

AMENDED IN ASSEMBLY APRIL 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 459

Introduced by Assembly Member Mitchell

February 19, 2013

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 459, 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 content 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 that at least 50% of the food offered by a vendor in a vending machine on state property, as defined, meet accepted nutritional guidelines by January 1, 2015. The bill would then require 75% compliance with accepted nutritional guidelines by January 1, 2016, and 100% compliance by January 1, 2017. On and after January

1, 2016, the bill would also require that 100% of beverages offered by a vendor in a vending machine on state property also meet the accepted nutritional guidelines. The bill would revise the definition of accepted nutritional guidelines for this purpose.

The bill would also require, on and after January 1, 2015, or upon expiration of an existing contract, whichever occurs later, any food or beverages 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 United States General Services Administration's Health and Sustainability Guidelines for Federal Concessions and Vending Operations.

~~The bill would also require the Department of General Services, when approving contracts for the purchase of food or beverages sold in any state-owned or state-leased building, to give preference to, and not include disincentives for, food or beverage items that meet certain criteria, as specified, and would require the Department of General Services to provide state agencies with the United States General Services Administration's Health and Sustainability Guidelines for Federal Concessions and Vending Operations~~ *encourage vendors that operate or maintain vending machines on, and vendors of food concessions or cafeterias in, state-owned or state-leased property and buildings to sell food and beverage items that meet specified criteria.*

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. Section 11005.4 of the Government Code is
2 amended to read:
3 11005.4. (a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) "Accepted nutritional guidelines" as used in this section
6 means the following:
7 (A) Beverages that are the following or meet the following
8 standards:
9 (i) Drinking water, including carbonated water products without
10 added caloric sweeteners.
11 (ii) Milk that is 2 percent, 1 percent, or fat-free with no added
12 caloric sweeteners.

1 (iii) Soy, rice, almond, or other plant-derived nondairy milk
2 beverages without added caloric sweeteners.

3 (iv) One hundred percent fruit juice.

4 (v) Fruit-based drinks that are composed of no less than 50
5 percent fruit juice, limited to 12-ounce containers, and containing
6 no added caloric sweeteners.

7 (vi) Unsweetened or artificially sweetened beverages that
8 contain no calories.

9 (vii) One hundred percent vegetable juice with less than 200
10 milligrams of sodium per serving.

11 (B) Food that meets the following standards:

12 (i) Not more than 35 percent of its total calories are from fat.
13 This clause shall not apply to legumes, nuts, nut butters, seeds,
14 eggs, nonfried vegetables, or cheese packaged for individual sale.

15 (ii) Not more than 10 percent of its total calories are from
16 saturated fats.

17 (iii) Not more than 35 percent of its total weight is from sugar
18 and no more than 10 grams of total sugars in an individual snack
19 item. This clause does not apply to fresh, frozen, or canned in its
20 own juice or water fruits with no added caloric sweetener, and
21 fresh, frozen, or canned vegetables with low sodium.

22 (iv) Contains zero grams of trans fat as labeled.

23 (v) Individual snack items shall not exceed 200 calories.

24 (vi) Individual snack items shall not exceed 230 milligrams of
25 sodium per serving.

26 (vii) Individual entrée items shall not exceed 500 calories per
27 serving.

28 (viii) Individual entrée items shall not exceed 480 milligrams
29 of sodium per serving.

30 (2) “Added caloric sweetener” means sugars and syrups that
31 are added to foods during processing or preparation that also add
32 calories to the item, including, but not limited to, sugar, fructose,
33 and high fructose corn syrup, but does not include the natural sugar
34 or sugars that are contained in fruit juice or milk that is a naturally
35 occurring component of the beverage.

36 (3) “Individual entrée item” means food generally regarded as
37 the primary food in a meal and that contains either:

38 (A) Two or more of the following groups: meat or meat
39 alternatives such as tofu or other similar alternatives, grains or
40 bread, or vegetables or fruit that are eaten together, including, but

1 not limited to, sandwiches, pizza, hamburger on a bun, burrito,
2 chef's salad, fruit and cheese platter, baked potato with chili, or
3 chicken stir-fry.

4 (B) A meat or meat alternative alone, such as a sausage patty,
5 eggs, and chicken nuggets. Nuts, nut butters, seeds, cheese, and
6 yogurt served alone shall not be included for purposes of this
7 subparagraph.

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

10 (5) "State property" as used in this section means all real
11 property, or part thereof, used for state purposes and either owned,
12 leased, rented, or otherwise controlled by, and occupied by, any
13 state agency.

