

HOUSE BILL REPORT

ESHB 2536

As Passed House:
February 18, 2014

Title: An act relating to breakfast after the bell programs in certain public schools.

Brief Description: Creating the breakfast after the bell program.

Sponsors: House Committee on Appropriations Subcommittee on Education (originally sponsored by Representatives Hudgins, Dahlquist, Bergquist, Lytton, Pettigrew, Orwall, Kagi, Morrell, Roberts, Tharinger, Haigh, Goodman, Walkinshaw, Riccelli, Pollet and S. Hunt).

Brief History:

Committee Activity:

Education: 2/3/14.

Appropriations Subcommittee on Education: 2/7/14 [DPS].

Floor Activity:

Passed House: 2/18/14, 67-31.

Brief Summary of Engrossed Substitute Bill

- Phases in over a four-year period a requirement for schools that enroll 70 percent or more low income students to offer school breakfast after the beginning of the school day, called Breakfast After the Bell (BAB).
- Provides for exemptions from the requirement for certain schools, including if a school demonstrates that expected direct costs for the BAB will exceed expected revenues.
- Requires the Office of the Superintendent of Public Instruction to develop policies and provide technical assistance to schools regarding changing their breakfast service model to the BAB, beginning in the 2014-15 school year.
- Allows time spent during the BAB to count toward minimum instructional hours as long as educational activities are provided concurrently with breakfast.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON EDUCATION

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Haigh, Chair; Carlyle, Dahlquist, Lytton, Pettigrew, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 2 members: Representatives Fagan, Ranking Minority Member; Haler.

Staff: Barbara McLain (786-7383) and Jessica Harrell (786-7349).

Background:

Free and Reduced Price Meals.

School breakfast and lunch programs are subsidized by the federal Department of Agriculture, the state, and student co-pays based on family income. In order for students to qualify for free meals, their family's income must be at or below 130 percent of the federal poverty level. Students whose families have an income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Students whose families earn more than 185 percent of the poverty level pay full price, but the meals are still federally subsidized to an extent.

For the 2012-13 school year, more than 476,000 or 45.7 percent of public school students were reported as eligible for free and reduced price meals (FRL).

School Breakfast.

In 2012-13, 271 school districts offered school breakfast in 1,864 schools. The average daily participation for breakfast was 165,810 students, which represents 15.7 percent of the total enrollment of students. The average daily participation in breakfast for FRL students was about 34 percent. Breakfast participation rates are significantly lower than lunch participation rates. Approximately 70 percent of FRL students participate in school lunch.

Severe Needs Schools.

Under federal guidelines, schools where more than 40 percent of the lunches served in the previous year were for FRL students are considered "severe needs" schools and qualify for additional federal reimbursement for breakfasts. Under state law, these schools are required to offer school breakfast programs for students. In 2012-13 there were 1,660 severe needs schools in Washington.

State Support for Breakfast.

The Legislature has appropriated state funds specifically to support school breakfasts in two ways:

1. eliminating the breakfast co-pay for students eligible for reduced price meals (30 cents per breakfast); and
2. providing additional funding to school breakfast programs for every free and reduced price breakfast served (17 cents per breakfast).

A small amount is also available for grants to try new breakfast programs. For the 2013-15 biennium, this state support is approximately \$5.8 million per year.

Breakfast After the Bell.

Breakfast After the Bell (BAB) includes several food service models where breakfast is served after the beginning of the regular school day, rather than in the cafeteria before school starts. Research on school breakfasts in other states and in Washington indicates that participation in school breakfast is significantly higher in schools using the BAB. A number of states have adopted legislation requiring schools with large populations of FRL students to implement the BAB.

Under Basic Education, school districts are required to provide a specified minimum number of instructional hours per year, which are defined as those hours during which students are provided the opportunity to engage in educational activity planned by, and under the direction of, school district staff. Time actually spent on meals does not count under the definition.

Summary of Engrossed Substitute Bill:

Definitions are provided, including defining the BAB as breakfast served after the beginning of the school day. A high-needs school is defined as a public school or charter school enrolling 70 percent or more FRL students in the previous school year.

Beginning in 2014-15 and continuing in 2015-16, the Office of the Superintendent of Public Instruction (OSPI) must dedicate staff to assist interested high-needs schools with changing their service model to the BAB. The staff must also encourage interested schools to explore providing breakfast to all students at no cost.

