

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0131.01 Richard Sweetman

HOUSE BILL 10-1066

HOUSE SPONSORSHIP

Massey and Scanlan,

SENATE SPONSORSHIP

Sandoval,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT THAT THE DEPARTMENT OF EDUCATION
102 PROVIDE FOOD TO SCHOOL FOOD AUTHORITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires the department of education (department) to procure approved food and beverages for and distribute them to any board of cooperative services (BOCES) that contracts with the department for the service. The state board of education is required to promulgate rules identifying approved food and beverages. A BOCES may contract with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the department or one or more food and beverage distributors, or any combination thereof, for the provision of food and beverages.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 5 of title 22, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-5-120. School food authority operations - contracts for**
5 **provision of food and beverages.** (1) IN MAINTAINING, EQUIPPING, AND
6 OPERATING A FOOD-SERVICE FACILITY AS A SCHOOL FOOD AUTHORITY, AS
7 DEFINED IN SECTION 22-32-120 (8), A BOARD OF COOPERATIVE SERVICES
8 MAY CONTRACT FOR THE PROVISION OF FOOD AND BEVERAGES FROM:

9 (a) THE DEPARTMENT OF EDUCATION, ACTING IN ITS CAPACITY AS
10 A PROCURER AND DISTRIBUTOR OF APPROVED FOOD AND BEVERAGES AS
11 DESCRIBED IN SECTION 22-2-138;

12 (b) ONE OR MORE DISTRIBUTORS OF FOOD AND BEVERAGES; OR

13 (c) ANY COMBINATION OF THE DEPARTMENT OF EDUCATION AND
14 ONE OR MORE DISTRIBUTORS OF FOOD AND BEVERAGES.

15 **SECTION 2.** Part 1 of article 2 of title 22, Colorado Revised
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
17 read:

18 **22-2-138. Department of education - procurement and**
19 **distribution of food and beverages - definitions - rules.** (1) ON AND
20 AFTER JANUARY 1, 2011, THE DEPARTMENT OF EDUCATION SHALL
21 PROCURE APPROVED FOOD AND BEVERAGES FOR AND DISTRIBUTE
22 APPROVED FOOD AND BEVERAGES TO ANY BOARD OF COOPERATIVE
23 SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT CHOOSES
24 TO CONTRACT WITH THE DEPARTMENT FOR SUCH SERVICES PURSUANT TO
25 SECTION 22-5-120.

1 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES, "APPROVED FOOD AND BEVERAGES" MEANS FOOD AND
3 BEVERAGES THAT ARE DESIGNATED BY RULES PROMULGATED BY THE
4 STATE BOARD OF EDUCATION PURSUANT TO SUBSECTION (5) OF THIS
5 SECTION AS BEING APPROVED FOOD AND BEVERAGES THAT MAY BE
6 PROCURED AND DISTRIBUTED BY THE DEPARTMENT TO BOARDS OF
7 COOPERATIVE SERVICES.

8 (3) IN CONTRACTING WITH A BOARD OF COOPERATIVE SERVICES
9 FOR THE PROVISION OF THE SERVICES DESCRIBED IN SUBSECTION (1) OF
10 THIS SECTION, THE DEPARTMENT SHALL AGREE TO PROVIDE THE SERVICES
11 ON A NONPROFIT BASIS TO THE EXTENT PRACTICABLE.

12 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
13 CONTRARY, THE DEPARTMENT SHALL NOT PROCURE OR DISTRIBUTE TO A
14 BOARD OF COOPERATIVE SERVICES ANY FOOD OR BEVERAGE OTHER THAN
15 APPROVED FOOD AND BEVERAGES.

