

AMENDED IN ASSEMBLY SEPTEMBER 1, 2023

AMENDED IN ASSEMBLY AUGUST 14, 2023

AMENDED IN ASSEMBLY JUNE 19, 2023

AMENDED IN SENATE APRIL 27, 2023

AMENDED IN SENATE APRIL 17, 2023

AMENDED IN SENATE MARCH 6, 2023

SENATE BILL

No. 88

Introduced by Senator Skinner
(Coauthor: Senator Wahab)
(Coauthor: Assembly Member McCarty)

January 17, 2023

An act to amend Section 49406 of, and to add Article 5 (commencing with Section 39875) to Chapter 1 of Part 23.5 of Division 3 of Title 2 of, the Education Code, relating to pupil transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 88, as amended, Skinner. Pupil transportation: driver qualifications.

(1) Existing law requires the driver of a school pupil activity bus, as defined, to be subject to the regulations adopted by the Department of the California Highway Patrol governing schoolbus drivers, except as specified.

This bill would place various requirements upon a driver who provides certain transportation services for pupils, including, among others, by requiring these drivers to submit and clear tuberculosis risk assessments, as provided. The bill would require any vehicle used to provide pupil

transportation for compensation by a local educational agency, as defined, to be inspected, as specified, and to be equipped with a first aid kit and a fire extinguisher.

The bill would require any local educational agency contracting with a private entity to provide pupil transportation to obtain from the private entity a written attestation that, among other things, it not have any applicable law violations, as defined, at the time of applying for the contract and that it will maintain compliance with applicable laws, as defined, for the duration of the contract. The bill would authorize a third party to report to the relevant local educational agency that the private entity the local educational agency contracted with has failed to provide a truthful attestation or has failed to maintain compliance with the applicable laws required for the duration of the contract, as specified.

The bill would apply the above-mentioned provisions to all ~~drivers, whether drivers~~ employed by ~~or a local educational agency, contracted with~~ by a local educational agency, *or contracted by any entity with funding from a local educational agency*, providing *school-related pupil transportation* ~~transportation~~, as defined, for compensation. The bill would not apply the above-mentioned provisions to (A) drivers of specified entities, (B) certain persons who are compensated to drive themselves, their own child, or a minor or nonminor pupil in their care, *a pupil*, (C) a school employee of a local educational agency when the employee provides transportation to pupils due to or because of the employee's supervision of pupils for a field trip, extracurricular activity, or athletic program, or when the employee provides transportation to pupils for other activities, not to exceed 40 hours of *drive time* per school year per employee, ~~or~~ (D) a driver who transports a pupil because of certain emergencies or an immediate threat to the physical safety of the pupil, (E) *a driver who transports a pupil if the transportation is being provided through a Foster Youth Services Coordinating Program while a pupil's transportation plan is being finalized*, or (F) *a driver during a trip for which they are authorized by the local educational agency to transport one or more pupils for a field trip when the destination is more than 200 miles from the transported pupil's California school campus*, as specified.

To the extent that the above-mentioned requirements conflict with a contract entered into between a local educational agency and a private entity before January 1, 2024, the bill would not apply those requirements until the expiration or renewal of that contract. The bill would make the provision regarding the expiration or renewal of these

contracts operative on January 1, 2024, while making the remainder of the above-mentioned provisions operative on July 1, 2025. By imposing new requirements on local educational agencies, the bill would constitute a state-mandated local program.

(2) Existing law requires a governing board or county superintendent of schools providing for the transportation of pupils under contract, as provided, or any other provision of law to require as a condition of the contract the tuberculosis risk assessment, as provided, except that, at the discretion of the governing board or county superintendent of schools, that provision does not apply to a private contracted driver who transports pupils infrequently without prolonged contact with the pupils.

