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SB-730 Pupil nutrition: National School Lunch Act: Buy American provision: compliance. (2017-2018)

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Senate Bill No. 730

CHAPTER 571

An act to add Section 49563 to the Education Code, relating to pupil nutrition.

[Approved by Governor October 07, 2017. Filed with Secretary of State October 07, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 730, Pan. Pupil nutrition: National School Lunch Act: Buy American provision: compliance.

Existing federal law, the National School Lunch Act, establishes a federal subsidy program to provide free and reduced-price meals to eligible children in schools. As a condition of participation, federal law requires the State Department of Education and participating local educational agencies to comply with a provision, known as the Buy American provision, that requires school food authorities, as defined, to purchase, to the maximum extent possible, domestic commodities or products. Existing federal regulations establish procedures for administrative review and compliance with specific program requirements, including the Buy American provision. Under existing state law, the State Department of Education and local educational agencies administer the National School Lunch Act programs.

This bill would require the department to take certain actions to monitor and support school food authorities' compliance with the Buy American provision. The bill would state that its provisions are operative only to the extent mandated under federal law.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The federal Child Nutrition Reauthorization Act of 1998 enacted a provision, known as the Buy American provision, to the federal National School Lunch Act that requires school food authorities to purchase, to the maximum extent practicable, domestic commodities or products.

(2) School food authorities are required to comply with the Buy American provision as a procurement standard when commercial food products are purchased for school meal programs.

(3) Given the importance of the Buy American provision, there are very limited exceptions to the requirement, to be used as a last resort. The allowable exceptions are (A) the product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality, or (B) competitive bids reveal the cost of a domestic product is significantly higher than the nondomestic product.

(b) It is the intent of the Legislature in enacting this act to monitor compliance with the Buy American provision for procuring commodities and products for schools participating in programs under the federal National School Lunch Act and the federal Child

Nutrition Act of 1966.

SEC. 2. Section 49563 is added to the Education Code, to read:

49563. (a) For purposes of this section, the following terms have the following meanings:

(1) "Buy American provision" means the provision requiring a school food authority to purchase, to the maximum extent practicable, domestic commodities or products, as specified in subdivision (n) of Section 1760 of Title 42 of the United States Code.

(2) "Domestic" means an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States.

(3) "Substantial" means over 51 percent of the final processed product consists of agricultural commodities grown domestically.

(4) "School food authority" has the same meaning as defined in Section 210.2 of Title 7 of the Code of Federal Regulations.

(b) In order to monitor school food authorities' compliance with the Buy American provision, the department shall fulfill its obligations in accordance with the federal regulations.

(c) The department shall make requirements, resources, and best practices for the Buy American provision available on its Internet Web site.

(d) The department shall distribute to school food authorities guidance or regulations from the United States Department of Agriculture for the Buy American provision, as updates are issued.

(e) The requirements of this section shall be operative only if mandated by federal law.