

By the Committees on Budget; and Agriculture; and Senators
Siplin and Gaetz

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1 A bill to be entitled
2 An act relating to school nutrition programs;
3 providing a short title; transferring and reassigning
4 functions and responsibilities, including records,
5 personnel, property, and unexpended balances of
6 appropriations and other resources for the
7 administration of the school food and nutrition
8 programs from the Department of Education to the
9 Department of Agriculture and Consumer Services;
10 creating s. 570.98, F.S.; requiring the Department of
11 Agriculture and Consumer Services to conduct,
12 supervise, and administer all school food and
13 nutrition programs; requiring the department to
14 cooperate fully with the United States Government;
15 authorizing the department to act as agent of, or
16 contract with, the Federal Government, other state
17 agencies, or any county or municipal government for
18 the administration of the school food and nutrition
19 programs; transferring, renumbering, and amending s.
20 1006.06, F.S., relating to school food service
21 programs; conforming provisions to changes made by the
22 act; deleting obsolete provisions; transferring,
23 renumbering, and amending ss. 1006.0606 and 1010.77,
24 F.S., relating to the children's summer nutrition
25 program and the Food and Nutrition Services Trust
26 Fund, respectively; conforming provisions to changes
27 made by the act; deleting obsolete provisions;
28 amending s. 1003.453, F.S.; requiring each school
29 district to send an updated copy of its wellness

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30 policy and physical education policy to the Department
31 of Education and the Department of Agriculture and
32 Consumer Services; deleting obsolete provisions;
33 requiring certain information to be accessible from
34 the website of the Department of Agriculture and
35 Consumer Services; creating the Healthy Schools for
36 Healthy Lives Council within the Department of
37 Agriculture and Consumer Services; requiring the
38 Commissioner of Agriculture to appoint members of the
39 council; providing duties of the council; providing
40 requirements for the meetings, powers, duties,
41 procedures, and recordkeeping of the council;
42 requiring the Department of Education, in consultation
43 with the Department of Agriculture and Consumer
44 Services, to develop and submit a request for a waiver
45 to the United States Department of Agriculture to
46 transfer administration of the school food service and
47 nutrition programs; requiring the Department of
48 Education to notify the Governor and the Legislature
49 regarding the decision of the United States Department
50 of Agriculture; providing for contingent effect based
51 upon federal approval of a request for a waiver;
52 providing effective dates.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. This act may be cited as the "Healthy Schools
57 for Healthy Lives Act."

58 Section 2. All powers, duties, functions, records,

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59 personnel, property, pending issues and existing contracts,
60 administrative authority, administrative rules, and unexpended
61 balances of appropriations, allocations, and other funds for the
62 administration of the school food and nutrition programs are
63 transferred by a type two transfer, as defined in s. 20.06(2),
64 Florida Statutes, from the Department of Education to the
65 Department of Agriculture and Consumer Services.

66 Section 3. Section 570.98, Florida Statutes, is created to
67 read:

68 570.98 School food and nutrition programs.-

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

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

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

83 Section 4. Section 1006.06, Florida Statutes, is
84 transferred, renumbered as section 570.981, Florida Statutes,
85 and amended to read:

86 570.981 ~~1006.06~~ School food service programs.-

87 (1) In recognition of the demonstrated relationship between

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88 good nutrition and the capacity of students to develop and
89 learn, it is the policy of the state to provide standards for
90 school food service and to require district school boards to
91 establish and maintain an appropriate private school food
92 service program consistent with the nutritional needs of
93 students.

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

97 (3) Each district school board shall consider the
98 recommendations of the district school superintendent and adopt
99 policies to provide for an appropriate food and nutrition
100 program for students consistent with federal law and department
101 ~~State Board of Education~~ rule.

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

106 (5) (a) Each district school board shall implement school
107 breakfast programs that make breakfast meals available to all
108 students in each elementary school. ~~By the beginning of the~~
109 ~~2010-2011 school year,~~ Universal school breakfast programs shall
110 be offered in schools in which 80 percent or more of the
111 students are eligible for free or reduced-price meals. Each
112 school shall, to the maximum extent practicable, make breakfast
113 meals available to students at an alternative site location,
114 which may include, but need not be limited to, alternative
115 breakfast options as described in publications of the Food and
116 Nutrition Service of the United States Department of Agriculture

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117 for the federal School Breakfast Program.

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

125 (c) Each district school board is encouraged to provide
126 universal-free school breakfast meals to all students in each
127 elementary, middle, and high school. ~~By the beginning of the~~
128 ~~2010-2011 school year,~~ Each district school board shall approve
129 or disapprove a policy, after receiving public testimony
130 concerning the proposed policy at two or more regular meetings,
131 which makes universal-free school breakfast meals available to
132 all students in each elementary, middle, and high school in
133 which 80 percent or more of the students are eligible for free
134 or reduced-price meals.

