

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 727**

---

---

**Introduced by Assembly Member Mitchell**

February 17, 2011

---

---

An act to ~~add Chapter 6.5 (commencing with Section 12405) to Part 2 of Division 2 of~~ amend Section 11005.4 of, and to add Section 11005.8 to, the Government Code, and to amend Section 12401 of, and to add Section 10300.1 to, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 727, as amended, Mitchell. *Public contacts: healthy* **Healthy** and sustainable food ~~procurement~~.

*Existing law regulates various aspects of the provision of food and beverages in vending machines, including requiring a vendor that operates or maintains a vending machine on designated state property to offer food and beverages in the vending machine that meet accepted nutritional guidelines, as defined, in accordance with certain percentages.* Existing law governing contracting between state agencies and private contractors sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

*This bill would require, beginning January 1, 2014, at least 50% of food and beverages offered by a vendor in a vending machine on designated state property to meet accepted nutritional guidelines, and by January 1, 2016, at least 100% of the food and beverages offered*

by such a vendor to meet those nutritional guidelines. The bill also would revise the definition of accepted nutritional guidelines for this purpose.

This bill would additionally require, beginning January 1, 2014, any food sold in a state-owned or leased building to meet the standard criteria for food and nutrition guidelines for concessions as determined under the federal Health and Sustainability Guidelines for Federal Concessions and Vending Operations.

This bill would also require the Department of General Services, when approving contractors for the purchase of food sold in any state-owned or leased building, to give preference to food which meets certain criteria, as specified, and would require the Department of General Services to provide state agencies with the federal Health and Sustainability Guidelines for Federal Concessions and Vending Operations. The bill would make related legislative findings regarding its purpose.

~~This bill would require the department to develop nutrition standards to govern the foods purchased for all state departments, agencies, and state-run institutions in accordance with the federal dietary guidelines. This bill would also require the department to develop prescribed guidelines for sustainable purchasing practices and procedures that encourage purchasing from local vendors, farms, and manufacturers when feasible. This bill would authorize the department to consult with the Department of Public Health in developing these standards and guidelines.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1     SECTION 1. (a) The Legislature finds and declares all of the
- 2     following:
- 3     (1) More than six million California adults, 23 percent of the
- 4     state's population, are obese and an additional 9.3 million adults,
- 5     34 percent of the state's population, are overweight, resulting in
- 6     \$21 billion in estimated health care costs for California in 2006.
- 7     Therefore, offering healthy and sustainable food and beverage
- 8     options at state workplaces would help increase the consumption
- 9     of foods that are low in fat, sodium, and sugars, thereby reducing

1 *the instances of obesity, diabetes, heart disease, and other*  
2 *preventable health conditions.*

3 (2) *Buying local and sustainable food and beverage options*  
4 *reduces vehicle miles traveled, which positively impacts the*  
5 *environment. In 2008, the agriculture sector contributed 6.1*  
6 *percent of the total United States greenhouse gas emissions.*  
7 *Further, 11 percent of the greenhouse gas emissions are a result*  
8 *of “food miles,” while wholesaling and retailing food contribute*  
9 *5 percent, and food production practices account for the majority,*  
10 *83 percent, of greenhouse gas emissions from the food system.*

11 (3) *The federal Centers for Disease Control and Prevention has*  
12 *published a guide entitled “Improving the Food Environment*  
13 *Through Nutrition Standards: A Guide for Government*  
14 *Procurement,” which finds that states and localities can develop,*  
15 *adopt, and implement food procurement policies in order to model*  
16 *healthier food environments to positively impact government*  
17 *settings, including employee cafeterias, correctional facilities,*  
18 *schools, child care centers, public hospitals, senior centers, and*  
19 *parks.*

20 (b) *It is the intent of the Legislature to amend existing law*  
21 *regarding nutritional guidelines in order to further assist vendors*  
22 *and contractors that provide food and beverages through vending*  
23 *operations in increasing well-balanced and healthy food and snack*  
24 *items.*

