

AMENDED IN ASSEMBLY MAY 27, 2011
AMENDED IN ASSEMBLY APRIL 25, 2011
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 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 contracts: healthy and sustainable food.

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 state

property, as defined, to meet accepted nutritional guidelines, ~~and by January 1, 2016, 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, *or upon expiration of an existing contract, whichever occurs later*, any food sold in a state-owned or state-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 contracts for the purchase of food sold in any state-owned or state-leased building, to give preference to, and not include disincentives for, 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.

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
- 10 the instances of obesity, diabetes, heart disease, and other
- 11 preventable health conditions.
- 12 (2) Buying local and sustainable food and beverage options
- 13 reduces vehicle miles traveled, which positively impacts the
- 14 environment. In 2008, the agriculture sector contributed 6.1 percent
- 15 of the total United States greenhouse gas emissions. Further, 11
- 16 percent of the total *of* agriculture sector ~~the~~ greenhouse gas
- 17 emissions are a result of “food miles,” while wholesaling and

1 retailing food contribute 5 percent, and food production practices
2 account for the majority, 83 percent, of greenhouse gas emissions
3 from the food system.

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

13 (b) It is the intent of the Legislature to amend existing law
14 regarding nutritional guidelines in order to further assist vendors
15 and contractors that provide food and beverages through vending
16 operations in increasing well-balanced and healthy food and snack
17 items.

18 SEC. 2. Section 11005.4 of the Government Code is amended
19 to read:

20 11005.4. (a) For purposes of this section, the following terms
21 have the following meanings:

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

24 (A) Beverages that are the following or meet the following
25 standards:

26 (i) Drinking water, including carbonated water products without
27 added sweeteners.

28 (ii) Milk products, including, but not limited to, 2 percent, 1
29 percent, or nonfat milk, soy milk, rice milk, and other similar
30 nondairy milk without added sweeteners. This clause shall not
31 apply to nuts, seeds, eggs, and cheese packaged for individual sale.

32 (iii) Sugar sweetened or artificially sweetened beverages that
33 do not exceed 25 calories per 8 ounces.

34 (iv) One hundred-percent fruit juice.

35 (v) Fruit-based drinks that are composed of no less than
36 50-percent fruit juice and that have no added sweeteners.

37 (B) Food that meets the following standards:

38 (i) Not more than 35 percent of its total calories are from fat.

39 This clause shall not apply to legumes, nuts, nut butters, seeds,

1 eggs, vegetables, and cheese packaged for individual sale and
2 without added fats or oils.

3 (ii) Not more than 10 percent of its total calories are from
4 saturated fats. This clause shall not apply to nuts, nut butters, seeds,
5 eggs, and cheese.

6 (iii) Not more than 35 percent of its total weight is from sugar.
7 This clause does not apply to fruits and vegetables.

8 (iv) Individual snack items shall not exceed 250 calories.

9 (v) Individual snack items shall not exceed 230 milligrams of
10 sodium per serving. This clause shall not apply to refrigerated
11 meals.

12 (vi) Individual entrée items shall not exceed 480 milligrams of
13 sodium per serving.

14 (e)

15 (C) The accepted nutritional guidelines described in this
16 paragraph shall be assessed when the Center for Nutrition Policy
17 and Promotion within the United States Department of Agriculture
18 revises the Federal Dietary Guidelines for Americans for the
19 purpose of ensuring that the accepted nutritional guidelines meet
20 the guidelines of the United States Department of Agriculture.

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) Until January 1, 2014, offer in the vending machine at least
13 35 percent of food that meets accepted nutritional guidelines.

14 ~~(A)~~

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

17 ~~(B) Beginning January 1, 2016, offer in the vending machine~~
18 ~~100 percent of food that meets accepted nutritional guidelines.~~

19 ~~(2)~~

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

31 ~~(A)~~

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

35 ~~(B) 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, by offering the
40 total 35 percent of the food required to meet accepted nutritional

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

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

10 SEC. 3. Section 11005.8 is added to the Government Code, to
 11 read:

12 11005.8. Beginning January 1, 2014, *or upon expiration of an*
 13 *existing contract, whichever occurs later*, food sold in any
 14 state-owned or state-leased building at food concessions and
 15 cafeterias shall meet at least the standard criteria for food and
 16 nutrition guidelines for concessions as determined by the federal
 17 Department of Health and Human Services and the United States
 18 General Services Administration’s Health and Sustainability
 19 Guidelines for Federal Concessions and Vending Operations.

20 SEC. 4. Section 10300.1 is added to the Public Contract Code,
 21 to read:

22 10300.1. (a) When approving contracts for the purchase of
 23 food to be sold in any state-owned or state-leased building at food
 24 concessions, cafeterias, or vending operations, the Department of
 25 General Services shall give preference to purchasing food items
 26 grown, packaged, or produced within the State of California.

27 (b) When approving contracts for the purchase of food to be
 28 sold in any state-owned or ~~leased~~ *state-leased* building for food
 29 concessions, cafeterias, or vending operations, the Department of
 30 General Services shall give preference to purchasing food items
 31 that meet the sustainability guidelines for general food as
 32 determined by the federal Department of Health and Human
 33 Services and the United States General Services Administration’s
 34 Health and Sustainability Guidelines for Federal Concessions and
 35 Vending Operations.

36 (c) When approving contracts for the purchase of food to be
 37 sold in any state-owned or state-leased building at food
 38 concessions, cafeterias, or vending operations, the Department of
 39 General Services shall not include provisions that provide a
 40 disincentive for the purchase of food items that are grown,

1 packaged, or produced within the State of California or for food
2 items that meet the sustainability guidelines in subdivision (b).

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

5 12401. The Department of General Services, in consultation
6 with the California Environmental Protection Agency, members
7 of the public, industry, and public health and environmental
8 organizations, shall provide state agencies with information and
9 assistance regarding environmentally preferable purchasing,
10 including, but not limited to, the following:

11 (a) The promotion of environmentally preferable purchasing.

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

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

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

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

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