

HOUSE BILL REPORT

HB 2798

As Reported by House Committee On:
Agriculture & Natural Resources
Appropriations

Title: An act relating to local food production.

Brief Description: Enacting the local farms-healthy kids and communities act.

Sponsors: Representatives Pettigrew, Hinkle, Kenney, Springer, Blake, Priest, Hunt, Linville, Newhouse, Kretz, Dunshee, Green, Hudgins, Campbell, Ericks, Walsh, McCune, Quall, Goodman, Hurst, Seaquist, Hunter, Anderson, Hasegawa, Cody, Williams, Dickerson, Kagi, Roberts, Takko, Morrell, McIntire, Schual-Berke, Nelson, Rolfes, Loomis, Liias, Simpson, VanDeWege, McCoy, Warnick, Pedersen, Lantz, Appleton, Upthegrove, Sells, Conway, Sullivan, Santos, Moeller and Ormsby.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/24/08, 1/30/08 [DPS];

Appropriations: 2/8/08, 2/11/08 [DP2S(w/o sub AGNR)].

Brief Summary of Second Substitute Bill

- Makes changes to state procurement policy to encourage and facilitate the purchase of Washington grown food by state agencies and institutions of higher education.
- Allows school boards to develop and implement procedures to increase the purchasing of Washington grown food.
- Creates the Farm-to-School Program in the Washington Department of Agriculture.
- Creates the Washington Grown Fresh Fruits and Vegetables Grant Program in the Office of the Superintendent of Public Instruction.
- Creates the Farmers Market Technology Improvement Pilot Program at the Department of Social and Health Services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Creates the Farmers to Food Banks Pilot Program in the Department of Community, Trade and Economic Development.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Blake, Chair; Van De Wege, Vice Chair; Eickmeyer, Grant, Lantz, Loomis, McCoy and Nelson.

Minority Report: Do not pass. Signed by 4 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Newhouse and Orcutt.

Staff: Colleen Kerr (786-7168).

Background:

Washington Agriculture Industry

Washington is a major agricultural state with 34,000 farms operating on more than 15 million acres, producing some 300 commercial crops and livestock products valued at \$6.4 billion. Washington ranks first in the United States for production of 11 commodities, including apples, sweet cherries, pears, hops, and red raspberries. Growers' production ranks second in the United States for an additional eight commodities, including potatoes, grapes, and onions. Washington is also the second-largest producer of wine in the United States. The state's diverse agricultural economy includes aquaculture, farm forest products, cranberries, spearmint and peppermint oil, and mink.

Procurement

The Department of General Administration sets policy and procedure for state procurement as well as develops and administers contracts for goods and services. The estimated term value of these contracts is approximately \$900 million on behalf of state agencies, colleges and universities, select nonprofit organizations, and local governments.

The Office of the Superintendent of Public Schools (OSPI) procurement policy is consistent with state and federal procurement regulations. There is currently a U.S. Department of Agriculture (USDA) prohibition on granting geographic preferences when purchases are made from USDA Child Nutrition Program funds. According to USDA definition, all funding coming into Program 98 (School Food Service), regardless of source – whether state, federal, or local – is considered USDA Child Nutrition Program funds. This prohibition may be removed with the 2007 farm bill.

United States Department of Agriculture Fresh Fruits and Vegetable Program

The 2002 farm bill created a pilot program to provide free fresh fruit and vegetable snacks to students in participating schools. Separate from the schools' existing meals programs, the snack program is intended to increase children's fruit and vegetable consumption for their better health. Implemented by the USDA Food and Nutrition Service, the \$6 million pilot

program provided grants to 25 schools in each of six states and one Native American territory. The schools used the funds to purchase their choice of snacks. In 2004 Congress made the program permanent and expanded it to eight states and three Native American territories.

Summary of Substitute Bill:

For the purposes of the Local Farms-Healthy Kids Act, "Washington grown" means food that is grown and packed or processed in Washington.

Procurement

Statutory provisions regarding procurement by state agencies and institutions of higher education are amended so that the Director of General Administration (GA) will establish state policy:

- for the development of food procurement procedures and materials that encourage the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable; and
- for the development of policies requiring all food contracts to include a plan to maximize to the extent practicable the availability of Washington grown food purchased through the contract.

Further, competitive bidding is not required for off-contract purchases by state agencies and institutions of higher education of Washington grown food when such food is not available from Washington sources through existing contracts.

For schools, school boards may develop and implement policies and procedures to develop to the greatest extent possible the purchasing of Washington grown food. This may include, but is not limited to, local preference policies and procedures.