16 (5) (a) ON OR BEFORE NOVEMBER 1, 2010, THE STATE BOARD
17 SHALL PROMULGATE RULES FOR THE PROCUREMENT AND DISTRIBUTION OF
18 FOOD AND BEVERAGES BY THE DEPARTMENT TO BOARDS OF COOPERATIVE
19 SERVICES PURSUANT TO SUBSECTION (1) OF THIS SECTION. THE RULES, AT
20 A MINIMUM, SHALL INCLUDE THE IDENTIFICATION OF APPROVED FOOD AND
21 BEVERAGES THAT THE DEPARTMENT MAY PROCURE AND DISTRIBUTE TO
22 BOARDS OF COOPERATIVE SERVICES PURSUANT TO SUBSECTION (1) OF THIS
23 SECTION.

24 (b) IN PROMULGATING RULES IDENTIFYING APPROVED FOOD AND
25 BEVERAGES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE
26 STATE BOARD SHALL ENSURE THAT EACH APPROVED FOOD AND BEVERAGE,
27 AT A MINIMUM, SATISFIES MINIMUM NUTRITIONAL STANDARDS FOR FOOD

1 AND BEVERAGES, WHICH STANDARDS ARE SCIENCE-BASED AND
2 ESTABLISHED BY A NATIONAL ORGANIZATION THAT ESTABLISHES AND
3 PROMOTES MINIMUM NUTRITIONAL STANDARDS FOR FOOD AND BEVERAGES
4 SERVED TO STUDENTS IN SCHOOLS.

5 (c) IN PROMULGATING RULES IDENTIFYING APPROVED FOOD AND
6 BEVERAGES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE
7 STATE BOARD SHALL ENSURE THAT EACH APPROVED FOOD DOES NOT
8 CONTAIN:

9 (I) THIRTY-FIVE PERCENT OR MORE OF TOTAL CALORIES FROM FAT;

10 (II) TEN PERCENT OR MORE OF TOTAL CALORIES FROM SATURATED
11 FATS;

12 (III) TRANS FAT;

13 (IV) MORE THAN THIRTY-FIVE PERCENT OF CALORIES FROM TOTAL
14 SUGARS; EXCEPT THAT A YOGURT MAY CONTAIN NO MORE THAN THIRTY
15 GRAMS OF TOTAL SUGARS PER PORTION AS PACKAGED; AND

16 (V) MORE THAN TWO HUNDRED GRAMS OF SODIUM PER PORTION
17 AS PACKAGED.

18 (d) IN PROMULGATING RULES IDENTIFYING APPROVED FOOD AND
19 BEVERAGES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), THE
20 STATE BOARD SHALL ENSURE THAT EACH APPROVED BEVERAGE SATISFIES
21 THE MINIMUM NUTRITIONAL STANDARDS FOR BEVERAGES ESTABLISHED BY
22 RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SECTION
23 22-32-134.5 (2) (a).

24 (e) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF
25 THIS SUBSECTION (5), THE NUTRITIONAL REQUIREMENTS DESCRIBED IN
26 SAID PARAGRAPH (c) SHALL NOT APPLY TO FRUITS, NUTS, SEEDS, OR EGGS.

27 (6) NOTWITHSTANDING ANY PROVISION OF LAW TO THE

1 CONTRARY, IN PROCURING AND DISTRIBUTING APPROVED FOOD AND
2 BEVERAGES TO BOARDS OF COOPERATIVE SERVICES PURSUANT TO THIS
3 SECTION, THE DEPARTMENT SHALL BE EXEMPT FROM ANY RULE
4 PROMULGATED PURSUANT TO, OR ANY OTHER PROVISION OF, THE
5 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S.

6 **SECTION 3.** 22-5-118 (3) (b) (VI), Colorado Revised Statutes,
7 is amended, and the said 22-5-118 (3) (b) is further amended BY THE
8 ADDITION OF A NEW SUBPARAGRAPH, to read:

9 **22-5-118. Implementation and financing of regional education**
10 **and support services - plan - annual report.** (3) (b) Each plan shall
11 include but is not limited to measures concerning:

12 (VI) Agreements to act as a regional administrative unit for
13 transportation, cooperative purchasing, ~~food~~, and other noninstructional
14 support services, as may be appropriate;

