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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 3043 **Hearing Date:** June 6, 2018  
**Author:** Berman  
**Version:** April 11, 2018  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Brandon Darnell

**Subject:** Pupil nutrition: breakfast and lunch programs.

## SUMMARY

This bill: (1) authorizes a school district to use cafeteria funds to also supplement the cost of providing universal breakfast and, with approval from the California Department of Education (CDE), to purchase a mobile food facility; (2) updates references to ensure that the CDE develops and maintains proper nutritional guidelines aligned to federal law; (3) doubles competitive grant awards to \$30,000 per schoolsite for nonrecurring expenses for initiating or expanding a school breakfast or federal summer meals program; and (4) requires the CDE to monitor schools participating in federal meal programs to ensure that meals served to students qualify for federal reimbursement.

## BACKGROUND

Existing federal law:

- 1) Authorizes a universal meal service option known as the Community Eligibility Provision (CEP), which allows a local educational agency that directly certifies for free meals at least 40 percent of the students in either the district overall, a group of schools within the district, or an individual school, to receive meal reimbursement based on a formula that equate to 1.6 times the free reimbursement rate for students directly certified for free or reduced-price meals, plus the standard reimbursement rate for paid meals. (Title 42 United State States Code § 1759a(a)(1)(F); 7 CFR § 245.9(f))
- 2) Authorizes an additional universal meal service option know as Provision 2 that allows a local educational agency to certify children for free and reduced-price meals for up to 4 consecutive school years in the schools that serve meals at no charge to all enrolled children. (42 USC § 1759a(a)(1)(C); 7 CFR § 245.9(b))

Existing state law:

- 1) Requires each school district or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each school day. (Education Code § 49550)
- 2) Requires CDE to award grantes of up to fifteen thousand dollars (\$15,000) per schoolsite on a competitive basis to school districts, county superintendents of schools, or entities approved by the department for nonrecurring expenses

incurred in initiating or expanding a school breakfast after the start of the school day program. (EC § 49550.3)

- 3) Requires California Department of Education (CDE) to develop and maintain nutrition guidelines for school lunches and breakfasts, and for all food and beverages sold on public school campuses, and requires these nutrition guidelines to consider current recommendations for children from the California Daily Food Guide published by the State Department of Health Services, to include guidelines for fat, saturated fat, and cholesterol, and to specify that where comparable food products of equal nutritional value are available the food product lower in fat, or saturated fat, or cholesterol shall be used. (EC § 49531.1)
- 4) Requires the cost of providing adequate housing for cafeterias, including, but not limited to, kitchen facilities, to be charged against the funds of the school district. (EC § 38100)

## ANALYSIS

This bill: (1) authorizes a school district to use cafeteria funds to also supplement the cost of providing universal breakfast and, with approval from the CDE, to purchase a mobile food facility; (2) updates references to ensure that the CDE develops and maintains proper nutritional guidelines aligned to federal law; (3) doubles competitive grant awards to \$30,000 per schoolsite for nonrecurring expenses for initiating or expanding a school breakfast or federal summer meals program; and (4) requires the CDE to monitor schools participating in federal meal programs to ensure that meals served to students qualify for federal reimbursement.

Specifically, this bill:

- 1) Clarifies the cost of providing adequate housing for cafeterias, including, but not limited to, permanent kitchen facilities, shall be a charge against the funds of the school district.
- 2) Authorizes the governing board of a school district to authorize expenditures from the cafeteria fund or cafeteria account to provide school breakfast after the start of the school day.
- 3) Authorizes, upon prior approval by CDE, the cost of purchasing a mobile food facility to be a charge against the cafeteria fund; requires a local educational agency that uses federal reimbursements from any of the federal child nutrition programs to purchase a mobile food facility to use the mobile food facility only to support the administration of those federal child nutrition programs; and, specifies that a mobile food facility used for any purposes other than to support the administration of federal child nutrition programs shall be purchased entirely from funding sources other than the cafeteria fund.
- 4) Increases the grant amount for providing school breakfast after the start of the school day, from \$15,000 to \$30,000 and specifies the grant funds may be used for providing a federal summer meals program and the Seamless Summer Option of the National School Lunch Program.

