

ASSEMBLY BILL

No. 1503

Introduced by Assembly Member Fuller

February 23, 2007

An act to amend Sections 41350, 49430, 49430.5, and 49536 of the Education Code, relating to pupil nutrition, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1503, as introduced, Fuller. Pupil nutrition.

(1) Existing law requires the Superintendent of Public Instruction to reimburse school districts for free and reduced-price meals served or sold based on the average statewide meal cost.

This bill would base that reimbursement on the median statewide meal cost.

(2) Existing law sets the per meal reimbursement rate received by elementary, middle, and high schools for free and reduced-price meals at \$0.21. Existing law requires schools to follow specified state and federal guidelines in order to qualify for reimbursement. Existing law requires that the reimbursement rates be adjusted annually for cost-of-living increases, as specified.

This bill would make specified child development programs also eligible for the \$0.21 reimbursement. The bill would revise the requirements for reimbursement and would prohibit the sale or serving of any food item whose development, processing, or preparation requires the item to be, at any time, deep fried, par-fried, flash-fried, or fried in any other manner and would define those terms. The bill additionally would require school districts, charter schools, and county superintendents of schools, in order to qualify for reimbursement, to

begin the process of eliminating foods sold and served to pupils that contain unnatural or manufactured trans fats. The bill would provide that these provisions would be implemented only if moneys are appropriated for this purpose in the annual Budget Act.

(3) Existing law requires the reimbursement rate for free and reduced-price meals to be adjusted for cost-of-living and requires that adjustment to reflect the changes in the cost of operating a school breakfast and lunch program, to be made commencing on July 1 of each year, and to be the average of the separate indices of the food away from home index for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

This bill would limit the cost-of-living adjustment to the amount of funding appropriated in the annual Budget Act and would set the reimbursement rate commencing with the 2006–07 fiscal year at \$0.1563.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 41350 of the Education Code is amended
2 to read:
3 41350. The Superintendent of ~~Public Instruction~~ shall make
4 allowances for child nutrition as follows:
5 (a) Reimbursement of child nutrition entities, as defined by
6 Section 49530.5, for all free and ~~reduced-priced~~ *reduced-price*
7 meals, pursuant to Section 49536.
8 (b) Reimbursement of school districts for the difference between
9 the current fiscal year ~~average~~ *median* statewide lunch or breakfast
10 cost for all free and reduced-price meals required by Section 49550
11 as determined by the Superintendent of ~~Public Instruction~~ and the
12 combined total income per meal derived from pupil charges, federal
13 funds, and state funds as provided in Article 11 (commencing with
14 Section 49550) of Chapter 9 of Part 27.
15 (c) Reimbursement of county superintendents of schools for the
16 difference between the current fiscal year ~~average~~ *median* statewide
17 lunch or breakfast cost for all free and reduced-price meals as
18 determined by the Superintendent of ~~Public Instruction~~ and the

1 combined total income per meal derived from pupil charges, federal
2 funds, and state funds as provided in Article 11 (commencing with
3 Section 49550) of Chapter 9 of Part 27.

4 The combined state and federal reimbursements shall not exceed
5 the current fiscal year ~~average~~ *median* statewide lunch or breakfast
6 cost. If the combined pupil charges, state reimbursements, and
7 federal reimbursements exceed the current ~~average~~ *median*
8 statewide lunch or breakfast costs, the federal funds shall be
9 expended prior to the expenditure of any state funds.

10 SEC. 2. Section 49430 of the Education Code is amended to
11 read:

12 49430. As used in this article, the following terms have the
13 following meanings:

14 (a) “Elementary school” means a public school that maintains
15 any grade from kindergarten to grade 6, inclusive, but no grade
16 higher than grade 6.

17 (b) “Middle school” means ~~any~~ a public school that maintains
18 grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

19 (c) “High school” means ~~any~~ a public school maintaining any
20 of grades 10 to 12, inclusive.

21 (d) “Full meal” means ~~any~~ a combination of food items that
22 meet USDA-approved School Breakfast Program or National
23 School Lunch Program meal pattern requirements.

24 (e) “Added sweetener” means ~~any~~ an additive other than 100
25 percent fruit juice that enhances the sweetness of a beverage.

26 (f) “Sold” means the exchange of food for money, coupons, or
27 vouchers.

28 (g) “Entrée” means a food that is generally regarded as being
29 the primary food in a meal, and shall include, but not be limited
30 to, sandwiches, burritos, pasta, and pizza.

31 (h) “Snack” means a food that is generally regarded as
32 supplementing a meal, including, but not limited to, chips, crackers,
33 onion rings, nachos, ~~French~~ french fries, donuts, cookies, pastries,
34 cinnamon rolls, and candy.

35 (i) “Deep fried” means a food item is cooked by total
36 submersion in oil or fat.

37 (j) “Par-fried” means a food item is fried to reach an internal
38 temperature of 160 degrees Fahrenheit then is cooled to room
39 temperature and may be refrigerated or frozen for future frying.

1 (k) “Flash-fried” means a food item is quickly fried on both
 2 sides in oil where the temperature is 400 degrees Fahrenheit or
 3 more.