This bill would delete that exception for private contracted drivers. The bill would additionally extend the requirement involving a tuberculosis risk assessment to the governing body of a charter school, as specified. At the discretion of the governing board, county superintendent of schools, or governing body of a charter school, the bill would not apply the requirement involving a tuberculosis risk assessment to a private contracted driver who transports pupils infrequently and without prolonged contact with the pupils before July 1, 2025. To the extent that the bill would impose a new requirement on charter schools, the bill would constitute a state-mandated local program.

(3) 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.

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 the statutory provisions noted above.

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

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) Schoolbus drivers provide an important service to our pupils
4 and their families. They ensure the safe transportation of pupils
5 between home and school.

1 (2) Schoolbus drivers and school buses are heavily regulated
 2 by the State Department of Education, the Department of Motor
 3 Vehicles, and the Department of the California Highway Patrol.

4 (3) In recent years, some local educational agencies have
 5 entered into multiyear and multimillion dollar contracts with
 6 app-based companies, also known as transportation network
 7 companies, to perform home-to-school transportation and other
 8 pupil transportation.

9 (4) The Public Utilities Commission licenses and regulates
 10 transportation network companies. Transportation network
 11 companies provide prearranged transportation services for
 12 compensation using an online platform or smartphone application
 13 to connect drivers using their personal vehicles with passengers.

14 (5) The Public Utilities Commission does not regulate
 15 transportation network companies when the transportation of
 16 pupils is due to or based on a contract entered into with the
 17 governing board of a school district pursuant to the Education
 18 Code.

19 (6) Due to this unregulated space, transportation network
 20 companies and their drivers neither fall under the rules and
 21 regulations of the Public Utilities Commission, the State
 22 Department of Education, the Department of Motor Vehicles, nor
 23 the Department of the California Highway Patrol when performing
 24 the job and duties that, until recently, have only been performed
 25 by schoolbus drivers.

26 (b) For the health and safety of pupils and the public, it is the
 27 intent of the Legislature that there is parity in law that applies
 28 equally to all drivers, regardless of employer and employment
 29 status, who are compensated to transport pupils.

30 ~~SECTION 1.~~

31 SEC. 2. Article 5 (commencing with Section 39875) is added
 32 to Chapter 1 of Part 23.5 of Division 3 of Title 2 of the Education
 33 Code, to read:

34

35 Article 5. Compensated Driver Requirements

36

37 ~~39875. (a) The Legislature finds and declares all of the~~
 38 ~~following:~~

1 (1) ~~Schoolbus drivers provide an important service to our pupils~~
2 ~~and their families. They ensure the safe transportation of pupils~~
3 ~~between home and school.~~

4 (2) ~~Schoolbus drivers and school buses are heavily regulated~~
5 ~~by the State Department of Education, the Department of Motor~~
6 ~~Vehicles, and the Department of the California Highway Patrol.~~

7 (3) ~~In recent years, some local educational agencies have entered~~
8 ~~into multiyear and multimillion-dollar contracts with app-based~~
9 ~~companies, also known as transportation network companies, to~~
10 ~~perform home-to-school transportation and other pupil~~
11 ~~transportation.~~

12 (4) ~~The Public Utilities Commission licenses and regulates~~
13 ~~transportation network companies. Transportation network~~
14 ~~companies provide prearranged transportation services for~~
15 ~~compensation using an online platform or smartphone application~~
16 ~~to connect drivers using their personal vehicles with passengers.~~

17 (5) ~~The Public Utilities Commission does not regulate~~
18 ~~transportation network companies when the transportation of pupils~~
19 ~~is due to or based on a contract entered into with the governing~~
20 ~~board of a school district pursuant to the Education Code.~~

21 (6) ~~Due to this unregulated space, transportation network~~
22 ~~companies and their drivers neither fall under the rules and~~
23 ~~regulations of the Public Utilities Commission, the State~~
24 ~~Department of Education, the Department of Motor Vehicles, nor~~
25 ~~the Department of the California Highway Patrol when performing~~
26 ~~the job and duties that, until recently, have only been performed~~
27 ~~by schoolbus drivers.~~

28 (b) ~~For the health and safety of pupils and the public, it is the~~
29 ~~intent of the Legislature that there is parity in law that applies~~
30 ~~equally to all drivers, regardless of employer and employment~~
31 ~~status, who are compensated to transport pupils.~~

32 39876.