- 5) For purposes of providing school breakfast after the start of the school day, defines:
  - a) “Educational entity” to mean a school district, county superintendent of schools, private school, or charter school.
  - b) “Universal breakfast” to mean a nutritionally adequate breakfast that complies with the federal School Breakfast Program standards and qualifies for reimbursement is provided to every pupil at no charge.
- 6) Specifies, commencing with the 2019–20 school year, an educational entity that participates in the federal School Breakfast Program may, to the maximum extent practicable, provide universal breakfast, and requires an educational entity seeking to use the school food service account to supplement meal cost for universal breakfast to submit the following documentation to California Department of Education (CDE) for approval before implementing universal breakfast:
  - a) On or before July 1 of each year, an application signed by the educational entity’s governing board or governing body, certifying that the educational entity will provide breakfast at no charge to all children and agrees to cover any costs of providing free meals to all students above the amount provided in federal assistance with nonfederal funds.
  - b) Specifies this requirement would exclude educational entities that are currently participating in Provision 1, 2, or 3, and the Community Eligibility Provision.
- 7) Authorizes contributions that are a direct support of universal breakfast to be used to offset operation costs. These contributions may include:
  - a) The Nonprofit School Food Service Account.
  - b) Funds provided to support universal breakfast by organizations, including, but not limited to, school-related and community groups, or by the city, county, city and county, or state.
- 8) Specifies the State of California strives to serve food of the highest quality and greatest nutritional value possible, and requires the CDE to monitor schools participating in the federal National School Lunch Program and School Breakfast Program to ensure that the nutrition levels of meals served to school aged children qualify for reimbursement under the federal child nutrition program regulations.
- 9) Specifies that a nutritionally adequate breakfast is one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program and that a nutritionally adequate lunch is one that qualifies for reimbursement under the most current meal pattern for the federal National School Lunch Program.

- 10) Requires California Department of Education (CDE) to maintain nutrition guidelines and deletes the requirement for the nutrition guidelines to consider current recommendations for children from the California Daily Food Guide published by the State Department of Health Services.
- 11) Specifies that the nutrition guidelines for breakfast and lunch are defined as meals that qualify for reimbursement under the most current meal pattern for the federal National School Lunch Program and School Breakfast Program.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “California has been a national model for state policies that strengthen and improve the nutritional quality of foods offered in schools. However, due to changes and recent guidance at the federal level as well the importance of updating existing law to reflect the needs of today, AB 3043 makes changes to improve and increase access to school nutrition programs in California.”
- 2) ***Desire for increased universal breakfast participation.*** According to the CDE, “Recent guidance from the U.S. Department of Agriculture (USDA) and the Food and Nutrition Services encourages the CDE to allow for the use of funds from the Cafeteria Fund to cover the cost of meals and provide a free breakfast to all students, including paid and reduced priced eligible students. Schools are interested in participating in Universal Classroom breakfast, but are unable to cover the costs for all students. As a result, breakfast participation is low. By allowing the use of funds from the Cafeteria fund to supplement the cost of Universal Classroom Breakfast, the CDE expects breakfast participation to go up and will ensure more students have access to a nutritious breakfast.”