25 SEC. 2. *Section 11005.4 of the Government Code is amended*  
26 *to read:*

27 11005.4. (a) For purposes of this section, the following terms  
28 have the following meanings:

29 (1) “Accepted nutritional guidelines” as used in this section  
30 means the following:

31 (A) Beverages that are the following or meet the following  
32 standards:

33 (i) ~~Water~~ *Drinking water, including carbonated water products.*

34 (ii) *Milk products, including, but not limited to, 2 percent, 1*  
35 *percent, or nonfat milk, soy milk, rice milk, and other similar dairy*  
36 ~~or~~ *nondairy milk without added sweeteners. This clause shall not*  
37 *apply to nuts, seeds, eggs, and cheese packaged for individual*  
38 *sale.*

39 (iii) ~~Electrolyte replacement beverages that do not contain more~~  
40 ~~than 42 grams of added sweetener per 20-ounce serving. Sugar~~

- 1 (iii) *Sugar sweetened or artificially sweetened beverages that*  
2 *do not exceed 25 calories per 8 ounces.*
- 3 (iv) One hundred percent fruit juice.
- 4 (v) Fruit-based drinks that are composed of no less than 50  
5 percent fruit juice and that have no added sweeteners.
- 6 (B) Food that meets the following standards:
- 7 (i) Not more than 35 percent of its total calories are from fat.  
8 ~~This clause does~~ *shall not apply to nuts, seeds, or whole grain*  
9 ~~products~~ *legumes, nuts, nut butters, seeds, eggs, nonfried*  
10 *vegetables, and cheese packaged for individual sale.*
- 11 (ii) Not more than 10 percent of its total calories are from  
12 saturated fats.
- 13 (iii) Not more than 35 percent of its total weight is from sugar.  
14 This clause does not apply to fruits and vegetables.
- 15 (iv) *Individual snack items shall not exceed 250 calories.*
- 16 (v) *Individual snack items shall not exceed 230 milligrams of*  
17 *sodium per serving. This clause shall not apply to refrigerated*  
18 *meals.*
- 19 (vi) *Individual entrée items shall not exceed 480 milligrams of*  
20 *sodium per serving.*
- 21 (2) “Added sweetener” means any additive that enhances the  
22 sweetness of a beverage, including, but not limited to, added sugar,  
23 but does not include the natural sugar or sugars that are contained  
24 within the fruit juice that is a component of the beverage.
- 25 (3) “State property” as used in this section means all real  
26 property, or part thereof, used for state purposes and either owned,  
27 leased, rented, or otherwise controlled by, and occupied by, any  
28 state agency.
- 29 (4) “Vending machine” means any mechanical device, the  
30 operation of which depends upon the insertion of a coin or other  
31 thing representative of value and that dispenses or vends a food  
32 product or beverage, but does not include any mechanical device  
33 that is unable to dispense any food or beverage meeting accepted  
34 nutritional guidelines without physical alteration or any mechanical  
35 device that solely dispenses or vends hot beverages or ice cream.
- 36 (5) “*Individual entrée item*” means *food generally regarded as*  
37 *the primary food in a meal and which contains either:*
- 38 (A) *Two or more of the following groups: meat or meat*  
39 *alternatives such as tofu or other similar alternatives, grain or*  
40 *bread, vegetable or fruit that are eaten together including, but not*

1 *limited to, sandwiches, pizza, hamburger on a bun, bean burrito,*  
2 *chef's salad, fruit and cheese platter, baked potato with chili,*  
3 *chicken vegetable stir-fry, or vegetable sandwich.*

4 *(B) A meat or meat alternative alone including, but not limited*  
5 *to, sausage patty, egg, and chicken nuggets. Nuts, nut butters,*  
6 *seeds, cheese, and yogurt served alone shall not be included for*  
7 *purposes of this subparagraph.*

8 *(6) "Individual snack item" means an item that does not meet*  
9 *the definition of an "individual entrée item."*

10 (b) A vendor that operates or maintains a vending machine on  
11 state property shall do all of the following:

12 (1) ~~Offer~~ *Until January 1, 2014, offer in the vending machine*  
13 *at least 35 percent of the food in a vending machine that meets*  
14 *accepted nutritional guidelines that meets accepted nutritional*  
15 *guidelines.*

16 *(i) Beginning January 1, 2014, offer in the vending machine at*  
17 *least 50 percent of food that meets accepted nutritional guidelines.*

18 *(ii) Beginning January 1, 2016, offer in the vending machine*  
19 *100 percent of food that meets accepted nutritional guidelines.*

20 (2) ~~Offer~~ *Until January 1, 2014, offer in the vending machine*  
21 *at least one-third of the beverages in a vending machine that meets*  
22 *meet accepted nutritional guidelines. At least one beverage option*  
23 *shall be drinking water and the price of the drinking water shall*  
24 *not be higher than the other beverage options. A separate one-third*  
25 *of the beverages offered in the vending machine shall either meet*  
26 *accepted nutritional guidelines or be flavored milk, beverages*  
27 *containing less than 20 calories per 12 ounce serving, or beverages*  
28 *that are composed of at least 50 percent fruit juice that may contain*  
29 *noncaloric sweetener. The remaining one-third of the beverages*  
30 *offered in the vending machine may be any beverage allowed by*  
31 *law.*

32 *(i) Beginning January 1, 2014, offer in the vending machine at*  
33 *least 50 percent of beverages that meet accepted nutritional*  
34 *guidelines.*

35 *(ii) Beginning January 1, 2016, offer in the vending machine*  
36 *100 percent of beverages that meet accepted nutritional guidelines.*

37 (c) A vendor may meet the requirements in subdivision (b) by  
38 offering 25 percent of the food in a vending machine that meets  
39 accepted nutritional guidelines by January 1, 2009, ~~and~~ by offering  
40 the total 35 percent of the food required to meet accepted

1 nutritional guidelines by January 1, 2011, *by offering 50 percent*  
2 *of the food required to meet accepted nutritional guidelines by*  
3 *January 1, 2014, and by offering the total 100 percent of the food*  
4 *required to meet accepted nutritional guidelines by January 1,*  
5 *2016.*

6 (d) If a vendor operates or maintains two or more vending  
7 machines that are located next to each other, the provisions of  
8 subdivisions (b) and (c) may be met by calculating the percentage  
9 of the total food and beverages offered in all of the adjacent  
10 machines.

11 ~~(e) This section shall remain in effect only until four years after~~  
12 ~~the last date that a vendor may meet the requirements of paragraph~~  
13 ~~(1) of subdivision (b), as specified in subdivision (c), and as of~~  
14 ~~that date is repealed, unless a later enacted statute, that is enacted~~  
15 ~~before that date, deletes or extends that date.~~

16 SEC. 3. *Section 11005.8 is added to the Government Code, to*  
17 *read:*

18 *11005.8. Beginning January 1, 2014, food sold in any*  
19 *state-owned or leased building at food concessions and cafeterias*  
20 *shall meet at least the standard criteria for food and nutrition*  
21 *guidelines for concessions as determined by the federal Department*  
22 *of Health and Human Services and the United States General*  
23 *Services Administration's Health and Sustainability Guidelines*  
24 *for Federal Concessions and Vending Operations.*

25 SEC. 4. *Section 10300.1 is added to the Public Contract Code,*  
26 *to read:*

27 *10300.1. (a) When approving contracts for the purchase of*  
28 *food to be sold in any state-owned or leased building at food*  
29 *concessions, cafeterias, or vending operations, the Department of*  
30 *General Services shall give preference to purchasing food items*  
31 *in the following order:*

32 *(1) Food items grown, packaged, or produced within 150 miles*  
33 *of the building where the food will be sold.*

34 *(2) Food items grown, packaged, or produced within the state*  
35 *of California.*

36 *(b) When approving contracts for the purchase of food to be*  
37 *sold in any state-owned or leased building for food concessions,*  
38 *cafeterias, or vending operations, the Department of General*  
39 *Services shall give preference to purchasing food items that meet*  
40 *the sustainability guidelines for general food as determined by the*

