



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
March 17, 2015

To: Honorable Mayor and Members of the City Council  
From: Councilmember Susan Wengraf  
Subject: Support of CA Senate Bill 277: End California's Vaccine Exemption Loophole

RECOMMENDATION

Adopt a Resolution supporting California Senate Bill 277. This legislation proposes to end all vaccination loopholes in California, including exemptions based purely on parents' personal beliefs. Send letters of support to Senators Richard Pan and Ben Allen, Senator Loni Hancock, Assemblymember Tony Thurmond and Governor Jerry Brown.

BACKGROUND

Senate Bill 277 was introduced in response to the current measles outbreak and the growing awareness that current laws in California are not adequate to protect children. Senate Bill 277 will require that children must be immunized for various diseases, including measles and whooping cough, before being admitted to a school in California. The bill will also require that parents be notified of immunization rates at their child's school.

Under current state law, a parent may choose to opt out of school vaccine requirements using California's "personal belief exemption" that says they are philosophically opposed to immunizations. When a community loses immunity protection many people are at risk of becoming infected including vulnerable populations in the broader community such as infants, chemotherapy patients and those with HIV or other conditions that compromise immune systems. Senate Bill 277 would permit only medical exemptions as legal reasons not to vaccinate.

ENVIRONMENTAL SUSTAINABILITY

NA

CONTACT PERSON

Councilmember Susan Wengraf, 510-981-7160

Attachments:

- 1: Resolution
- 2: Text of Senate Bill 277

RESOLUTION NO. ##,###-N.S.

SUPPORT SENATE BILL 277: END CALIFORNIA'S VACCINE EXEMPTION  
LOOPHOLE

WHEREAS, currently California and 18 other states allow the "personal belief" exemption that grants parents the right to not vaccinate their children based on personal belief; and

WHEREAS, Senate Bill 277, if passed, would end all "personal belief exemptions"; and

WHEREAS, California has one of the lowest immunization rates in the nation and now we are seeing increases in preventable diseases; and

WHEREAS, we must all take the necessary steps to ensure we stop the spread of measles, whooping cough and numerous other highly-contagious diseases; and

WHEREAS, the decision not to vaccinate is a personal choice, but it is a decision that affects everyone.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it supports CA Senate Bill 277 that will protect countless children and vulnerable adults from contracting serious diseases.

**SENATE BILL****No. 277**

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**Introduced by Senators Pan and Allen**

(Principal coauthor: Assembly Member Gonzalez)

**(Coauthors: Senators Beall, Block, De León, Hall, Hertzberg, Hill, Jackson, Leno, McGuire, Mitchell, Stone, Wieckowski, and Wolk)**

(Coauthors: Assembly Members Baker, Chiu, Cooper, Low, McCarty, Nazarian, Rendon, Mark Stone, and Wood)

February 19, 2015

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An act to add Section 48980.5 to the Education Code, and to amend Section 120325 of, and to repeal and add Section 120365 of, the Health and Safety Code, relating to public health.

## LEGISLATIVE COUNSEL'S DIGEST

SB 277, as introduced, Pan. Public health: vaccinations.

(1) Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her admission to that institution he or she has been fully immunized against various diseases, including measles, mumps, and pertussis, subject to any specific age criteria. Existing law authorizes an exemption from those provisions for medical reasons or because of personal beliefs, if specified forms are submitted to the governing authority.

This bill would eliminate the exemption from immunization based upon personal beliefs. The bill would make conforming changes to related provisions.

(2) Existing law requires the governing board of a school district, at the beginning of the first semester or quarter of the regular school term, to make certain notifications to parents or guardians of minor pupils

including, among others, specified rights and responsibilities of a parent or guardian and specified school district policies and procedures.

This bill would require the governing board of a school district to also include in the notifications provided to parents or guardians of minor pupils at the beginning of the regular school term the immunization rates for the school in which a pupil is enrolled for each required immunization. By requiring school districts to notify parents or guardians of school immunization rates, the bill would impose 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 these statutory provisions.

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. Section 48980.5 is added to the Education Code,  
2 to read:

3 48980.5. The notification required pursuant to Section 48980  
4 shall also include the immunization rates for the school in which  
5 a pupil is enrolled for each of the immunizations required pursuant  
6 to Section 120335 of the Health and Safety Code.

7 SEC. 2. Section 120325 of the Health and Safety Code is  
8 amended to read:

9 120325. In enacting this chapter, but excluding Section 120380,  
10 and in enacting Sections 120400, 120405, 120410, and 120415, it  
11 is the intent of the Legislature to provide:

12 (a) A means for the eventual achievement of total immunization  
13 of appropriate age groups against the following childhood diseases:

- 14 (1) Diphtheria.
- 15 (2) Hepatitis B.
- 16 (3) Haemophilus influenzae type b.
- 17 (4) Measles.
- 18 (5) Mumps.
- 19 (6) Pertussis (whooping cough).

- 1 (7) Poliomyelitis.
- 2 (8) Rubella.
- 3 (9) Tetanus.
- 4 (10) Varicella (chickenpox).
- 5 (11) Any other disease deemed appropriate by the department,
- 6 taking into consideration the recommendations of the Advisory
- 7 Committee on Immunization Practices of the United States
- 8 Department of Health and Human Services, the American Academy
- 9 of Pediatrics, and the American Academy of Family Physicians.

10 (b) That the persons required to be immunized be allowed to  
11 obtain immunizations from whatever medical source they so desire,  
12 subject only to the condition that the immunization be performed  
13 in accordance with the regulations of the department and that a  
14 record of the immunization is made in accordance with the  
15 regulations.