Beginning in 2016-17, elementary schools enrolling 85 percent or more FRL students in the previous school year must offer the BAB. Beginning in 2017-18, all high-needs schools must offer the BAB, although all schools are encouraged to do so. High-needs schools with breakfast participation rates of 70 percent or more FRL students are exempt from the requirement. In addition, high-needs schools that demonstrate that expected direct costs will exceed expected revenues for the BAB are exempt from the requirement for the ensuing school year. The OSPI must develop a worksheet for schools to use for this purpose and must notify a qualifying school of its exemption in a timely manner before the start of the school year.

Each school may determine its own BAB service model, but must comply with federal nutrition standards and regulations. If all students are provided an opportunity to engage in educational activity concurrently with breakfast, the time is considered instructional hours under Basic Education, although the BAB is not considered part of Basic Education. Moneys received as reimbursement for breakfast may only be used for food service program costs.

The OSPI must conduct the following activities in support of BAB programs:

- develop procedures and guidelines by August 2014;
- dedicate staff to offer technical assistance to schools, including assistance with various funding mechanisms to support the BAB;
- collaborate with nonprofit organizations who are knowledgeable on hunger and food security issues; and

- seek partnerships with philanthropic organizations interested in supporting the BAB in high-needs schools.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Education):

(In support) Anyone who has a toddler knows that the mantra for early morning is "Eat something; you'll feel better." Children should be encouraged to eat something to feel better and work better in school. There is a coalition of organizations working to encourage the BAB. One-fourth of the children in the state struggle with hunger. That is unacceptable. The best way to address this is through school nutrition programs. Washington is forty-first in the nation in breakfast participation.

There have been amendments to the bill to delay the timeline in order to provide for a transition and to give the advocates time to raise funds. There are many options for the BAB, and this bill in no way mandates how schools should do it. Mandates make people feel uncomfortable, but the evidence indicates that they are the only way to ensure the programs work. Opt-in programs are not successful. For the past three years, one school in Everett has offered the BAB program. Before implementation, breakfast participation was 16 percent; now it is 52 percent. Children get a healthy breakfast with minimal mess. This school has a large homeless population, and those children arrive at school from a long distance and very hungry. The school has not experienced increased labor costs. With creative planning, schools can replicate successful models without custodial or instructional issues.

Children cannot learn if they are hungry. Hunger has a daily economic impact on families. There has been moving testimony in this committee pointing out the correlation between poverty and educational outcomes and suggesting that every dollar spent to address these issues will yield significant benefit. A recent report on school breakfast contains ample evidence of its benefit in improving student achievement.

(Opposed) The strong efforts of the Legislature to support school breakfast are recognized, but this bill is opposed. This bill puts the OSPI in a difficult position; their staff are federally funded, and this bill asks them to raise private funds. Next year, all breakfasts must follow a new meal pattern, which will cost school districts an additional 18 to 20 cents per meal. However, federal reimbursement is not increasing. Schools would also have to deal with physical barriers, space issues, instructional time, and custodial services. This should be a local choice, not a state mandate.

High-needs schools in Tacoma have implemented the BAB, but due to the lack of support from teachers and custodians, they had to stop. There was also a fiscal audit conducted by the OSPI due to the miscounting of eligible students. They tried to maintain the BAB program but could not. Seattle has only one school with the BAB, and not for lack of trying.

The district did a study and found that custodial services alone would cost more than \$1 million. No one disagrees with the goal or the importance of breakfast, but there are barriers and multiple factors at the local level that need to be considered.

Staff Summary of Public Testimony (Appropriations Subcommittee on Education):

(In support) None.

(Opposed) The school nutritionists are in a difficult position. Feeding kids is what they do. No one knows better the benefits of eating breakfast. Children who are hungry cannot learn. However, if the BAB were as simple as it sounds, everyone would do it. The association of 26,000 school nutrition professionals cannot support this bill. The costs to operate the BAB programs are too high. This would be an unfunded mandate on school districts. Only 38 breakfast programs operate in the black; the rest operate in the red.

Persons Testifying (Education): (In support) Representative Hudgins, prime sponsor; Lauren McGowan, United Way of King County; Katrina Ondracek, United Way of Washington and Everett Public Schools; and David Westberg, International Union of Operating Engineers.

(Opposed) Mitch Denning, Alliance of Education Associations; and Leeda Beha, Washington School Nutrition Association.

Persons Testifying (Appropriations Subcommittee on Education): Mitch Denning, Alliance of Education Associations; and Leeda Beha, Washington School Nutrition Association.

Persons Signed In To Testify But Not Testifying: None.