

SENATE BILL REPORT

E3SHB 1295

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 25, 2016

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

Brief Description: Concerning breakfast after the bell programs.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Hudgins, Magendanz, S. Hunt, Walsh, Walkinshaw, Lytton, Senn, Jinkins, Sawyer, Stokesbary, Reykdal, Robinson, McBride, Stanford, Tharinger, Bergquist, Clibborn, Pollet, Fey, Gregerson and Tarleton).

Brief History: Passed House: 3/04/15, 65-33; 1/27/16, 69-28.

Committee Activity: Early Learning & K-12 Education: 2/23/16, 2/25/16 [DPA-WM].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; McAuliffe, Ranking Member; Billig, Fain, Hill, Mullet, Rivers and Rolfes.

Staff: Ailey Kato (786-7434)

Background: Free and Reduced-Price Meals. School breakfast and lunch programs are subsidized by the U.S. Department of Agriculture, the state, and student co-pays based on family income. In order for students to qualify for free meals, their families' income must be at or below 130 percent of the federal poverty level. Students whose families have income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. For the period of July 1, 2015 to June 30, 2016, 130 percent of the poverty level is \$31,525 for a family of four; 185 percent is \$44,863.

Provision 2 of the National School Lunch Act reduces administrative burdens for free and reduced-price meals. Any school that participates in the National School Lunch Program or the School Breakfast Program may opt for Provision 2. This provision requires schools to serve meals to participating children at no charge and reduces application burdens to once every four years. It simplifies meal counting and claiming procedures by allowing a school to receive meal reimbursement based on claiming percentages.

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.

Under the Healthy, Hunger-Free Kids Act of 2010, the National School Lunch Program includes a universal meal program called community eligibility. Community eligibility permits eligible schools to provide meal service to all students at no charge, regardless of economic status, while reducing burdens at the household and local levels by eliminating the need to obtain eligibility data from families through a separate collection.

The Office of Superintendent of Public Instruction (OSPI) reports that in October 2014 483,750 or 45.7 percent of public school students were eligible for free and reduced-price lunch in Washington.

State Support for Breakfast. The Legislature has appropriated state funds specifically to support school breakfasts by:

- eliminating the breakfast co-pay for students eligible for reduced-price meals;
- reimbursing school districts for school breakfasts served to students eligible for free and reduced-price meals; and
- providing grants to school districts for new and expanding breakfast programs.

Breakfast After the Bell Programs. These programs include several food service models where breakfast is served after the beginning of the regular school day rather than in the cafeteria before school starts.

Instructional Hours. Under the program of basic education, school districts must 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.

Nutrition Standards. In 2012, the United States Department of Agriculture (USDA) enacted standards for school meals. According to the final rules, the USDA did not believe a standard setting a limit on added sugars was necessary given calorie requirements. Additionally, a standard would unnecessarily restrict menu planning flexibility.

In 2015, the USDA and the United States Department of Health and Human Services published the most recent edition of the Dietary Guidelines for Americans. The guidelines are used to inform school breakfast and lunch programs. Under the guidelines, healthy eating patterns limit added sugars to less than 10 percent of calories per day. Added sugar does not include naturally occurring sugar such as those in fruit or milk.

A Health Impact Review of this legislation was requested and is available at the Washington State Board of Health's website: sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2015-01-HB1295.pdf.

Summary of Bill (Recommended Amendments): Breakfast After the Bell Requirement. Beginning in the 2017-18 school year, each high-needs school must offer breakfast after the bell to each student and provide adequate time for students to eat. The state must provide and OSPI must administer, one-time start-up allocation grants of \$6,000 to each high-needs school implementing a breakfast after the bell program. The grant must be used for the costs

associated with launching a breakfast after the bell program, including, but not limited to, equipment purchases, training, additional staff costs, and janitorial services.

High-needs school means any public school that:

- has enrollment of 70 percent or more students eligible for free or reduced-price meals in the prior school year; or
- is providing universal meals under federal law and has a claiming percentage for free or reduced-price meals of 70 percent or more.