33 39875. (a) ~~Except as provided pursuant to subdivisions (b) to~~
34 ~~(d), (g), inclusive, this article shall apply to all drivers, whether~~
35 ~~drivers employed by or a local educational agency, contracted~~
36 ~~with by a local educational agency, or contracted by any entity~~
37 ~~with funding from a local educational agency, providing~~
38 ~~school-related pupil transportation for compensation.~~

39 (b) ~~Nothing in this article shall be construed to apply to a driver~~
40 ~~employed by any of the following:~~

- 1 (1) A municipally owned transit system offering supplementary
- 2 service.
- 3 (2) A congregate care facility licensed by the State Department
- 4 of Social Services.
- 5 (3) A county human services agency.
- 6 ~~(4) A county welfare agency.~~
- 7 (4) *An entity, excluding entities with a primary purpose of*
- 8 *providing transportation services, serving pupils experiencing*
- 9 *homelessness that is coordinated with the homeless continuum of*
- 10 *care in counties that have one or otherwise designated to serve*
- 11 *children who are homeless by a county without a continuum of*
- 12 *care.*
- 13 (5) A county probation agency.
- 14 (6) Another government agency, other than a local educational
- 15 agency.
- 16 (7) A foster family agency, as defined in paragraph (4) of
- 17 subdivision (a) of Section 1502 of the Health and Safety Code.
- 18 (8) A tribal authority.
- 19 (c) Nothing in this article shall be construed to apply to any of
- 20 the following persons who are compensated to drive ~~themselves,~~
- 21 ~~their own child, or a minor or nonminor pupil in their care:~~ *a pupil:*
- 22 (1) A parent or relative ~~named in as defined in paragraph (2)~~
- 23 ~~of subdivision (c) of Section 361.3 of the Welfare and Institutions~~
- 24 ~~Code, or a nonrelative extended family member named in as~~
- 25 ~~defined in Section 362.7 of the Welfare and Institutions Code.~~
- 26 (2) A guardian.
- 27 ~~(3) A resource family.~~
- 28 (3) *A caregiver given temporary or permanent custody of the*
- 29 *pupil by a court, child welfare agency, tribal authority, or county*
- 30 *probation department.*
- 31 (4) A court-appointed educational rights holder.
- 32 (5) A court-appointed special advocate.
- 33 (6) *A pupil who drives herself.*
- 34 (d) If both of the following occur, nothing in this article shall
- 35 be construed to apply to a school employee of a local educational
- 36 agency when the employee provides transportation to pupils due
- 37 to or because of the employee’s supervision of pupils for a field
- 38 trip, extracurricular activity, or athletic program, or when the
- 39 employee provides transportation to pupils for other activities, not
- 40 to exceed 40 hours *of drive time* per school year per employee:

1 (1) A local educational agency makes a reasonable effort to
2 secure a driver who meets the requirements of this article.

3 (2) When a local educational agency is unable to secure a driver
4 who meets the requirements of this article, the local educational
5 agency informs the parent, guardian, or court-appointed educational
6 rights holder of the pupil being transported that the driver
7 transporting their pupil does not meet the requirements of this
8 article, unless that notice will jeopardize a pupil's privacy rights.

9 (e) Nothing in this article shall be construed to apply to a driver
10 who transports a pupil who must be immediately transported to a
11 facility in the case of a medical or psychiatric emergency, or in
12 the case of pupils who need to be transported immediately as the
13 result of an emergency that arises as a result of a fire, flood,
14 earthquake, or epidemic, or because of any order of any military
15 officer of the United States or of the state to meet an emergency
16 created by war, or because of an immediate threat to the physical
17 safety of the pupil or pupils. The exemption pursuant to this
18 subdivision involving an epidemic shall only apply to each
19 epidemic for a period lasting no longer than one month.