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

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

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

150 (g) The commissioner shall make every reasonable effort to
151 ensure that any school designated as a "severe need school"
152 receives the highest rate of reimbursement to which it is
153 entitled under 42 U.S.C. s. 1773 for each breakfast meal served.

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

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

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

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

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

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

174 (b) School districts and schools to make reasonable efforts

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175 to select foods based on a preference for those that have
176 maximum nutritional content.

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

183 Section 5. Section 1006.0606, Florida Statutes, is
184 transferred, renumbered as section 570.982, Florida Statutes,
185 and amended to read:

186 570.982 ~~1006.0606~~ Children's summer nutrition program.—

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

189 (2) Each district school board shall develop a plan ~~by May~~
190 ~~1, 2006,~~ to sponsor a summer nutrition program ~~beginning the~~
191 ~~summer of 2006~~ to operate sites in the school district as
192 follows:

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

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

201 (3) (a) A district school board ~~boards~~ may be exempt from
202 sponsoring a summer nutrition program pursuant to this section.
203 A district school board seeking such exemption must include the

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204 issue on an agenda at a regular or special district school board
205 meeting that is publicly noticed, provide residents an
206 opportunity to participate in the discussion, and vote on
207 whether to be exempt from this section. The district school
208 board shall notify the commissioner ~~of Education~~ within 10 days
209 after it decides to become exempt from this section.

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

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

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

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233 summer nutrition program sites in compliance with this section.

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

240 Section 6. Section 1010.77, Florida Statutes, is
241 transferred, renumbered as section 570.983, Florida Statutes,
242 and amended to read:

243 570.983 ~~1010.77~~ Food and Nutrition Services Trust Fund.—
244 Chapter 99-34, Laws of Florida, re-created the Food and
245 Nutrition Services Trust Fund to record revenue and
246 disbursements of Federal Food and Nutrition funds received by
247 the department of ~~Education~~ as authorized in s. 570.981 ~~s.~~
248 ~~1006.06~~.

249 Section 7. Section 1003.453, Florida Statutes, is amended
250 to read:

251 1003.453 School wellness and physical education policies;
252 nutrition guidelines.—

253 (1) ~~By September 1, 2006,~~ Each school district shall submit
254 to the Department of Education a copy of its school wellness
255 policy as required by the Child Nutrition and WIC
256 Reauthorization Act of 2004 and a copy of its physical education
257 policy required under s. 1003.455. Each school district shall
258 annually review its school wellness policy and physical
259 education policy and provide a procedure for public input and
260 revisions. In addition, each school district shall send an
261 updated copy of its wellness policy and physical education

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262 policy to the department and to the Department of Agriculture
263 and Consumer Services when a change or revision is made.

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

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

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

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

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

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

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

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

288 (g) Examples of wellness classes that provide nutrition
289 education for teachers and school support staff, including
290 encouragement to provide classes that are taught by a licensed

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291 nutrition professional from the school nutrition department.

292 (4) School districts are encouraged to provide basic
293 training in first aid, including cardiopulmonary resuscitation,
294 for all students, beginning in grade 6 and every 2 years
295 thereafter. Private and public partnerships for providing
296 training or necessary funding are encouraged.

297 Section 8. (1) There is created within the Department of
298 Agriculture and Consumer Services the Healthy Schools for
299 Healthy Lives Council, which shall consist of 11 members
300 appointed by the Commissioner of Agriculture. The council shall
301 advise the department on matters relating to nutritional
302 standards and the prevention of childhood obesity, nutrition
303 education, anaphylaxis, and other needs to further the
304 development of the various school nutrition programs.

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

309 Section 9. This section shall take effect upon this act
310 becoming a law and, within 30 days thereafter, the Department of
311 Education, in consultation with the Department of Agriculture
312 and Consumer Services, shall develop and submit to the United
313 States Department of Agriculture a request for a waiver required
314 to transfer administration of the school food service and
315 nutrition programs from the Department of Education to the
316 Department of Agriculture and Consumer Services. Upon receipt of
317 the United States Department of Agriculture's approval or denial
318 of the request for a waiver, the Department of Education shall
319 immediately notify in writing the Governor, the President of the

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320 Senate, and the Speaker of the House of Representatives
321 regarding the decision of the United States Department of
322 Agriculture. The notification shall include a copy of the United
323 States Department of Agriculture's approval or denial of the
324 request for a waiver.

325 Section 10. Except as otherwise expressly provided in this
326 act and except for this section, which shall take effect upon
327 this act becoming a law, this act shall take effect January 1,
328 2012, if the United States Department of Agriculture approves
329 the request for a waiver, pursuant to section 9 of this act, on
330 or before November 1, 2011.