Each high-needs school may determine the breakfast after the bell service model that best suits its students. Service models include, but are not limited to, the following:

- grab and go, where easy-to-eat breakfast foods are available for students to take at the start of the school day or in between morning classes;
- second chance breakfast, where breakfast foods are available during recess, a nutrition break, or later in the morning, for students who are not hungry first thing in the morning, or who arrive late to school; and
- breakfast in the classroom, where breakfast is served in the classroom, often during homeroom or first period.

All public schools are encouraged to offer breakfast after the bell even if not required to do so.

Exemption. High-needs schools with at least 70 percent of free or reduced-price eligible children participating in both school lunch and school breakfast are exempt from offering breakfast after the bell. OSPI must evaluate individual participation rates annually and make the participation rates publicly available.

Instructional Hours. If all students in a high-needs school are provided the opportunity to engage in educational activity planned by and under the direction of school district staff concurrently with the consumption of breakfast, and the provision of breakfast allows the regular instructional program to continue functioning, the period of time designated for student participation in breakfast after the bell may be provided during instructional hours.

Nutrition Standards. All breakfasts served in a breakfast after the bell program must comply with federal meal patterns and nutrition standards for school breakfast programs under federal law and regulations. When choosing foods to serve in a breakfast after the bell program, schools must give preference to foods that are healthy, fresh, and Washington-grown. In addition, each food item served must contain less than 25 percent by weight added sugar.

Basic Education. The Legislature does not intend to include the funding for breakfast after the bell programs within the state's obligation for basic education funding under Article IX of the state Constitution.

OSPI. Before January 2, 2017, OSPI must develop and distribute procedures and guidelines for the implementation of breakfast after the bell programs, which must be in compliance with federal regulations governing the school breakfast program. These guidelines must

include ways schools and districts can solicit and consider families' input regarding implementation and continued operation of breakfast after the bell programs.

OSPI must dedicate staff to offer training and technical and marketing assistance to all public schools and school districts related to offering breakfast after the bell, including assistance with various funding options available to high-needs schools, including the community eligibility provision, programs under Provision 2 of the National School Lunch Act, and claims for reimbursement under the school breakfast program.

In fulfilling its responsibilities, OSPI must collaborate with nonprofit organizations knowledgeable about equity, the opportunity gap, hunger and food security issues, and best practices for improving student access to school breakfast. OSPI must maintain a list of opportunities for philanthropic support of school breakfast programs and make the list available to interested schools.

OSPI must incorporate the annual collection of information about breakfast after the bell delivery models into existing data systems and make the information publicly available.

Work Group. OSPI may convene a work group to determine how to reduce the sugar content in all school meals with the goal of reaching 25 percent by weight added sugar. Any report or recommendations from this work group should be submitted to the appropriate committees of the Legislatures and to school districts.

Funding. OSPI, school districts, and affected schools must implement the provisions of this act only after funding is specifically provided for the purposes of the act, referencing this act by bill or chapter number, in a biennial or supplemental operating budget.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Amendments): The section that amends the definition of instructional hours is removed. A subsection is added stating that if all students in a high-needs school are provided the opportunity to engage in educational activity planned by and under the direction of school district staff concurrently with the consumption of breakfast, and the provision of breakfast allows the regular instructional program to continue functioning, the period of time designated for student participation in breakfast after the bell may be provided during instructional hours. The phrase "funded for" is added to the provision stating that the Legislature does not intend to include the programs within the state's obligation for basic education funding under Article IX of the state Constitution.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: Testimony From 2015 Regular Session. PRO: Hungry children struggle to pay attention, learn, and thrive. Academic success is being