4 SEC. 3. Section 49430.5 of the Education Code is amended to
 5 read:

6 49430.5. (a) The reimbursement a school receives for free and
 7 ~~reduced-price~~ *reduced-price* meals sold or served to pupils in
 8 elementary, middle, or high schools included within a school
 9 district, charter school, or county office of education shall be
 10 twenty-one cents (\$0.21) *if the meals meet the requirements of*
 11 *subdivision (b). A child development program operated pursuant*
 12 *to Chapter 2 (commencing with Section 8200) of Part 6 of Division*
 13 *1 of Title 1 shall receive the reimbursement specified pursuant to*
 14 *this section if the free and reduced-price meals it serves meet the*
 15 *requirements of subdivision (c).*

16 ~~(b) To qualify for the reimbursement for free and reduced price~~
 17 ~~meals provided to pupils in elementary, middle, or high schools,~~
 18 ~~a school shall follow the Enhanced Food Based Meal Pattern,~~
 19 ~~Nutrient Standard Meal Planning, or Traditional Meal Pattern~~
 20 ~~developed by the United States Department of Agriculture or the~~
 21 ~~SHAPE Menu Patterns developed by the state.~~

22 ~~(c) The reimbursement rates set forth in this section shall be~~
 23 ~~adjusted annually for increases in cost of living in the same manner~~
 24 ~~set forth in Section 42238.1.~~

25 (b) *In order to qualify to receive the reimbursement increase*
 26 *pursuant to subdivision (a), a school district, charter school, or*
 27 *county office of education shall satisfy the following:*

28 (1) *Follow the United States Department of Agriculture (USDA)*
 29 *nutritional guidelines through the use of any of the following:*

30 (A) *The traditional food-based menu planning approach,*
 31 *enhanced food-based menu planning approach, or nutrient*
 32 *standard menu planning approach, developed by the USDA.*

33 (B) *Any USDA-approved Alternate Menu Planning Approach*
 34 *(Any Reasonable Approach), which includes California’s Shaping*
 35 *Health as Partners in Education (SHAPE) menu patterns, as*
 36 *approved by the department.*

37 (C) *Any other USDA-approved meal pattern or menu planning.*

38 (2) *Not sell or serve any food item whose development,*
 39 *processing, or preparation requires the item to be, at any time,*
 40 *deep fried, par-fried, flash-fried, or fried in any other manner.*

1 (3) *Begin the process of eliminating foods sold and served to*
2 *pupils that contain unnatural or manufactured trans fats. This*
3 *section does not prohibit the sale or serving of food products in*
4 *which trans fats occur naturally, such as beef and dairy products.*

5 (c) *In order to qualify to receive the reimbursement increase*
6 *pursuant to subdivision (a), a child development program specified*
7 *in subdivision (a) shall satisfy both of the following:*

8 (1) *Meet developmentally and programmatically appropriate*
9 *meal pattern or meal planning requirements developed by the*
10 *USDA.*

11 (2) *Not sell or serve any food item whose development,*
12 *processing, or preparation requires the item to be, at any time,*
13 *deep fried, par-fried, flash-fried, or fried in any other manner.*

14 (d) *Commencing on July 1, 2007, in order to be eligible to*
15 *receive the reimbursement specified in subdivision (a), a school*
16 *district, charter school, county office of education, or child*
17 *development program, as specified in subdivision (a), shall provide*
18 *the department with a one-time certification of compliance with*
19 *paragraph (2) of subdivision (b) or paragraph (2) of subdivision*
20 *(c), as appropriate.*

21 (e) *The department shall prescribe an adjustment, as required*
22 *pursuant to Section 49536, in the state meal contribution rate*
23 *established pursuant to this section and, notwithstanding*
24 *subdivision (a), annually shall adjust the reimbursement rate to*
25 *reflect the amount of funding appropriated in the annual Budget*
26 *Act.*

27 (f) *This section shall be implemented only if moneys are*
28 *appropriated in the annual Budget Act for purposes of*
29 *implementing this section.*

30 SEC. 4. Section 49536 of the Education Code is amended to
31 read:

32 ~~49536. (a) The State Department of Education~~ *department*
33 ~~shall, prior to July 1 of each year, prescribe an adjustment in the~~
34 ~~state meal contribution rates established pursuant to this section~~
35 ~~for the forthcoming fiscal year. The adjustments shall reflect the~~
36 ~~changes in the cost of operating a school breakfast and lunch~~
37 ~~program and shall be made commencing on July 1 of each year.~~
38 ~~The adjustment shall be the average of the separate indices of the~~
39 ~~“Food Away From Home Index” for Los Angeles and San~~
40 ~~Francisco as prepared by the United States Bureau of Labor~~

1 ~~Statistics~~ *be limited to the amount of funding appropriated in the*
2 *annual Budget Act.*

3 ~~In~~

4 *(b) In giving effect to the cost-of-living provisions of this*
5 *section, the ~~Department of Education~~ department shall use the*
6 *same month for computation of the percentage change in the cost*
7 *of living after July 1, 1975. The same month shall be used annually*
8 *thereafter. The product of any percentage increase or decrease in*
9 *the average index and the per meal reimbursement disbursement*
10 *rate shall be adjusted by the amount of any cost-of-living change*
11 *currently in effect pursuant to the provisions of this section.*

12 ~~Commencing~~

13 *(c) Commencing with the 1990–91 fiscal year, the cost-of-living*
14 *adjustment shall be equal to the percentage change determined*
15 *pursuant to subdivision (b) of Section 42238.1.*

16 *(d) Commencing with the 2006–07 fiscal year, the*
17 *reimbursement rate established pursuant to Section 49430.5, as*
18 *adjusted by this section, shall be fifteen and sixty-three hundredths*
19 *cents (\$0.1563) for free and reduced-price meals provided pursuant*
20 *to this article.*

21 SEC. 5. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to provide the increased reimbursement rate for school
26 and child development program meals to school districts, charter
27 schools, county superintendents of schools, and child development
28 program operators in a timely manner, it is necessary that this act
29 take effect immediately.