20 (f) *Nothing in this article shall be construed to apply to a driver
21 who transports a pupil if the transportation is being provided
22 through a Foster Youth Services Coordinating Program while a
23 pupil's transportation plan is being finalized. The exemption
24 pursuant to this subdivision shall apply for a period lasting no
25 longer than one month after the first ride is provided to that pupil
26 under this exemption.*

27 (g) *Nothing in this article shall be construed to apply to a driver
28 during a trip for which they are authorized by the local educational
29 agency to transport one or more pupils for a field trip when the
30 destination is more than 200 miles from the transported pupil's
31 California school campus.*

32 39877. (a) A driver who provides transportation services for
33 pupils in a vehicle with a maximum capacity of 10 or fewer
34 persons, including the driver, shall:

35 (1) Hold a valid California driver's license for the appropriate
36 class of vehicle.

37 (2) Be at least 18 years of age.

38 (3) Pass a criminal background check, including fingerprint
39 clearance consistent with Section 45125 for employees and Section
40 45125.1 for all other compensated drivers.

- 1 (4) Have a satisfactory driving record that includes none of the
2 following:
- 3 (A) Within three years, has committed any violation that results
4 in a conviction assigned a violation point count of two or more,
5 as defined in Sections 12810 and 12810.5 of the Vehicle Code.
- 6 (B) Within three years, has had their driving privilege
7 suspended, revoked, or on probation for any reason involving the
8 unsafe operation of a motor vehicle.
- 9 (C) Has been determined by the Department of Motor Vehicles
10 to be a negligent or incompetent operator.
- 11 (5) Not have demonstrated irrational behavior to the extent that
12 a reasonable and prudent person would have reasonable cause to
13 believe that the driver’s ability to perform the duties of a driver
14 may be impaired.
- 15 (6) Not have been convicted of an offense listed in paragraph
16 (1) of subdivision (a) of Section 13370 of the Vehicle Code,
17 paragraph (5) of subdivision (a) of Section 13370 of the Vehicle
18 Code, or subdivision (b) of Section 13370 of the Vehicle Code.
- 19 (7) Provide their employer or the private entity contracting with
20 the local educational agency a report showing the driver’s current
21 public record as recorded by the Department of Motor Vehicles
22 and participate in the Department of Motor Vehicles’ pull-notice
23 system.
- 24 (8) Be subjected to and comply with drug and alcohol testing
25 consistent with Section 34520.3 of the Vehicle Code, subject to
26 the cannabis discrimination limitations described in Section 12954
27 of the Government Code.
- 28 (9) (A) Complete a medical examination not more than two
29 years prior to the driver performing pupil transportation by a
30 physician licensed to practice medicine, a licensed advanced
31 practice registered nurse qualified to perform a medical
32 examination, a licensed physician assistant, or a licensed doctor
33 of chiropractic listed on the most current National Registry of
34 Certified Medical Examiners, as adopted by the United States
35 Department of Transportation. The driver shall provide a copy of
36 the Medical Examiner’s Certificate, Form MCSA-5876, or the
37 medical examiner’s certificate of clearance to their employer or
38 the private entity contracting with the local educational agency.
39 Neither the driver nor the medical examiner need to submit this
40 examination result to the Department of Motor Vehicles.

1 (B) The driver shall complete a medical examination pursuant
2 to this paragraph every two years after the initial examination and
3 provide a copy of the Medical Examiner’s Certificate, Form
4 MCSA-5876, or the medical examiner’s certificate of clearance
5 to their employer or the private entity contracting with the local
6 educational agency.

7 (C) Within the same month of reaching 65 years of age and each
8 12th month thereafter, the driver shall undergo a medical
9 examination pursuant to this paragraph and provide a copy of the
10 Medical Examiner’s Certificate, Form MCSA-5876, or the medical
11 examiner’s certificate of clearance to their employer or the private
12 entity contracting with the local educational agency.