In addition to increased participation, the author notes that universal breakfast has the following additional benefits:

- a) Removes the stigma among children from different socioeconomic families.
  - b) Eliminates the burden of collecting fees, even though schools would still collect applications and claim students at the appropriate levels.
  - c) Eliminates student shaming when they do not have money to pay for a meal.
  - d) Students that eat a healthy breakfast have better academic success.
- 3) ***Mobile Food Trucks.*** This bill will allow districts to use Cafeteria Funds to purchase food facilities (food trucks). Current education code prohibits using Cafeteria Funds for costs associated with housing a cafeteria or kitchen facilities. According to the CDE, it “has also received guidance regarding the purchase of food trucks as an allowable charge to the Cafeteria Fund... The purchase of food trucks would assist schools in the operation of their meal program, create additional points of service, and help expand access to school meals while

maintaining nutritional standards. In the past several years, the CDE has received over a dozen requests from districts, but has not been able to approve the use of the Cafeteria Fund for this purchase due to current law”

The author also notes other potential benefits of allowing food trucks, including:

- a) Helps with adequate time to eat.
  - b) Helps to store, deliver, and transport food at safe temperatures.
  - c) Allows for a wide variety of entrée choices cooked on the truck.
  - d) The ability to reach students that do not patronize the traditional school cafeteria and helps decrease the stigma of school lunches.
- 4) **School Breakfast Program/Summer Food Service Program Start-up and Expansion Grants.** This bill increases the grant amounts for the School Breakfast Program and Summer Food Service Program Start-up and Expansion grants from \$15,000 to \$30,000. Currently, the Legislature annually appropriates \$1.017 million in the State Budget for these grants of up to \$15,000 per school site for nonrecurring expenses. Additionally, in 2016, Governor Brown signed SB 828 into law, which provided an additional \$2 million in grant funds for two years for sites that want to start-up or expand Breakfast After the Bell (BATB) service models. The funds, which are available in School Years 2017–18 and 2018–19, prioritize grants for BATB in schools that have at least 60 percent of enrolled students approved for free or reduced-price-meals.
- 5) **Nutrition Guidelines.** This bill updates outdated code sections that require California Department of Education (CDE) to maintain nutrition guidelines according to the California Daily Food Guide and make recommendations to districts about the cholesterol content of food. CDE maintains the most current federal nutritional guidelines for school lunches and breakfasts. The California Daily Food Guide published by the State Department of Health Services is an outdated document. There is no longer specific guidance for schools on the amount of cholesterol in meals since it is not a dietary specification in the United States Department of Agriculture meal pattern requirements and it is not emphasized in the 2015 dietary guidelines (in fact the cholesterol limit was removed in the 2015 Dietary Guidelines for Americans). Limits on total calories, saturated fat, and Trans fat address cholesterol content.
- 6) **Previous legislation.** SB 138 (Thurmond, Chapter 724, Statutes of 2017) requires the CDE, in consultation with the State Department of Health Care Services, to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program; requires school districts and county offices of education with high poverty schools and high poverty charter schools currently participating in the breakfast or lunch program to provide breakfast and lunch free of charge to all students at those schools; and, authorizes a school district, county office of education or charter school to opt-out due to fiscal hardship.

SB 250 (Hertzberg, Chapter 726, Statutes of 2017) requires a local educational agency (LEA) to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed, treated differently or served a meal that differs from what a pupil whose parent or guardian does not have unpaid school meal fees would receive under the LEA's policy; requires a LEA to attempt to directly certify a family for the free and reduced lunch program when a student has unpaid school meal fees and before the LEA notifies the parent or guardian within 10 days of reaching a negative balance; and, prohibits school personnel from allowing any disciplinary action that is taken against the student to result in the denial or delay of a nutritionally adequate meal, to that pupil.

**SUPPORT**

State Superintendent of Public Instruction Tom Torlakson  
American Academy of Pediatrics  
Bay Area Student Activists  
California Academy of Nutrition and Dietetics  
California Food Policy Advocates  
California School Nurses Association  
California School Nutrition Association  
California State PTA  
California Teachers Association  
Common Sense Kids Action  
County Health Executives Association of California  
Los Angeles County Office of Education  
National Association of Social Workers – California Chapter  
No Kid Hungary – California

**OPPOSITION**

Department of Finance

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