

## CHAPTER 2011-217

### Committee Substitute for Committee Substitute for Senate Bill No. 1312

An act relating to school nutrition programs; providing a short title; transferring the Food and Nutrition Services Trust Fund in the Department of Education to the Department of Agriculture and Consumer Services; transferring and reassigning functions and responsibilities, including records, personnel, property, and unexpended balances of appropriations and other resources for the administration of the school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services; creating s. 570.98, F.S.; requiring the Department of Agriculture and Consumer Services to conduct, supervise, and administer all school food and nutrition programs; requiring the department to cooperate fully with the United States Government; authorizing the department to act as agent of, or contract with, the Federal Government, other state agencies, or any county or municipal government for the administration of the school food and nutrition programs; transferring, renumbering, and amending s. 1006.06, F.S., relating to school food service programs; conforming provisions to changes made by the act; deleting obsolete provisions; transferring, renumbering, and amending ss. 1006.0606 and 1010.77, F.S., relating to the children's summer nutrition program and the Food and Nutrition Services Trust Fund, respectively; conforming provisions to changes made by the act; deleting obsolete provisions; amending s. 1003.453, F.S.; requiring each school district to send an updated copy of its wellness policy and physical education policy to the Department of Education and the Department of Agriculture and Consumer Services; deleting obsolete provisions; requiring certain information to be accessible from the website of the Department of Agriculture and Consumer Services; creating the Healthy Schools for Healthy Lives Council within the Department of Agriculture and Consumer Services; requiring the Commissioner of Agriculture to appoint members of the council; providing duties of the council; providing requirements for the meetings, powers, duties, procedures, and recordkeeping of the council; requiring the Department of Education, in consultation with the Department of Agriculture and Consumer Services, to develop and submit a request for a waiver to the United States Department of Agriculture to transfer administration of the school food service and nutrition programs; requiring the Department of Education to notify the Governor and the Legislature regarding the decision of the United States Department of Agriculture; providing for contingent effect based upon federal approval of a request for a waiver; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Healthy Schools for Healthy Lives Act.”

Section 2. The Food and Nutrition Services Trust Fund, FLAIR number 48-2-2315, in the Department of Education is transferred to the Department of Agriculture and Consumer Services, FLAIR number 42-2-2315.

Section 3. All powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Education to the Department of Agriculture and Consumer Services.

Section 4. Section 570.98, Florida Statutes, is created to read:

570.98 School food and nutrition programs.—

(1) The department shall conduct, supervise, and administer all school food and nutrition programs that will be carried out using federal or state funds, or funds from any other source.

(2) The department shall cooperate fully with the United States Government and its agencies and instrumentalities so that the department may receive the benefit of all federal financial allotments and assistance possible to carry out the purposes of this chapter.

(3) The department may act as agent of, or contract with, the Federal Government, another state agency, or any county or municipal government for the administration of the school food and nutrition programs, including the distribution of funds provided by the Federal Government to support the school food and nutrition programs.

Section 5. Section 1006.06, Florida Statutes, is transferred, renumbered as section 570.981, Florida Statutes, and amended to read:

570.981 ~~1006.06~~ School food service programs.—

(1) In recognition of the demonstrated relationship between good nutrition and the capacity of students to develop and learn, it is the policy of the state to provide standards for school food service and to require district school boards to establish and maintain an appropriate private school food service program consistent with the nutritional needs of students.

(2) ~~The department~~ State Board of Education shall adopt rules covering the administration and operation of the school food service programs.

(3) Each district school board shall consider the recommendations of the district school superintendent and adopt policies to provide for an

appropriate food and nutrition program for students consistent with federal law and department ~~State Board of Education~~ rule.

(4) The state shall provide the state National School Lunch Act matching requirements. The funds provided shall be distributed in such a manner as to comply with the requirements of the National School Lunch Act.

(5)(a) Each district school board shall implement school breakfast programs that make breakfast meals available to all students in each elementary school. ~~By the beginning of the 2010-2011 school year,~~ Universal school breakfast programs shall be offered in schools in which 80 percent or more of the students are eligible for free or reduced-price meals. Each school shall, to the maximum extent practicable, make breakfast meals available to students at an alternative site location, which may include, but need not be limited to, alternative breakfast options as described in publications of the Food and Nutrition Service of the United States Department of Agriculture for the federal School Breakfast Program.