hindered because of food insecurity. Many students are not eating an adequate breakfast because of parent or bus schedules, social stigma, or lack of financial stability. The national school breakfast program is designed to address hunger, but it only works if children can access it. Serving breakfast after the bell is a simple solution. If breakfast is part of the school day, more students participate in the program. When students eat breakfast, they are healthier, more focused, and better able to learn. In Washington, schools currently have the option to offer breakfast after the bell, but many schools are not choosing this option. Making this program optional is not equitable. This program will help the most vulnerable kids in a limited number of districts. It will provide nutritious food to where it is needed most. There are many different components when starting a breakfast after the bell program. But once staff members are comfortable with their roles, this program runs smoothly. This bill does not change the different methods of paying for school breakfast. A grab-and-go service model is a cost-effective option when universally free breakfast is not feasible. There is no evidence that students will eat two breakfasts because of this program. There is evidence that children who skip meals are more at risk for obesity. In the last couple of years, standards have changed to make sure that more nutritious food is being served in schools. The health impact review of this bill found that evidence indicates that HB 1295 has potential to increase the number of low-income students and students of color who eat breakfast, which in turn has potential to narrow educational opportunity gaps, narrow income gaps, and decrease health disparities. This evidence was rated as strong and very strong.

OTHER: There is concern that schools with certain levels of poverty are mandated to provide breakfast after the bell. Implementation of a breakfast after the bell program should be voluntary. Schools that choose to implement a program should be able to receive a start-up grant. If there is a mandate, school districts with three or more schools that are required to offer breakfast after the bell should be able to phase in these programs over three years. This option would allow school districts to decide which schools would first offer the program. The amount of the start-up grants should be adjusted based on student enrollment. The breakfast after the bell program should be optional, so it is not an unfunded mandate. When federal funding does not cover the full amount required for these programs, school districts will have to make up the difference.

Testimony From 2016 Regular Session. PRO: This bill is about feeding hungry kids and improving their educational outcomes. This bill will make sure money spent on education is more effective and results in better outcomes. Parents work hard to provide for their families, but sometimes they need additional help such as meals at school. Consumption of breakfast makes a notable difference; it helps improve attendance, health, and test scores. It helps decrease the number of suspensions and expulsions. Barriers like transportation and stigma are preventing students from eating breakfast before the start of the school day. Serving breakfast after the school day begins helps remove these barriers. This state has low breakfast participation rates for low-income students. Poverty is not limited to any area of the state, so this bill can help children in many parts of the state. Breakfast after the bell programs help schools utilize already available federal funding to ensure that low-income children are ready to learn. This bill is a solid investment in the most vulnerable children. This bill has a fiscal impact because of the start-up grants, but this is a small price to pay.

OTHER: Students can eat when they are working on projects. The State Board of Health conducted a health impact review bill of the original bill, but the findings apply to the current

bill. Overall, there is evidence that this bill has the potential to increase breakfast consumption among students, particularly among low-income and students of color, which in turn can improve educational outcomes, narrow educational opportunity gaps, narrow income gaps, improve health, and decrease disparities. The bill language should change from schools being required to give preference to Washington-grown food to schools must give consideration to Washington-grown food. The requirement that food items contain less than 25 percent by weight added sugar should be eliminated because food items must already meet the federal nutrition standards. It is difficult for staff to calculate the weight of refined sugar. The OSPI work group regarding sugar should be eliminated because there are already federal nutrition standards created by experts, and USDA will review the latest dietary guidelines and revise standards as needed.

Persons Testifying: Persons Testifying From 2015 Regular Session. PRO: Lauren McGowan, United Way of King County; Erica Barrie, Hoquiam School District; Eduardo Ramos, Student, Wenatchee High School; Vic Colman, Childhood Obesity Prevention Coalition; Sierra Rotakhina, WA State Board of Health.

OTHER: Marie Sullivan, Pasco School District; Raka Bhattacharya, OSPI Policy Analyst.

Persons Testifying From 2016 Regular Session. PRO: Representative Hudgins, Prime Sponsor; Heather Lindberg, Washington State PTA; Claire Lane, Anti-Hunger and Nutrition Coalition; Carrie Glover, WithinReach; Lauren McGowan, United Way of King County; Christina Wong, Northwest Harvest.

OTHER: Grazyna Prouty, teacher; Mitch Denning, WA School Nutrition Association; Sierra Rotakhina, WA State Board of Health.

Persons Signed in to Testify But Not Testifying: No one.