no mechanism in state law to ensure that schools  
12 constructed before the establishment of these  
13 requirements are free from dangerous levels of  
14 contaminants, or that schoolsites remain free from  
15 dangerous levels of contaminants.

16 (b) It is, therefore, the intent of the Legislature to  
17 ensure that schools remain free from dangerous levels of  
18 hazardous materials, and that the public be informed of  
19 the status of these efforts.

20 SEC. 2. Section 17214 is added to the Education Code,  
21 to read:



1 17214. (a) On or before June 30, 2000, the California  
2 Research Bureau in the office of the State Librarian shall  
3 do both of the following:

4 (1) Research and tabulate a statewide census of  
5 schoolsites, including the dates on which the schoolsites  
6 were initially acquired or placed into service. The census  
7 shall indicate whether each schoolsite has conducted an  
8 environmental assessment, and those sites determined to  
9 be contaminated with a hazardous material. The  
10 Department of Toxic Substances Control, Department of  
11 Pesticide Regulation, State Air Resources Board, Division  
12 of Occupational Safety and Health of the Department of  
13 Industrial Relations, State Department of Education,  
14 State Department of Health Services, and Department of  
15 General Services, shall assist the California Research  
16 Bureau and provide the bureau with relevant data and  
17 information.

18 (2) Notwithstanding Section 7550.5 of the  
19 Government Code, submit a report including the census  
20 prepared under paragraph (1), and an analysis thereof,  
21 to the Senate Committee on Environmental Quality, the  
22 Senate Committee on Health and Human Services, the  
23 Senate Committee on Education, the Assembly  
24 Committee on Education, the Assembly Committee on  
25 Environmental Safety and Toxic Materials, and the  
26 board.

27 (b) On or before January 1, 2001, the board shall adopt  
28 regulations to implement a pilot program pursuant to this  
29 section to evaluate whether schoolsites are free of all  
30 hazardous material that would pose a significant risk to  
31 pupils, employees, or visitors. These regulations shall be  
32 developed in coordination with the Secretary for  
33 Environmental Protection, the State Department of  
34 Health Services, the Division of Occupational Safety and  
35 Health of the Department of Industrial Relations, the  
36 State Department of Education, education associations,  
37 regulated businesses, community-based environmental  
38 organizations, parents and guardians of schoolchildren,  
39 and the general public. These regulations shall include,  
40 but not necessarily be limited to, all of the following:



1 (1) *The criteria to be used by the board to select 100*  
2 *schoolsites for participation in the pilot program. The*  
3 *criteria shall include a methodology, using the risk factors*  
4 *specified in this paragraph, for the board to use to identify*  
5 *schoolsites that would be included in the pilot program.*  
6 *The methodology shall include weighting factors to be*  
7 *used when applying the criteria for ranking schools for*  
8 *participation in the pilot program, and a lottery*  
9 *mechanism for use, if necessary, to choose among schools*  
10 *with equivalent ranks. The criteria shall specify the risk*  
11 *factors that affect the possibility that a schoolsite may be*  
12 *subject to contamination from a hazardous material*  
13 *release, including all of the following:*

14 (A) *Whether an environmental evaluation*  
15 *substantially equivalent to the environmental assessment*  
16 *provided under this section, or more thorough evaluation*  
17 *for possible contamination by a hazardous material, has*  
18 *been completed on the schoolsite. A site that has been*  
19 *subject to an environmental evaluation substantially*  
20 *equivalent to, or more thorough than, the assessment*  
21 *provided under this section shall not be selected for*  
22 *participation in the pilot program.*

23 (B) *The site currently is, or was in the past, near*  
24 *property zoned for commercial use, industrial use,*  
25 *agricultural use, or mining.*

26 (C) *The site currently is, or was in the past, near*  
27 *property being used for a commercial, industrial,*  
28 *agricultural, mining, or military activity.*

29 (D) *The site is in proximity to known or possible*  
30 *sources of contamination by a hazardous material. These*  
31 *possible sources of contamination include, but are not*  
32 *necessarily limited to, all of the following:*

33 (i) *The site currently is, or was in the past, near*  
34 *property that is being used as a landfill or for an*  
35 *authorized or unauthorized waste disposal activity.*

36 (ii) *The site is near property that is known to be, or is*  
37 *suspected of being, contaminated by a release of a*  
38 *hazardous material.*