1 *federal Department of Health and Human Services and the United*  
2 *States General Services Administration’s Health and Sustainability*  
3 *Guidelines for Federal Concessions and Vending Operations.*

4 SEC. 5. *Section 12401 of the Public Contract Code is amended*  
5 *to read:*

6 12401. The Department of General Services, in consultation  
7 with the California Environmental Protection Agency, members  
8 of the public, industry, and public health and environmental  
9 organizations, shall provide state agencies with information and  
10 assistance regarding environmentally preferable purchasing  
11 including, but not limited to, the following:

12 (a) The promotion of environmentally preferable purchasing.

13 (b) The development and implementation of a strategy to  
14 increase environmentally preferable purchasing. This may include  
15 the development of statewide policies, guidelines, programs, and  
16 regulations.

17 (c) The coordination with other state and federal agencies, task  
18 forces, workgroups, regulatory efforts, research and data collection  
19 efforts, and other programs and services relating to environmentally  
20 preferable purchasing.

21 (d) The development and implementation, to the extent fiscally  
22 feasible, of training programs designed to instill the importance  
23 and value of environmentally preferable purchasing.

24 (e) The development, to the extent fiscally feasible, of an  
25 environmentally preferable purchasing best practices manual for  
26 state purchasing employees.

27 (f) *The federal Department of Health and Human Services and*  
28 *the United States General Services Administrations Health and*  
29 *Sustainability Guidelines for Federal Concessions and Vending*  
30 *Operations to assist in developing practices to promote the*  
31 *acquisition of healthy, sustainable, and environmentally preferable*  
32 *purchasing.*

33 ~~SECTION 1. Chapter 6.5 (commencing with Section 12405)~~  
34 ~~is added to Part 2 of Division 2 of the Public Contract Code, to~~  
35 ~~read:~~

36

37 ~~CHAPTER 6.5. HEALTHY AND SUSTAINABLE FOOD~~  
38 ~~PROCUREMENT ACT~~

39

40 ~~12405. The Legislature finds and declares all of the following:~~

1 ~~(a) Access to safe and nutritious foods is essential to a person’s~~  
2 ~~health.~~

3 ~~(b) Hunger, food insecurity, and poor nutrition are critical issues~~  
4 ~~that require immediate and sustained action to be reduced and~~  
5 ~~eliminated.~~

6 ~~(c) The way that we process, grow, and develop foods and food~~  
7 ~~policy has a short and long term economic and environmental~~  
8 ~~effect on our local communities and the state overall.~~

9 ~~(d) Sustainable food systems can provide nutritious foods for~~  
10 ~~all people, shorten the distance between food consumers and~~  
11 ~~producers, protect workers’ health and welfare, minimize~~  
12 ~~environmental effects, and strengthen connections between urban~~  
13 ~~and rural communities.~~

14 ~~(e) As one of the leading agricultural states in the nation,~~  
15 ~~California has the potential to serve as a model state promoting~~  
16 ~~procurement policies that reflect the goals of healthy eating,~~  
17 ~~sustainability, and supporting local economies.~~

18 ~~12406. (a) The Department of General Services shall develop~~  
19 ~~nutrition standards to govern the foods purchased for all state~~  
20 ~~departments, agencies, and state-run institutions in accordance~~  
21 ~~with the federal dietary guidelines developed by the United States~~  
22 ~~Department of Agriculture and the United States Department of~~  
23 ~~Health and Human Services.~~

24 ~~(b) The Department of General Services shall develop guidelines~~  
25 ~~for sustainable purchasing practices and procedures that encourage~~  
26 ~~purchasing from local vendors, farms, and manufacturers when~~  
27 ~~feasible. The guidelines shall serve as a model for purchasing~~  
28 ~~goods and services in ways that have the least impact on the~~  
29 ~~environment, promote healthy and nutritious foods, and support~~  
30 ~~local economies.~~

31 ~~(c) For the purposes of this section, the Department of General~~  
32 ~~Services may consult with the State Department of Public Health.~~