13 (10) Submit and clear a tuberculosis risk assessment consistent
14 with Section 49406.

15 (11) Not drive for more than 10 hours within a work period, or
16 after the end of the 16th hour after coming on duty following eight
17 consecutive hours off duty.

18 (12) Complete initial training and subsequent required training
19 sufficient to gain proficiency in all of the following:

- 20 (A) Pretrip vehicle inspections.
- 21 (B) Safe loading and unloading of passengers.
- 22 (C) Proper use of seatbelts and child safety restraints.
- 23 (D) Handling accidents, incidents, and emergency situations.
- 24 (E) Providing proper accommodations for pupils with
25 disabilities.
- 26 (F) Defensive driving.
- 27 (G) Operations in inclement weather.
- 28 (H) Operations at night or under impaired visibility conditions.

29 (13) Maintain a daily log sheet and complete the daily pretrip
30 inspection of the vehicle being driven that day, which shall include
31 all of the following:

32 (A) A check of the operability of all lights, initialed by the driver
33 before the vehicle is first driven in service that day.

34 (B) A check for fluid leaks, initialed by the driver before the
35 vehicle is first driven in service that day.

36 (C) A check for the operability of the brakes, initialed by the
37 driver before the vehicle is driven in service that day.

38 (14) Complete training at least equivalent to the American Red
39 Cross first aid training program, or hold a valid and current first
40 aid certificate issued by the American Red Cross or by an

1 organization whose first aid training program is at least equivalent
2 to the American Red Cross' first aid training program, as
3 determined by the Emergency Medical Services Authority.

4 (b) For vehicles with a maximum capacity of eight or fewer
5 passengers, excluding the driver, only street-legal coupes, sedans,
6 or light-duty vehicles, including vans, minivans, sport utility
7 vehicles, and pickup trucks, shall be used for pupil transportation.

8 (c) Nothing in this article shall limit any additional safety or
9 training requirements that may be imposed by the Public Utilities
10 Commission, a local educational agency, or any government
11 agency.

12 39878. A driver who provides transportation services for pupils
13 in a vehicle with a capacity of more than 10 persons, including the
14 driver, shall:

15 (a) Hold a valid California commercial driver's license for the
16 appropriate class of vehicle, endorsed for passenger transportation
17 pursuant to Section 15278 of the Vehicle Code.

18 (b) Comply with paragraphs (2) to (14), inclusive, of subdivision
19 (a) of Section 39877 if they are not already required to by law.

20 (c) This article shall not reduce other legal requirements placed
21 on any driver who provides transportation services for pupils in a
22 vehicle with a capacity of more than 10 persons, including, but
23 not limited to, a driver of a schoolbus or school pupil activity bus.

24 39879. (a) Any local educational agency contracting with a
25 private entity to provide pupil transportation shall obtain from the
26 private entity a written attestation to all of the following:

27 (1) That it not have any applicable law violations at the time of
28 applying for the contract.

29 (2) That it will maintain compliance with applicable laws for
30 the duration of the contract.

31 (3) That only drivers who meet the requirements of paragraphs
32 (1) to (14), inclusive, of subdivision (a) of Section 39877 work,
33 or will work, under the contract between the private entity and
34 local educational agency.

35 (4) That it has on file all the reports and documents required
36 pursuant to paragraphs (1) to (14), inclusive, of subdivision (a) of
37 Section 39877 for the duration of the contract, including, but not
38 limited to, updated, revised, or modified reports and documents.

39 These reports and documents shall be available for inspection by

1 the local educational agency or any other state regulatory agency
2 at any time.

3 (b) A third party may report to the relevant local educational
4 agency that the private entity the local educational agency
5 contracted with has failed to provide a truthful attestation as
6 required under subdivision (a) or has failed to maintain compliance
7 with the applicable laws required for the duration of the contract.
8 The third party shall provide documentation to substantiate their
9 allegation before the local educational agency considers it.