(b) ~~Beginning with the 2009-2010 school year,~~ Each school district must annually set prices for breakfast meals at rates that, combined with federal reimbursements and state allocations, are sufficient to defray costs of school breakfast programs without requiring allocations from the district’s operating funds, except if the district school board approves lower rates.

(c) Each district school board is encouraged to provide universal-free school breakfast meals to all students in each elementary, middle, and high school. ~~By the beginning of the 2010-2011 school year,~~ Each district school board shall approve or disapprove a policy, after receiving public testimony concerning the proposed policy at two or more regular meetings, which makes universal-free school breakfast meals available to all students in each elementary, middle, and high school in which 80 percent or more of the students are eligible for free or reduced-price meals.

(d) ~~Beginning with the 2009-2010 school year,~~ Each elementary, middle, and high school shall make a breakfast meal available if a student arrives at school on the school bus less than 15 minutes before the first bell rings and shall allow the student at least 15 minutes to eat the breakfast.

(e) Each school district shall annually provide to all students in each elementary, middle, and high school information prepared by the district’s food service administration regarding its school breakfast programs. The information shall be communicated through school announcements and written notice sent to all parents.

(f) A district school board may operate a breakfast program providing for food preparation at the school site or in central locations with distribution to designated satellite schools or any combination thereof.

(g) The commissioner shall make every reasonable effort to ensure that any school designated as a “severe need school” receives the highest rate of

reimbursement to which it is entitled under 42 U.S.C. s. 1773 for each breakfast meal served.

(h) The department shall annually allocate among the school districts funds provided from the school breakfast supplement in the General Appropriations Act based on each district's total number of free and reduced-price breakfast meals served.

(6) The Legislature, recognizing that school children need nutritious food not only for healthy physical and intellectual development but also to combat diseases related to poor nutrition and obesity, establishes the Florida Farm Fresh Schools Program within the department of Education as the lead agency for the program. The program shall comply with the regulations of the National School Lunch Program and require:

(a) ~~The department of Education to work with the Department of Agriculture and Consumer Services~~ to develop policies pertaining to school food services which encourage:

1. School districts to buy fresh and high-quality foods grown in this state when feasible.

2. Farmers in this state to sell their products to school districts and schools.

3. School districts and schools to demonstrate a preference for competitively priced organic food products.

(b) School districts and schools to make reasonable efforts to select foods based on a preference for those that have maximum nutritional content.

(c) ~~The department of Education, in collaboration with the Department of Agriculture and Consumer Services,~~ to provide outreach, guidance, and training to school districts, schools, school food service directors, parent and teacher organizations, and students about the benefits of fresh food products from farms in this state.

Section 6. Section 1006.0606, Florida Statutes, is transferred, renumbered as section 570.982, Florida Statutes, and amended to read:

570.982 ~~1006.0606~~ Children's summer nutrition program.—

(1) This section may be cited as the "Ms. Willie Ann Glenn Act."

(2) Each district school board shall develop a plan ~~by May 1, 2006,~~ to sponsor a summer nutrition program ~~beginning the summer of 2006~~ to operate sites in the school district as follows:

(a) Within 5 miles of at least one elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals and for the duration of 35 consecutive days; and

(b) Except as operated pursuant to paragraph (a), within 10 miles of each elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals.

(3)(a) A district school board ~~boards~~ may be exempt from sponsoring a summer nutrition program pursuant to this section. A district school board seeking such exemption must include the issue on an agenda at a regular or special district school board meeting that is publicly noticed, provide residents an opportunity to participate in the discussion, and vote on whether to be exempt from this section. The district school board shall notify the commissioner of ~~Education~~ within 10 days after it decides to become exempt from this section.

(b) Each year the district school board shall reconsider its decision to be exempt from the provisions of this section and shall vote on whether to continue the exemption from sponsoring a summer nutrition program. The district school board shall notify the commissioner of ~~Education~~ within 10 days after each subsequent year's decision to continue the exemption.

(c) If a district school board elects to be exempt from sponsoring a summer nutrition program under this section, the district school board may encourage not-for-profit entities to sponsor the program. If a not-for-profit entity chooses to sponsor the summer nutrition program but fails to perform with regard to the program, the district school board, the school district, and the department of ~~Education~~ are not required to continue the program and shall be held harmless from any liability arising from the discontinuation of the summer nutrition program.