39 (iii) *The site has, or had in the past, underground*  
40 *storage tanks.*



- 1 (iv) The site is within one-quarter mile of any source  
2 of hazardous air emissions.
- 3 (v) The site is within one-quarter mile of any present  
4 or former facility permitted to transfer, treat, store, or  
5 dispose of hazardous wastes.
- 6 (vi) The site is within one-quarter mile of a facility  
7 required to complete and submit a toxic chemical release  
8 form pursuant to Section 11023 of Title 42 of the United  
9 States Code.
- 10 (vii) The site is within one-quarter mile of an existing  
11 or former oil field, or any pipeline for petroleum products  
12 or natural gas, except for local natural gas distribution.
- 13 (viii) The site is adjacent to a railroad track or spur.
- 14 (ix) The site has a structure that was constructed prior  
15 to 1979.
- 16 (x) The site has been the subject of a complaint related  
17 to possible contamination by a hazardous material by the  
18 public, parents or guardians of schoolchildren, teachers,  
19 or other interested parties.
- 20 (2) The standards for an environmental assessment  
21 that shall be performed and submitted for each schoolsite  
22 included in the pilot program. These standards shall be  
23 based upon, and may include, without any changes, the  
24 Standard Practice for Environmental Site Assessments:  
25 Phase 1 Environmental Site Assessment Process,  
26 promulgated by the American Society for Testing and  
27 Materials.
- 28 (3) The qualifications for the professionals that may  
29 perform an environmental assessment under this section.  
30 The board shall consider, and may specify in these  
31 qualifications, both of the following:
- 32 (A) Existing state certifications and licenses,  
33 including, but not necessarily limited to, class I  
34 environmental assessors registered pursuant to Section  
35 25570.3 of the Health and Safety Code.
- 36 (B) Any other qualifying expertise and experience.
- 37 (4) A requirement that each school district submit  
38 information to the board, with regard to the criteria  
39 specified in paragraph (1), for each schoolsite under the  
40 jurisdiction of that district. The regulations requiring the



1 *submission of this information shall include all of the*  
2 *following:*

3 *(A) A standard screening checklist form, including the*  
4 *risk factors specified in paragraph (1), that shall be*  
5 *completed and submitted to the board for each schoolsite.*  
6 *Each question shall be answered either yes, no, or*  
7 *unknown, and shall provide an opportunity for the*  
8 *district to reference additional information regarding the*  
9 *answer provided to each item on the checklist. The*  
10 *district is not required to check the items specified under*  
11 *subparagraph (C) of paragraph (1) for any schoolsite that*  
12 *has been subject to an environmental assessment, as*  
13 *described under paragraph (2).*

14 *(B) A provision requiring the submission of any other*  
15 *information that is identified in the regulations adopted*  
16 *by the board.*

17 *(C) A provision allowing a district to submit any other*  
18 *information that the district determines is appropriate,*  
19 *including any mitigating factors.*

20 *(D) A date, which shall be set at a date not later than*  
21 *120 days after the effective date of the regulations*  
22 *adopted pursuant to this subdivision, by which the*  
23 *governing board of each school district shall assemble the*  
24 *information required for all schoolsites under the*  
25 *jurisdiction of the district, present this information at a*  
26 *meeting conducted in accordance with Chapter 9*  
27 *(commencing with Section 54950) of Part 1 of Division 2*  
28 *of Title 5 of the Government Code, and submit this*  
29 *information to the board.*

30 *(c) On or before 90 days after receiving the*  
31 *information submitted to the board by a school district*  
32 *pursuant to paragraph (4) of subdivision (b), the board*  
33 *shall select and publish a list of the 100 schoolsites to be*  
34 *included in the pilot program established under this*  
35 *section, using the criteria and methodology specified in*  
36 *the regulations adopted pursuant to subdivision (b).*

37 *(d) (1) Except as provided in paragraph (2), on or*  
38 *before 180 days after the board publishes the list of schools*  
39 *specified in subdivision (c), the governing board of each*  
40 *school district that has jurisdiction over a schoolsite*



1 specified in the list shall cause to be performed, on that  
2 schoolsite, an environmental assessment consistent with  
3 the standards adopted pursuant to paragraph (2) of  
4 subdivision (b), and shall submit a copy of each  
5 completed environmental assessment to the board.

6 (2) The requirements of paragraph (1) are operative  
7 only to the extent that state funding is provided to  
8 reimburse both school districts for the costs of performing  
9 the environmental assessments and the Department of  
10 Toxic Substances Control for the reasonable costs of  
11 reviewing the environmental assessments.

12 (e) Notwithstanding Section 7550.5 of the  
13 Government Code, on or before March 1, 2002, the board  
14 shall submit to the Senate Committee on Environmental  
15 Quality, the Senate Committee on Health and Human  
16 Services, the Senate Committee on Education, the  
17 Assembly Committee on Education, and the Assembly  
18 Committee on Environmental Safety and Toxic Materials  
19 a final report on the pilot project implemented pursuant  
20 to this section. The final report shall be submitted only  
21 after the board circulates a proposed report, and receives  
22 public comment regarding that proposed report. The  
23 final report shall include, but is not necessarily limited to,  
24 all of the following information and recommendations:

25 (1) A summary of the results of the environmental  
26 assessments performed under the pilot program,  
27 identifying the number of schoolsites for which the  
28 environmental assessments indicate that more evaluation  
29 or response action may be appropriate.