10 (c) Any vehicle used to provide pupil transportation for
11 compensation by a local educational agency shall meet both of the
12 following:

13 (1) Be inspected every 12 months, or every 50,000 miles,
14 whichever comes first, at a facility licensed by the Bureau of
15 Automotive Repair to ensure that the vehicle passes a 19-point
16 vehicle inspection, as adopted by the Public Utilities Commission
17 and set forth in D.13-09-045, before allowing the vehicle to be
18 driven. This requirement does not apply to vehicles owned or
19 contracted with a local educational agency already subject to a
20 statutory inspection program.

21 (2) Be equipped with a first aid kit and a fire extinguisher.

22 39880. (a) To the extent that the requirements of this article
23 conflict with a contract entered into between a local educational
24 agency and a private entity before January 1, 2024, this article
25 shall not apply until the expiration or renewal of that contract.

26 (b) As used in this section, “local educational agency” means
27 a school district, county office of education, charter school, entity
28 providing services under a school transportation joint powers
29 agreement, or regional occupational center or program.

30 39881. As used in this article, the following definitions apply:

31 (a) “Applicable law” means applicable California laws within
32 the Labor and Workforce Development Agency’s jurisdiction
33 related to the misclassification of employees as independent
34 contractors, including the failure to pay wages, imposing unlawful
35 expenses on employees, failure to provide workers’ compensation
36 insurance, and failure to remit payroll taxes as required under the
37 Unemployment Insurance Code as well as laws protecting worker
38 health and safety.

39 (b) “Applicable law violation” means a violation that has a final
40 determination, order, judgment, or award issued against a private

1 entity for engaging in illegal conduct related to applicable laws
2 and that remains unabated or unsatisfied following the period
3 during which an appeal may be made.

4 (c) “Congregate care facility” means a community care facility,
5 intermediate care facility, skilled nursing facility, or a short-term
6 residential therapeutic program.

7 (d) “Local educational agency” means a school district, county
8 office of education, charter school, entity providing services under
9 a school transportation joint powers agreement, or regional
10 occupational center or program.

11 (e) ~~“Pupil “School-related pupil transportation” includes, but
12 is not limited to, means home-to-school transportation, field trips,
13 after school program-related transportation, preschool and
14 childcare-related transportation, athletic program-related
15 transportation, extracurricular school activity-related transportation,
16 and any other pupil transportation that is authorized, provided, or
17 directed by the local educational agency. or any transportation of
18 pupils to or from a school campus.~~

19 (f) “Municipally owned transit system” means a transit system
20 owned by a city, or by a district created pursuant to Part 1
21 (commencing with Section 24501) of Division 10 of the Public
22 Utilities Code.

23 ~~(g) “Resource family” means a noncustodial relative or
24 nonrelative foster family.~~

25 ~~(h)~~
26 (g) “Supplementary service” means additional service provided
27 by a municipally owned transit system for the purpose of ensuring
28 the regular transit service is not impacted by large loads associated
29 with pupil passengers traveling to or from schoolsites around
30 school bell times.

31 39882. (a) Except as provided pursuant to subdivision (b), this
32 article shall become operative on July 1, 2025.

33 (b) Section 39880 shall become operative on January 1, 2024.

34 ~~SEC. 2.~~

35 ~~SEC. 3.~~ Section 49406 of the Education Code is amended to
36 read:

37 49406. (a) (1) (A) Except as provided in subdivision (j), a
38 person shall not be initially employed by a school district, or
39 employed under contract, in a certificated or classified position
40 unless the person has submitted to a tuberculosis risk assessment

1 within the past 60 days, and, if tuberculosis risk factors are
2 identified, has been examined to determine that the person is free
3 of infectious tuberculosis by a physician and surgeon licensed
4 under Chapter 5 (commencing with Section 2000) of Division 2
5 of the Business and Professions Code, a physician assistant
6 practicing in compliance with Chapter 7.7 (commencing with
7 Section 3500) of Division 2 of the Business and Professions Code,
8 or a nurse practitioner practicing in compliance with Chapter 6
9 (commencing with Section 2700) of Division 2 of the Business
10 and Professions Code. If no risk factors are identified, an
11 examination is not required. A person who is subject to the
12 requirements of this subdivision may submit to an examination
13 that complies with subparagraph (B) instead of submitting to a
14 tuberculosis risk assessment.