Farm-to-School Program

The Farm-to-School Program (Program) is created in the Washington State Department of Agriculture (WSDA) to facilitate increased procurement of Washington grown food by the common schools. The WSDA shall work in consultation with the Department of Health (DOH), the Office of the Superintendent of Public Instruction (OSPI), the GA, and Washington State University (WSU) to:

- coordinate with school procurement officials and other organizations to identify policies and procedures, including recommendations, to implement the program that shall be available to school districts for them to use at their discretion;
- assist food producers, distributors, and food brokers to market Washington grown food to schools;
- identify and recommend mechanisms for increasing the predictability of supply and demand for producers and buyers in the Program;
- identify and make available existing curricula, programs, publications that educate students on the nutritional, environmental, and economic benefits of preparing and consuming Washington grown food;

- support efforts to advance other farm-to-school connections, such as farmers markets on school grounds, school gardens, and farm visits; and
- seek additional funding sources for the Program.

Washington Grown Fresh Fruit and Vegetable Grants

The Washington Grown Fresh Fruit and Vegetable Grant Program (Grant Program) is created in the OSPI to facilitate the consumption of nutritious Washington grown snacks in schools to improve student health and to expand the market for locally grown fresh produce. The Grant Program shall increase the number of school children with access to Washington grown fresh fruits and vegetables and shall be modeled after the USDA's Fresh Fruits and Vegetable Program. Schools receiving funding from the USDA program are not eligible for funding through the Grant Program.

The OSPI shall develop performance measures to track the number of students served by the Grant Program and the dollar value of purchases of Washington grown fresh fruits and vegetables resulting from the Grant Program, as well as the development of federal, state, and private partnerships through the Grant Program.

For the purposes of this section, "fresh fruits and vegetables" includes perishable produce that is unprocessed, minimally processed, frozen, or otherwise prepared, stored, and handled to maintain its fresh nature.

Farmers Market Technology Improvement Pilot Program

The Farmers Market Technology Improvement Pilot Program is created in the DSHS to lend technological hardware to farmers markets to develop the capability to accept electronic payments cards, including electronic benefits transfers. The Technology Improvement Program is intended to increase access to fresh fruits, vegetables, meat, and dairy for all Washington residents and to increase the number of food stamp recipients using food stamps through electronic benefits transfer at farmers markets.

Farmers to Food Banks Pilot Program

The Farmers to Food Banks Pilot Program is created in the Department of Community, Trade, and Economic Development (DCTED) for food banks in selected communities to contract with local farmers to provide fresh fruits, vegetables, dairy, and meat products for distribution to low-income people at local, designated food banks. Communities shall be selected based upon the following criteria:

- the percentage of the population suffering from hunger and food insecurity;
- the existence and success of the local emergency food system;
- the potential to engage and contract with local farmers; and
- the capacity to leverage private sector funding and in-kind contributions.

Performance Reporting

The Office of Financial Management shall work with the WSDA, the GA, and the OSPI to develop measures to track trends in the purchasing of Washington grown food by state agencies, institutions of higher education, and schools and shall report on these measures biennially to the Legislature.

Substitute Bill Compared to Original Bill:

Clarifies the changes in procurement policy between the GA and the OSPI; adds a definition of Washington grown food; clarifies provisions for off-contract purchasing of Washington grown food for the GA; moves the Farmers Market Technology Improvement Pilot Program from the WSDA to the DSHS; moves the Farmers to Food Banks Pilot Program from the WSDA to the DCTED; modifies tracking and reporting requirements so that the OFM must report biennially to the Legislature on the outcomes with regard to Washington grown food purchasing by the GA and common schools; allows the Washington Grown Fresh Fruits and Vegetables Grant Program to include dried fruits and vegetables; requires the Department of Health to adopt rules so that individual farms can participate in either the Women, Infant, and Children Program or the Farmers Market as appropriate; clarifies that the Act does not impact the state's obligations under trade agreements; allows schools to operate either school gardens or farms as appropriate; removes the appropriations; makes technical corrections.

Appropriation: None.

Fiscal Note: Available on Original Bill. Fiscal note requested on substitute bill January 25, 2008.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will change state contracting in two very important ways. First so that local farmers can get their product into state agencies, institutions of higher education, and the common schools, as well as provide nutritious snacks and food to the state children and population that rely on state assistance. It also creates an important partnership between the agricultural and environmental communities.

The bill is the result of an entire year of stakeholder meetings, cooperation, and coordination. It shows that various groups can come together to support policies that will foster a healthy Washington.