16 (c) Exemptions from immunization for medical reasons—~~or~~  
17 ~~because of personal beliefs.~~

18 (d) For the keeping of adequate records of immunization so that  
19 health departments, schools, and other institutions, parents or  
20 guardians, and the persons immunized will be able to ascertain  
21 that a child is fully or only partially immunized, and so that  
22 appropriate public agencies will be able to ascertain the  
23 immunization needs of groups of children in schools or other  
24 institutions.

25 (e) Incentives to public health authorities to design innovative  
26 and creative programs that will promote and achieve full and timely  
27 immunization of children.

28 SEC. 3. Section 120365 of the Health and Safety Code is  
29 repealed.

30 ~~120365. (a) Immunization of a person shall not be required~~  
31 ~~for admission to a school or other institution listed in Section~~  
32 ~~120335 if the parent or guardian or adult who has assumed~~  
33 ~~responsibility for his or her care and custody in the case of a minor,~~  
34 ~~or the person seeking admission if an emancipated minor, files~~  
35 ~~with the governing authority a letter or affidavit that documents~~  
36 ~~which immunizations required by Section 120355 have been given~~  
37 ~~and which immunizations have not been given on the basis that~~  
38 ~~they are contrary to his or her beliefs.~~

39 (b) ~~On and after January 1, 2014, a form prescribed by the State~~  
40 ~~Department of Public Health shall accompany the letter or affidavit~~

1 filed pursuant to subdivision (a). The form shall include both of  
2 the following:

3 (1) A signed attestation from the health care practitioner that  
4 indicates that the health care practitioner provided the parent or  
5 guardian of the person who is subject to the immunization  
6 requirements of this chapter, the adult who has assumed  
7 responsibility for the care and custody of the person, or the person  
8 if an emancipated minor, with information regarding the benefits  
9 and risks of the immunization and the health risks of the  
10 communicable diseases listed in Section 120335 to the person and  
11 to the community. This attestation shall be signed not more than  
12 six months before the date when the person first becomes subject  
13 to the immunization requirement for which exemption is being  
14 sought.

15 (2) A written statement signed by the parent or guardian of the  
16 person who is subject to the immunization requirements of this  
17 chapter, the adult who has assumed responsibility for the care and  
18 custody of the person, or the person if an emancipated minor, that  
19 indicates that the signer has received the information provided by  
20 the health care practitioner pursuant to paragraph (1). This  
21 statement shall be signed not more than six months before the date  
22 when the person first becomes subject to the immunization  
23 requirements as a condition of admittance to a school or institution  
24 pursuant to Section 120335.

25 (e) The following shall be accepted in lieu of the original form:

26 (1) A photocopy of the signed form.

27 (2) A letter signed by a health care practitioner that includes all  
28 information and attestations included on the form.

29 (d) Issuance and revision of the form shall be exempt from the  
30 rulemaking provisions of the Administrative Procedure Act  
31 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
32 Division 3 of Title 2 of the Government Code).

33 (e) When there is good cause to believe that the person has been  
34 exposed to one of the communicable diseases listed in subdivision  
35 (a) of Section 120325, that person may be temporarily excluded  
36 from the school or institution until the local health officer is  
37 satisfied that the person is no longer at risk of developing the  
38 disease.

39 (f) For purposes of this section, “health care practitioner” means  
40 any of the following:

1 ~~(1) A physician and surgeon, licensed pursuant to Section 2050~~  
2 ~~of the Business and Professions Code.~~

3 ~~(2) A nurse practitioner who is authorized to furnish drugs~~  
4 ~~pursuant to Section 2836.1 of the Business and Professions Code.~~

5 ~~(3) A physician assistant who is authorized to administer or~~  
6 ~~provide medication pursuant to Section 3502.1 of the Business~~  
7 ~~and Professions Code.~~

8 ~~(4) An osteopathic physician and surgeon, as defined in the~~  
9 ~~Osteopathic Initiative Act.~~

10 ~~(5) A naturopathic doctor who is authorized to furnish or order~~  
11 ~~drugs under a physician and surgeon's supervision pursuant to~~  
12 ~~Section 3640.5 of the Business and Professions Code.~~

13 ~~(6) A credentialed school nurse, as described in Section 49426~~  
14 ~~of the Education Code.~~

15 SEC. 4. Section 120365 is added to the Health and Safety Code,  
16 to read:

17 120365. (a) Immunization of a person shall not be required  
18 for admission to a school or other institution listed in Section  
19 120335 if the parent or guardian or adult who has assumed  
20 responsibility for his or her care and custody in the case of a minor,  
21 or the person seeking admission if an emancipated minor, files  
22 with the governing authority a letter or affidavit that documents  
23 which immunizations required by Section 120355 have been given  
24 and which immunizations have not been given pursuant to an  
25 exemption from immunization for medical reasons.

26 (b) When there is good cause to believe that the person has been  
27 exposed to one of the communicable diseases listed in subdivision  
28 (a) of Section 120325, that person may be temporarily excluded  
29 from the school or institution until the local health officer is  
30 satisfied that the person is no longer at risk of developing the  
31 disease.

32 SEC. 5. If the Commission on State Mandates determines that  
33 this act contains costs mandated by the state, reimbursement to  
34 local agencies and school districts for those costs shall be made  
35 pursuant to Part 7 (commencing with Section 17500) of Division  
36 4 of Title 2 of the Government Code.

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- 2 **CORRECTIONS:**
- 3 **Heading—Line 4.**
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