15 (B) The examination required by this subdivision shall consist
16 of either an approved intradermal tuberculin test or any other test
17 for tuberculosis infection that is recommended by the federal
18 Centers for Disease Control and Prevention (CDC) and licensed
19 by the federal Food and Drug Administration (FDA). If the test is
20 positive, the test shall be followed by an X-ray of the lungs in
21 accordance with subdivision (f) of Section 120115 of the Health
22 and Safety Code.

23 (2) The X-ray may be taken by a competent and qualified X-ray
24 technician if the X-ray is subsequently interpreted by a physician
25 and surgeon licensed under Chapter 5 (commencing with Section
26 2000) of Division 2 of the Business and Professions Code.

27 (3) The district superintendent of schools or their designee may
28 exempt, for a period not to exceed 60 days following termination
29 of the pregnancy, a pregnant employee from the requirement that
30 a positive test for tuberculosis infection be followed by an X-ray
31 of the lungs.

32 (b) Thereafter, an employee who has no identified risk factors
33 or who tests negative for the tuberculosis infection shall be required
34 to undergo the tuberculosis risk assessment and, if risk factors are
35 identified, the examination, at least once every four years or more
36 often if directed by the governing board of the school district upon
37 recommendation of the local health officer. Once an employee has
38 a documented positive test for tuberculosis infection conducted
39 pursuant to this subdivision that has been followed by an X-ray,
40 the tuberculosis risk assessment is no longer required. A referral

1 shall be made within 30 days of completion of the examination to
2 the local health officer to determine the need for followup care.

3 (c) After the tuberculosis risk assessment and, if indicated, the
4 examination, the employee shall file with the district superintendent
5 of schools a certificate from the examining physician and surgeon,
6 physician assistant, or nurse practitioner showing the employee
7 was examined and found free from infectious tuberculosis. The
8 county board of education may require, by rule, that the certificates
9 be filed in the office of the county superintendent of schools or
10 maintained in the office of the county superintendent of schools
11 if a majority of the governing boards of the school districts within
12 the county petition the county board of education. A school district,
13 or school districts with a common governing board, having an
14 average daily attendance of 60,000 or more may elect to maintain
15 the files for its employees in that school district.

16 (d) As used in this section, “certificate” means a certificate
17 signed by the examining physician and surgeon licensed under
18 Chapter 5 (commencing with Section 2000) of Division 2 of the
19 Business and Professions Code, a physician assistant practicing
20 in compliance with Chapter 7.7 (commencing with Section 3500)
21 of Division 2 of the Business and Professions Code, or a nurse
22 practitioner practicing in compliance with Chapter 6 (commencing
23 with Section 2700) of Division 2 of the Business and Professions
24 Code, or a notice from a public health agency that indicates
25 freedom from infectious tuberculosis. The latter, regardless of
26 form, shall constitute evidence of compliance with this section.

27 (e) Nothing in this section shall prevent the governing board of
28 a school district, upon recommendation of the local health officer,
29 from establishing a rule requiring a more extensive or more
30 frequent physical examination than required by this section. The
31 rule shall provide for reimbursement on the same basis as required
32 in this section.

33 (f) The tuberculosis risk assessment and, if indicated, the
34 examination is a condition of initial employment and the expense
35 shall be borne by the applicant unless otherwise provided by rules
36 of the governing board of the school district. However, the
37 governing board of a school district may, if an applicant is accepted
38 for employment, reimburse that person in a like manner prescribed
39 in this section for employees.

