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AB-2638 School facilities: drinking water: water bottle filling stations. (2021-2022)

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Assembly Bill No. 2638

CHAPTER 793

An act to add Chapter 2 (commencing with Section 38040) to Part 23 of Division 3 of Title 2 of the Education Code, relating to school facilities.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2638, Bloom. School facilities: drinking water: water bottle filling stations.

(1) Existing law requires a school district to provide access to free, fresh drinking water during meal times in school food service areas by July 1, 2011, unless the governing board of a school district adopts a resolution stating that it is unable to comply with this requirement and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns.

This bill would require a new construction or modernization project submitted to the Division of the State Architect by a school district or the governing body of a charter school to include water bottle filling stations, as specified. The bill would require, for modernization projects, a minimum of one water bottle filling station for each school undergoing modernization, and for new construction projects, a minimum of one water bottle filling station per 350 people at each school being constructed. The bill would require water bottle filling stations to be placed in or near high traffic and common areas and to meet specified requirements, including dispensing drinking water that meets primary drinking water standards and secondary drinking water standards, as defined. The bill would provide that these requirements only apply to new construction and modernization projects submitted to the Division of the State Architect 3 months after voters approve a statewide general obligation bond that provides funds for school facilities for kindergarten or any of grades 1 to 12, inclusive, at a statewide election occurring on or after November 1, 2022.

This bill would require a school district or the governing body of a charter school to allow pupils, teachers, and staff to bring and carry water bottles, as specified. The bill would require administrators of a school district or the governing body of a charter school to inform teachers, staff, parents, and pupils of their rights under these provisions and to encourage water consumption through promotional and educational activities and signage, as specified.

By imposing new duties on local educational agencies, this bill would impose a state-mandated local program.

(2) 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 Local Program: yes

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

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

- (a) Water plays an important role in maintaining a child's overall health. Drinking water supports children's muscles, joints, and tissues; improves their digestive system; and keeps their growing bodies hydrated.
- (b) Adequate water intake can positively impact children's cognitive performance, particularly short-term memory. Drinking water can also improve children's visual attention and fine motor skills.
- (c) Substituting sugary drinks with low or no calorie beverages, such as water, can prevent excess weight gain.
- (d) From 2009 to 2012, inclusive, a national survey of children 6 to 19 years of age, inclusive, found that more than one-half (54.5 percent) of children and adolescents in the United States were inadequately hydrated. Inadequate hydration was more prevalent among boys and non-Hispanic, Black, and younger children, compared to girls and non-Hispanic, White, and older children.
- (e) Reduction of sugary drink consumption is a key public health goal. Extensive science shows that sugary drinks contribute to obesity, and, even for children, increase the risk of developing type 2 diabetes and cardiovascular disease, and are their chief source of tooth decay. These conditions are laden with socioeconomic disparities.
- (f) Plain water is the healthy substitute for sugary drinks. Currently, however, access to safe, free, and appealing water is lacking in many California schools, thus increasing disparities.
- (g) On average, children drink about 2.4 ounces of water when they drink directly from a water fountain, which is about the size of a condiment cup. When they have access to water bottle filling stations, they can increase their water intake by as much as triple the amount.
- (h) Increased access to free, safe, and appealing drinking water through the installation of water bottle filling stations will lead to increased consumption, which has numerous proven health benefits and leads to improved health outcomes.

SEC. 2. Chapter 2 (commencing with Section 38040) is added to Part 23 of Division 3 of Title 2 of the Education Code, to read:

CHAPTER 2. Drinking Water

38040. For purposes of this chapter, "water bottle filling station" means a water dispenser accessible to all people in compliance with the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) that dispenses clean drinking water directly into a water bottle or other drinking container.

38041. (a) (1) A new construction or modernization project submitted to the Division of the State Architect pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 by a school district or the governing body of a charter school shall include water bottle filling stations, consistent with the requirements of this section.

(2) The requirements of this section only apply to those projects described in paragraph (1) that are submitted to the Division of the State Architect three months after voters approve a statewide general obligation bond that provides funds for school facilities for kindergarten or any of grades 1 to 12, inclusive, at a statewide election occurring on or after November 1, 2022.

(b) (1) For modernization projects, there shall be a minimum of one water bottle filling station at each school undergoing modernization.

(2) For new construction projects, there shall be a minimum of one water bottle filling station per 350 people at each school being constructed.

(c) Water bottle filling stations shall be placed in or near high traffic and common areas, such as all of the following:

- (1) Hallways.
- (2) Gymnasiums.
- (3) School food service areas.
- (4) Outdoor recreation areas.
- (5) Faculty lounges.

(d) Water bottle filling stations shall meet all of the following requirements:

(1) Dispense drinking water that meets primary drinking water standards and secondary drinking water standards, as defined in Section 116275 of the Health and Safety Code. The water bottle filling station shall dispense filtered water if necessary to meet those standards.

(2) Be regularly cleaned to maintain sanitary conditions.

(3) Be maintained on a regular basis to ensure they function properly.

(e) Water bottle filling stations may be combined with drinking fountains.

(f) School districts and governing bodies of charter schools are encouraged to install touchless bottle filling stations for sanitary reasons.

(g) School districts and governing bodies of charter schools are encouraged to install water bottle filling stations that dispense cooled water if the water bottle filling stations are located near an electrical source.

(h) (1) An existing water bottle filling station that was installed at a school before the enactment of this chapter shall count toward the minimum number of water bottle filling stations required pursuant to subdivision (b), provided that the water bottle filling station meets the requirements of subdivision (d).

(2) An existing water bottle filling station that was installed at a school before the enactment of this chapter that does not meet the requirements of subdivision (d) may be repaired or improved by a school in order to meet the requirements of subdivision (d). Upon repair or improvement of the water bottle filling station to meet the requirements of subdivision (d), the school may count the water bottle filling station toward the minimum number of water bottle filling stations required pursuant to subdivision (b).

38042. (a) A school district or the governing body of a charter school shall allow pupils, teachers, and staff to bring and carry water bottles.

(b) Water bottles may be excluded from libraries, computer labs, science labs, and other places where it is deemed dangerous to have drinking water.

(c) School districts and governing bodies of charter schools are encouraged to develop and adopt policies about the type of water bottles that may be carried.

38043. (a) Administrators of a school district or the governing body of a charter school shall inform teachers, staff, parents, and pupils about their rights under this chapter, including providing information in pupil and employee handbooks and making the information accessible on the internet website of the school district or charter school.

(b) Administrators of a school district or the governing body of a charter school shall encourage water consumption through promotional and educational activities and signage that focus on the benefits of drinking water and highlight water bottle filling stations throughout schools.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.