30 (2) A summary of the information submitted to the  
31 board pursuant to paragraph (4) of subdivision (b) and  
32 recommendations for maintaining and updating this  
33 information, as appropriate.

34 (3) Recommendations for criteria for determining  
35 which additional schoolsites, if any, should be subject to  
36 environmental assessments, the cost of a program  
37 covering those schoolsites, and the funding mechanisms  
38 and legislative actions, if any, that would be appropriate  
39 to implement those recommendations.



1 (f) *The Department of Toxic Substances Control shall*  
2 *do all of the following:*

3 (1) *Review all environmental assessments received*  
4 *under this section, and determine whether the*  
5 *assessments indicate that further evaluation should be*  
6 *undertaken for possible contamination by a release of a*  
7 *hazardous material.*

8 (2) *Undertake appropriate further evaluation,*  
9 *oversight and remediation, to the extent that the*  
10 *department is authorized to take those actions pursuant*  
11 *to other provisions of law and can obtain reimbursement*  
12 *for its costs.*

13 (g) *For the purposes of this section, the following*  
14 *definitions shall apply:*

15 (1) *“Board” means the State Allocation Board.*

16 (2) *“Environmental assessment” means a preliminary*  
17 *assessment of a schoolsite, in accordance with the*  
18 *standards adopted by the board pursuant to paragraph*  
19 *(2) of subdivision (b), to determine whether there has*  
20 *been or may have been a release of a hazardous material,*  
21 *based on reasonably available information about the*  
22 *schoolsite. This information may include, but is not*  
23 *necessarily limited to, a review of public and private*  
24 *records of current and historical land uses, prior releases*  
25 *of a hazardous material, data base searches, a review of*  
26 *relevant files of federal, state, and local regulatory*  
27 *agencies, visual or other surveys of the schoolsite, a*  
28 *review of historical aerial photographs of the schoolsite,*  
29 *interviews with current and previous owners of the*  
30 *schoolsite or operators of activities conducted on the*  
31 *schoolsite, and a review of regulatory agency*  
32 *correspondence and environmental reports.*

33 (3) *“Hazardous material” includes, but is not limited*  
34 *to, both of the following:*

35 (A) *A hazardous substance, as defined by Section*  
36 *25281 or 25316 of the Health and Safety Code.*

37 (B) *A hazardous waste, as defined by Section 25117 of*  
38 *the Health and Safety Code.*

39 (4) *“Schoolsite” means the location and grounds of any*  
40 *school used for the purpose of the education of more than*



1 300 pupils in kindergarten or any of grades 1 to 12,  
2 inclusive, under the jurisdiction of a school district for  
3 each schoolsite.

4 (h) (1) For sites subject to this section, all references  
5 to hazardous substances in the Carpenter-Tanner-Presley  
6 Hazardous Substances Account Act (Chapter 6.8  
7 (commencing with Section 25300) of Division 20 of the  
8 Health and Safety Code) shall be deemed to include  
9 hazardous materials.

10 (2) For sites subject to this section, all references to the  
11 term “release” in the Carpenter-Tanner-Presley  
12 Hazardous Substances Account Act (Chapter 6.8  
13 (commencing with Section 25300) of Division 20 of the  
14 Health and Safety Code) also includes a release as  
15 described in subdivision (d) of Section 25321 of the  
16 Health and Safety Code.

17 (3) For sites subject to this section, the  
18 Carpenter-Tanner-Presley Hazardous Substances  
19 Account Act (Chapter 6.8 (commencing with Section  
20 25300) of Division 20 of the Health and Safety Code)  
21 applies to sites where naturally occurring hazardous  
22 materials are present, regardless of whether there has  
23 been a release or a threatened release of, a hazardous  
24 material.

25 SEC. 3. Notwithstanding Section 17610 of the  
26 Government Code, if the Commission on State Mandates  
27 determines that this act contains costs mandated by the  
28 state, reimbursement to local agencies and school  
29 districts for those costs shall be made pursuant to Part 7  
30 (commencing with Section 17500) of Division 4 of Title  
31 2 of the Government Code. If the statewide cost of the  
32 claim for reimbursement does not exceed one million  
33 dollars (\$1,000,000), reimbursement shall be made from  
34 the State Mandates Claims Fund.

35 ~~children have the right to attend school without the~~  
36 ~~threat of illness from hazardous wastes and related~~  
37 ~~substances. It is the intent of the Legislature that each~~  
38 ~~school district conduct an environmental assessment of~~



- 1 ~~each proposed or existing site to determine whether the~~
- 2 ~~site contains hazardous wastes and related substances.~~

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