1 (g) The governing board of a school district shall reimburse the
2 employee for the cost, if any, of the tuberculosis risk assessment
3 and the examination. The governing board of a school district may
4 provide for the tuberculosis risk assessment and examination
5 required by this section or may establish a reasonable fee for the
6 examination that is reimbursable to employees of the school district
7 complying with this section.

8 (h) At the discretion of the governing board of a school district,
9 this section shall not apply to those employees not requiring
10 certification qualifications who are employed for any period of
11 time less than a school year whose functions do not require frequent
12 or prolonged contact with pupils.

13 (i) If the governing board of a school district determines by
14 resolution, after hearing, that the health of pupils in the school
15 district would not be jeopardized, this section shall not apply to
16 an employee of the school district who files an affidavit stating
17 that the employee adheres to the faith or teachings of a
18 well-recognized religious sect, denomination, or organization and,
19 in accordance with its creed, tenets, or principles, depends for
20 healing upon prayer in the practice of religion, and that to the best
21 of the employee's knowledge and belief, the employee is free from
22 infectious tuberculosis. If at any time there is probable cause to
23 believe that the affiant is afflicted with infectious tuberculosis, the
24 employee may be excluded from service until the governing board
25 of the school district is satisfied that the employee is not afflicted.

26 (j) A person who transfers employment from one school or
27 school district to another school or school district shall be deemed
28 to meet the requirements of subdivision (a) if that person can
29 produce a certificate that shows the person was found to be free
30 of infectious tuberculosis within 60 days of initial hire, or the
31 school previously employing the person verifies that the person
32 has a certificate on file showing that the person is free from
33 infectious tuberculosis.

34 (k) A person who transfers their employment from a private or
35 parochial elementary school, secondary school, or nursery school
36 to a school or school district subject to this section shall be deemed
37 to meet the requirements of subdivision (a) if that person can
38 produce a certificate as provided for in Section 121525 of the
39 Health and Safety Code that shows that they were found to be free
40 of infectious tuberculosis within 60 days of initial hire, or if the

1 school previously employing the person verifies that the person
2 has a certificate on file showing that the person is free from
3 infectious tuberculosis.

4 (l) (1) A governing board, county superintendent of schools,
5 or governing body of a charter school providing for the
6 transportation of pupils under contract authorized by Section
7 39800, 39801, or any other provision of law shall require as a
8 condition of the contract the tuberculosis risk assessment and, if
9 indicated, the examination for infectious tuberculosis within 60
10 days of initial hire, as provided by subdivision (a), of all drivers
11 transporting pupils for compensation.

12 (2) At the discretion of the governing board, county
13 superintendent of schools, or governing body of a charter school,
14 paragraph (1) shall not apply to a private contracted driver who
15 transports pupils infrequently and without prolonged contact with
16 the pupils before July 1, 2025.

17 (m) A volunteer in a school shall also be required to have on
18 file with the school a certificate showing that, upon initial volunteer
19 assignment, the person submitted to a tuberculosis risk assessment
20 and, if tuberculosis risk factors were identified, was examined and
21 found to be free of infectious tuberculosis. If no risk factors are
22 identified, an examination is not required. At the discretion of the
23 governing board of a school district, this section shall not apply
24 to a volunteer whose functions do not require frequent or prolonged
25 contact with pupils.

26 (n) The State Department of Public Health, in consultation with
27 the California Tuberculosis Controllers Association, shall develop
28 a risk assessment questionnaire, to be used to conduct tuberculosis
29 risk assessments pursuant to this section. The risk assessment
30 questionnaire shall be administered by a health care provider,
31 which shall be specified on the questionnaire. This risk assessment
32 questionnaire shall be exempt from the rulemaking provisions of
33 the Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code).

36 ~~SEC. 3.~~

37 *SEC. 4.* If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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