

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1840  
 SPONSOR: Senator Clary  
 SUBJECT: David Levitt School Anti-Hunger Act  
 DATE: March 23, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	O'Farrell	ED	Favorable
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill provides legislative intent related to school district donations of unused food products to community programs that fight hunger. The bill requires school districts to enter into agreements with various organizations, including faith based organizations, to donate any unused food products that would otherwise be disposed of in the trash. The bill exempts school districts from these provisions if counties do not have hunger assistance programs or if districts have no substantial unused food products. The bill authorizes the Department of Education to adopt rules.

The bill takes effect upon becoming a law.

This bill amends s. 228.195, F.S.

**II. Present Situation:**

**Food recovery**

Chapter 570, F.S., provides for the general powers and duties of the Department of Agriculture and Consumer Services. The law (s. 570.0725, F.S.) also provides for food recovery programs to provide surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need, rather than continuing to see food destroyed. The Commissioner of Agriculture is charged with providing assistance in establishing and supporting the continued and efficient operation of food recovery programs.

Food recovery programs are local, volunteer-based organizations near an agricultural production area of the state that are established solely to solicit, collect, package, and deliver surplus fresh

fruit and vegetables for distribution throughout Florida. Distribution of the food to persons in need is accomplished by governmental agencies and volunteer and nonprofit organizations.

The law provides the statutory framework for the food recovery program and allows the Department of Agriculture and Consumer Services to:

- Identify suppliers, volunteers, and nonprofit organizations in the community to determine the level of interest in establishing a food recovery program;
- Provide facilities and other resources for initial organizational meetings; and
- Provide direct and indirect support for the fledgling program, upon demonstration of serious interest at the local level.

Also, the law allows the department to provide direct and indirect support to food recovery programs that are unable to obtain specific assistance from their communities or other sources by lending equipment, facilities, and staff resources for the collection, packaging, storage, and transportation of donated food, as needed.

The department must also account for the direct and indirect costs associated with supporting food recovery programs throughout the state by reporting on the identity of organizations receiving funds, the amount of funds disbursed, other uses of food recovery funds, and estimates of the amount of fresh produce recovered. The law imposes requirements on donors and bona fide charitable or nonprofit organizations in Florida. The department maintains a list of food recovery entities and food banks.

Federal regulations of the U.S. Department of Agriculture and Consumer Services (USDA) primarily govern school food service for the National School Lunch and Breakfast programs. According to the Florida Department of Education, these rules do not restrict the disposal of unused food by school districts, with the exception of USDA commodities. USDA policy memoranda address the donation of extra food prepared for the National School Lunch and Breakfast programs. The policy provides that when food actually prepared exceeds the amount needed for the reimbursable meal service, schools may donate the extra food to nonprofit organizations, provided the schools comply with state and local health standards. To safeguard against liability related to transportation, storage, and safe handling, the USDA recommends that the donor school and any recipient organization enter into a contract.

### **Liability and inspection**

Federal law (42 U.S.C. s. 1791) provides protection for nonprofit organizations and others who act in good faith to donate and distribute excess food to persons in need. Nonprofit organizations include entities operating for religious, charitable, and educational purposes. Section 768.136, F.S., relating to liability for canned or perishable food distributed free of charge, defines the term “donor” and includes protection from criminal penalty or civil damages arising from the condition of the food unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor or an agent of the charitable or nonprofit organization.

Section 381.0072, F.S., requires the Department of Health to inspect those food service establishments not licensed under chapter 500, F.S., or chapter 509, F.S., and includes detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars and lounges, and facilities used at temporary food events, mobile food units, and vending machines at any facility regulated under this section of law.

**III. Effect of Proposed Changes:**

The bill amends s. 228.195, F.S., to create the “David Levitt School Food Anti-Hunger Act of 2001” and provide legislative intent for school districts to donate, on a weekly basis, any unused food products that would otherwise be disposed of in the trash to programs in their communities that fight hunger. The donations must be in accordance with health, safety, and sanitation guidelines.

School districts must enter into agreements with charities and not-for-profit corporations, including faith-based organizations, in their communities whose missions include providing meals to hungry families. School districts in counties with no hunger assistance programs or districts with no substantial unused food products are exempt from these provisions. The bill allows the Department of Education to adopt rules to ensure that the stated goals are met.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

To the extent that the provision of the bill result in additional donations for food recovery efforts, persons served by various organizations and food banks may benefit.

**C. Government Sector Impact:**

None. While the bill requires school districts to enter into agreements with various organizations to donate unused food products, it also provides exemptions from these provisions if counties do not have hunger assistance programs or if districts have no substantial unused food products. The USDA has developed sample contracts for donor schools and recipient organizations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

USA Harvest is an organization that collects and distributes food. USA Harvest's Operation Food for Thought offers teachers ways to integrate hunger awareness into the curriculum, including food collection from school cafeterias. According to information provided by the sponsor of the bill, David Levitt, a 1993 student at Osceola Middle School in Pinellas County, became interested in having his school donate leftover or unused food to local charities. In 1994, the Pinellas County School Board entered into a contract with the local affiliate of U.S.A. Harvest to donate unused and leftover food products. The school board has a current contract with the local affiliate. According to the Department of Agriculture and Consumer Services, there are four additional school districts (Alachua, Leon, Pasco, and Wakulla) that participate in food recovery efforts and two of these districts have contracts with a not-for-profit organization. The Department of Education noted that districts with substantial donations of unused food have contracts with the recipient agencies which contain the USDA "hold harmless" provision.

**VIII. Amendments:**

None.