15 (VI.5) AGREEMENTS PERTAINING TO THE BOARD'S OPERATIONS AS
16 A SCHOOL FOOD AUTHORITY, AS DEFINED IN SECTION 22-32-120 (8); AND

17 **SECTION 4.** 22-30.5-103 (6.7) (a), Colorado Revised Statutes,
18 is amended, and the said 22-30.5-103 (6.7) is further amended BY THE
19 ADDITION OF A NEW PARAGRAPH, to read:

20 **22-30.5-103. Definitions.** As used in this part 1, unless the
21 context otherwise requires:

22 (6.7) "School food authority" means:

23 (a) A school district or the state charter school institute; ~~or~~

24 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
25 ARTICLE 5 OF THIS TITLE; OR

26 **SECTION 5.** 22-30.5-502 (10.5) (a), Colorado Revised Statutes,
27 is amended, and the said 22-30.5-502 (10.5) is further amended BY THE

1 ADDITION OF A NEW PARAGRAPH, to read:

2 **22-30.5-502. Definitions.** As used in this part 5, unless the
3 context otherwise requires:

4 (10.5) "School food authority" means:

5 (a) A school district or the state charter school institute; ~~or~~

6 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
7 ARTICLE 5 OF THIS TITLE; OR

8 **SECTION 6.** 22-32-120 (8) (a), Colorado Revised Statutes, is
9 amended, and the said 22-32-120 (8) is further amended BY THE
10 ADDITION OF A NEW PARAGRAPH, to read:

11 **22-32-120. Food services - facilities - school food authorities -**
12 **rules - repeal.** (8) As used in this section, "school food authority"
13 means:

14 (a) A school district or the state charter school institute; ~~or~~

15 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
16 ARTICLE 5 OF THIS TITLE; OR

17 **SECTION 7.** 22-54-123 (2) (a), Colorado Revised Statutes, is
18 amended, and the said 22-54-123 (2) is further amended BY THE
19 ADDITION OF A NEW PARAGRAPH, to read:

20 **22-54-123. National school lunch act - appropriation of state**
21 **matching funds.** (2) As used in this section, unless the context
22 otherwise requires, "school food authority" means:

23 (a) A school district or the state charter school institute; ~~or~~

24 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
25 ARTICLE 5 OF THIS TITLE; OR

26 **SECTION 8.** 22-54-123.5 (2) (b) (I), Colorado Revised Statutes,
27 is amended, and the said 22-54-123.5 (2) (b) is further amended BY THE

1 ADDITION OF A NEW SUBPARAGRAPH, to read:

2 **22-54-123.5. School breakfast program - appropriation -**
3 **low-performing schools.** (2) As used in this section:

4 (b) "School food authority" means:

5 (I) A school district or the state charter school institute; ~~or~~

6 (I.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
7 ARTICLE 5 OF THIS TITLE; OR

8 **SECTION 9.** 22-82.7-102 (5) (a), Colorado Revised Statutes, is
9 amended, and the said 22-82.7-102 (5) is further amended BY THE
10 ADDITION OF A NEW PARAGRAPH, to read:

11 **22-82.7-102. Definitions.** As used in this article, unless the
12 context otherwise requires:

13 (5) "School food authority" means:

14 (a) A school district or the state charter school institute; ~~or~~

15 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
16 ARTICLE 5 OF THIS TITLE; OR

17 **SECTION 10.** 22-82.9-103 (2.5) (a), Colorado Revised Statutes,
18 is amended, and the said 22-82.9-103 (2.5) is further amended BY THE
19 ADDITION OF A NEW PARAGRAPH, to read:

20 **22-82.9-103. Definitions.** As used in this article, unless the
21 context otherwise requires:

22 (2.5) "School food authority" means:

23 (a) A school district or the state charter school institute; ~~or~~

24 (a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
25 ARTICLE 5 OF THIS TITLE; OR

26 **SECTION 11. Act subject to petition - effective date.** This act
27 shall take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part shall not take effect
6 unless approved by the people at the general election to be held in
7 November 2010 and shall take effect on the date of the official
8 declaration of the vote thereon by the governor.