Schools are increasingly seeing behavioral issues with kids. Studies have shown – and the USDA Fresh Fruits and Vegetable Program impacts have also shown – that making sure kids are well-fed and have healthy snacks throughout the day improves their behavior, attendance, and attention spans.

This bill is important in educating the state's youth about the agricultural industry. The programs include education outreach regarding environmental and agricultural stewardship and bringing elements of the community, farms, and schools together toward mutually beneficial ends. Breaking down barriers is good public policy. In particular, it creates opportunities for farmers.

Most farmers markets do not currently have the capacity to accept food stamps. Only the ones around Seattle have that capability. This creates a significant gap in the food supply for those individuals on state assistance. Indeed, the bill puts two distressed communities in touch to improve both of their positions.

At food banks, the lines start an hour before the door opens and it is specifically because people want to get there early to get fresh produce. It's about more than just food, it's about fresh food that can be hard to obtain for certain populations and in certain communities.

(Opposed) None.

Persons Testifying: Representative Pettigrew, prime sponsor; Cliff Traisman and Mo McBroom, Washington Environmental Council; John Stuhlmiller, Washington State Farm Bureau; Peggy Brown, Office of the Superintendent of Public Instruction; Clayton Burrows, Growing Washington; Andrew Stout, Full Circle Farm; Kurt Tonnemaker, Tonnemaker Family Orchard; Mitch Denning, Alliance of Education Associates; Lincoln Pierce, Washington School Nutrition Association; Kim Howard, Washington State Parent-Teacher Association; Aiden Kerr; Carrie Peab, Washington Association of Local WIC Agencies; Robert Coyt, Thurston County Food Bank; Sarah Chernin, Children's Alliance; Antonio Cube, Washington State Catholic Conference; Paul Benz, Lutheran Public Policy and Faith Ministry; and Susie Kyle, Local Farmers.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 32 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Kagi, Kenney, Kessler, Kretz, Linville, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Ben Rarick (786-7349).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Agriculture & Natural Resources:

A null and void clause was added, making the bill null and void unless funded in the budget.

A severability clause was added, ensuring that any provisions of the bill that conflict with federal law are inoperative.

The substitute bill removes the Joint Legislative Audit Review Committee reports for the Farmers to Food Bank Program and the Farmers Market Technology Improvement Program

and requires the Department of Community, Trade and Economic Development and the Department of Social and Health Services to collect data on the activities undertaken pursuant to this act and communicate such information biennially to the Legislature.

The substitute bill removes requirements for the Office of Financial Management to track trends in purchasing and report to the Legislature.

The substitute bill removes language that would modify the Women, Infant, and Children Program to facilitate the participation of individual farms.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill represents one of the four environment policy council legislative priorities for this year. The process of formulating this bill brought together farmers, schools, public health officials, and child advocates. Schools spend \$300 million on lunches, and more of these dollars should be kept in state. The programs are scalable, but each was chosen for their feasibility. The fiscal note directs dollars to a lot of administrative tasks. More dollars should be dedicated to the fresh fruits and vegetable programs. The two policy implementation programs are critical. The rules and regulations revisions are also critical. It is not clear why it would cost \$100,000 for General Administration to do that, but it is critical to get done. The Office of the Superintendent of Public Instruction (OSPI) supports this bill. The OSPI would like to expand the fresh fruits and vegetables program from 25 to 75, although the fiscal note scales it down to 10 additional. Kids who participate in this program increase their fruits and vegetable consumption while in the program, and continue to do so after they leave the program as well.

(Opposed) The original bill somewhat vilified the food processing industry and it is been scaled back significantly. Also, just because food is processed doesn't mean it is not nutritious. Note that this bill spends about \$322,000 for staff, benefits and travel. In the next biennium, there is \$750,000 for salaries and benefits. If you really want to do something for the agriculture industry, the associations have a list of bills that are part of our legislative priorities. This is a very bureaucratic bill before the Legislature today. In policy committee, concerns were raised with regards to the commerce clause and United States Department of Agriculture requirements. Also, the bill is very heavy on administration. These programs are very expensive to run. Kids like to dunk celery in peanut butter or ranch dressing. It is not clear why the Legislature needs a bill. Leave local officials some flexibility.

Persons Testifying: (In support) George Sneller, Office of the Superintendent of Public Instruction; and Mo McBroom, Washington Environmental Council.

(Opposed) T.K. Bentler, Northwest Food Processors Association.

Persons Signed In To Testify But Not Testifying: None.