(4) The superintendent of schools may collaborate with municipal and county governmental agencies and private, not-for-profit leaders in implementing the plan. Although schools have proven to be the optimal site for a summer nutrition program, any not-for-profit entity may serve as a site or sponsor. By April 15 of each year, each school district with a summer nutrition program shall report to the department the district's summer nutrition program sites in compliance with this section.

(5) The department shall provide to each district school board by February 15 of each year a list of local organizations that have filed letters of intent to participate in the summer nutrition program in order that a district school board is able to determine how many sites are needed to serve the children and where to place each site.

Section 7. Section 1010.77, Florida Statutes, is transferred, renumbered as section 570.983, Florida Statutes, and amended to read:

~~570.983~~ 1010.77 Food and Nutrition Services Trust Fund.—Chapter ~~99-37~~ 99-34, Laws of Florida, re-created the Food and Nutrition Services Trust Fund to record revenue and disbursements of Federal Food and Nutrition funds received by the department of ~~Education~~ as authorized in ~~s. 570.981 s.~~ 1006.06.

Section 8. Section 1003.453, Florida Statutes, is amended to read:

1003.453 School wellness and physical education policies; nutrition guidelines.—

(1) ~~By September 1, 2006,~~ Each school district shall submit to the Department of Education a copy of its school wellness policy as required by the Child Nutrition and WIC Reauthorization Act of 2004 and a copy of its physical education policy required under s. 1003.455. Each school district shall annually review its school wellness policy and physical education policy and provide a procedure for public input and revisions. In addition, each school district shall send an updated copy of its wellness policy and physical education policy to the department and to the Department of Agriculture and Consumer Services when a change or revision is made.

(2) ~~By December 1, 2006,~~ The department shall post links to each school district's school wellness policy and physical education policy on its website so that the policies can be accessed and reviewed by the public. Each school district shall provide the most current versions of its school wellness policy and physical education policy on the district's website.

(3) ~~By December 1, 2006,~~ The department must provide on its website links to resources that include information regarding:

(a) Classroom instruction on the benefits of exercise and healthful eating.

(b) Classroom instruction on the health hazards of using tobacco and being exposed to tobacco smoke.

(c) The eight components of a coordinated school health program, including health education, physical education, health services, and nutrition services.

(d) The core measures for school health and wellness, such as the School Health Index.

(e) Access for each student to the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the United States Department of Agriculture. This information shall also be accessible from the website of the Department of Agriculture and Consumer Services.

(f) Multiple examples of school wellness policies for school districts.

(g) Examples of wellness classes that provide nutrition education for teachers and school support staff, including encouragement to provide classes that are taught by a licensed nutrition professional from the school nutrition department.

(4) School districts are encouraged to provide basic training in first aid, including cardiopulmonary resuscitation, for all students, beginning in grade

6 and every 2 years thereafter. Private and public partnerships for providing training or necessary funding are encouraged.

Section 9. (1) There is created within the Department of Agriculture and Consumer Services the Healthy Schools for Healthy Lives Council, which shall consist of 11 members appointed by the Commissioner of Agriculture. The council shall advise the department on matters relating to nutritional standards and the prevention of childhood obesity, nutrition education, anaphylaxis, and other needs to further the development of the various school nutrition programs.

(2) The meetings, powers, duties, procedures, and recordkeeping of the Healthy Schools for Healthy Lives Council shall be governed by s. 570.0705, Florida Statutes, relating to advisory committees established within the department.

Section 10. This section shall take effect upon this act becoming a law and, within 30 days thereafter, the Department of Education, in consultation with the Department of Agriculture and Consumer Services, shall develop and submit to the United States Department of Agriculture a request for a waiver required to transfer administration of the school food service and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services. Upon receipt of the United States Department of Agriculture's approval or denial of the request for a waiver, the Department of Education shall immediately notify in writing the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the decision of the United States Department of Agriculture. The notification shall include a copy of the United States Department of Agriculture's approval or denial of the request for a waiver.

Section 11. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2012, if the United States Department of Agriculture approves the request for a waiver, pursuant to section 9 of this act, on or before November 1, 2011.

Approved by the Governor June 23, 2011.

Filed in Office Secretary of State June 23, 2011.