14 (6) "Vending machine" means any mechanical device the
15 operation of which depends upon the insertion of a coin or other
16 thing representative of value and that dispenses or vends a food
17 product or beverage, but does not include any mechanical device
18 that is unable to dispense any food or beverage meeting accepted
19 nutritional guidelines without physical alteration or any mechanical
20 device that solely dispenses or vends hot beverages or ice cream.

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

23 (1) Until January 1, 2015, offer at least 35 percent of the food
24 in a vending machine that meets accepted nutritional guidelines
25 established by this section.

26 (2) On and after January 1, 2015, offer at least 50 percent of the
27 food in a vending machine that meets the accepted nutritional
28 guidelines established by this section.

29 (3) On and after January 1, 2016, offer at least 75 percent of the
30 food in a vending machine that meets the accepted nutritional
31 guidelines established by this section.

32 (4) On and after January 1, 2017, offer 100 percent of the food
33 in a vending machine that meets the accepted nutritional guidelines
34 established by this section.

35 (5) (A) Until January 1, 2016, offer at least one-third of the
36 beverages in a vending machine that meets accepted nutritional
37 guidelines. A separate one-third of the beverages offered in the
38 vending machine shall either meet accepted nutritional guidelines
39 or be flavored milk, beverages containing less than 20 calories per
40 12-ounce serving, or beverages that are composed of at least 50

1 percent fruit juice that may contain noncaloric sweetener. The
2 remaining one-third of the beverages offered in the vending
3 machine may be any beverage allowed by law.

4 (B) On and after January 1, 2016, offer 100 percent of beverages
5 that meet the accepted nutritional guidelines established by this
6 section.

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

11 (d) *A vendor that operates or maintains a vending machine on*
12 *state-owned or state-leased property is encouraged to do both of*
13 *the following:*

14 (1) *Sell food or beverage items grown, packaged, or produced*
15 *within the State of California.*

16 (2) *Sell food or beverage items that meet the sustainability*
17 *guidelines set forth in the United States Department of Health and*
18 *Human Services and the United States General Services*
19 *Administration's Health and Sustainability Guidelines for Federal*
20 *Concessions and Vending Operations.*

21 SEC. 2. Section 11005.8 is added to the Government Code, to
22 read:

23 11005.8. (a) On and after January 1, 2015, or upon expiration
24 of an existing contract, whichever occurs later, food or beverages
25 sold in any state-owned or state-leased building at food concessions
26 and cafeterias shall meet at least the standard criteria for food and
27 nutrition guidelines for concessions as determined by the United
28 States Department of Health and Human Services and the United
29 States General Services Administration's Health and Sustainability
30 Guidelines for Federal Concessions and Vending Operations.

31 (b) *Vendors of food concessions or cafeterias in any state-owned*
32 *or state-leased building are encouraged to do both of the following:*

33 (1) *Sell food or beverage items grown, packaged, or produced*
34 *within the State of California.*

35 (2) *Sell food or beverage items that meet the sustainability*
36 *guidelines set forth in the United States Department of Health and*
37 *Human Services and the United States General Services*
38 *Administration's Health and Sustainability Guidelines for Federal*
39 *Concessions and Vending Operations.*

~~SEC. 3. Section 10300.1 is added to the Public Contract Code, to read:~~

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

~~(b) When approving contracts for the purchase of food or beverages to be sold in any state-owned or state-leased building for food concessions, cafeterias, or vending operations, the Department of General Services shall give preference to purchasing food or beverage items that meet the sustainability guidelines for general food as determined by the United States Department of Health and Human Services and the United States General Services Administration's Health and Sustainability Guidelines for Federal Concessions and Vending Operations.~~

~~(c) When approving contracts for the purchase of food or beverages to be sold in any state-owned or state-leased building at food concessions, cafeterias, or vending operations, the Department of General Services shall not include provisions that provide a disincentive for the purchase of food or beverage items that are grown, packaged, or produced within the State of California or for food items that meet the sustainability guidelines in subdivision (b).~~

~~SEC. 4.~~

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

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

~~(a) The promotion of environmentally preferable purchasing.~~

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

1 (c) The coordination with other state and federal agencies, task
2 forces, workgroups, regulatory efforts, research and data collection
3 efforts, and other programs and services relating to environmentally
4 preferable purchasing.

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

8 (e) The development, to the extent fiscally feasible, of an
9 environmentally preferable purchasing best practices manual for
10 state purchasing employees.

11 (f) The United States Department of Health and Human Services
12 and the United States General Services Administration's Health
13 and Sustainability Guidelines for Federal Concessions and Vending
14 Operations to assist in developing practices to promote the
15 acquisition of healthy, sustainable, and environmentally preferable
16 purchasing.