

SENATE No. 2314

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Ways and Means) to the House Bill relative to school nutrition (House, No. 4459).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION Subsection (a) of section 23B of chapter 7 of the General Laws, as appearing
2 in the 2008 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words
3 “agency or authority”, and inserting in place thereof the following words:- agency, authority or
4 trustees or officers of a state college or university designated by such trustees.

5 SECTION Said section 23B of said chapter 7, as so appearing, is hereby further
6 amended by striking subsection (b) and inserting in place thereof the following 2 subsections:-

7 (b) To effectuate the preference for those products of agriculture grown or produced
8 using locally grown products, the state purchasing agent responsible for procuring the products
9 on behalf of a state agency, authority or trustees or officers of a state college or university
10 designated by such trustees shall in advertising for bids, contracts or otherwise procuring
11 products of agriculture, make reasonable efforts to facilitate the purchase of such products of
12 agriculture grown or produced using products grown in the commonwealth.

13 (c) The state purchasing agent responsible for procuring the products on behalf of a state
14 agency or authority shall purchase the products of agriculture grown or produced using products
15 grown in the commonwealth, unless the price of the goods exceeds, by more than 10 per cent, the
16 price of products of agriculture grown or produced using products grown outside of the
17 commonwealth.

18 SECTION Section 4 of chapter 30B of the General Laws, as so appearing, is hereby
19 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

20 (d) A procurement officer who follows generally-accepted business practices may award
21 a contract which includes individual purchases of less than \$25,000 for the procurement of
22 products of agriculture as defined in section 1A of chapter 128 including, but not limited to,
23 fruits, vegetables, eggs, dairy products, meats, crops, horticultural products and products
24 processed into value added products as part of a Massachusetts farm operation, that are grown or
25 produced using products grown in the commonwealth as well as fish, seafood and other aquatic
26 products, without seeking quotations as required under subsection (a).

27 SECTION The third paragraph of section 1D of chapter 69 of the General Laws, as so
28 appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof
29 the following 2 sentences:- The standards shall provide for instruction in the issues of nutrition
30 and exercise. The standards may provide for instruction in the issues of physical education,
31 human immunodeficiency virus and acquired immune deficiency syndrome education, violence
32 prevention and drug, alcohol and tobacco abuse prevention.

33 SECTION The fourteenth paragraph of section 1I of said chapter 69, as so appearing, is
34 hereby amended by striking out clauses (j) and (k) and inserting in place thereof the following 3
35 clauses:-

36 (j) multi-cultural education training for students and teachers;

37 (k) global education; and

38 (l) nutrition and wellness programs.

39 SECTION Chapter 111 of the General Laws is hereby amended by adding the following
40 section:-

41 Section 222. (a) As used in this section, the following words shall have the following
42 meanings:-

43 “Competitive foods or beverages”, all foods or beverages sold or provided in: (i) à la
44 carte lines in school cafeterias; (ii) school stores; (iii) school snack bars; (iv) vending machines;
45 and (v) any other locations in public schools; provided, however, that competitive foods or
46 beverages shall not include foods sold or provided as part of the School Breakfast Program, the
47 School Lunch Program and the Child and Adult Care Food Program of the United States
48 Department of Agriculture.

49 “Nutritional standards”, the standards promulgated by the department, in consultation
50 with the department of elementary and secondary education, in accordance with subsection (c).

51 “Public school”, an elementary, middle, high, charter or innovation school operated by a
52 public school district or board of trustees pursuant to chapter 71.

53 “School day”, the hours of the day that students must attend school.

54 (b) The department, in consultation with the department of elementary and secondary
55 education and the department of mental health, shall establish, and periodically
56 review, guidelines for:

57 (1) the training of all public school nurses in behavioral health and appropriate screening
58 and resources for the treatment of childhood obesity and behavioral health disorders, including
59 eating disorders;

60 (2) the recognition, treatment and availability of resources for children at risk for and
61 diagnosed with childhood obesity and type 2 diabetes;

62 (3) professional development and training of public school nurses and aid staff to gain the
63 most up-to-date knowledge on childhood obesity, eating disorders and type 2 diabetes so that
64 they can become more effective at screening for these conditions and making appropriate
65 referrals for treatment; and

66 (4) the establishment of a referral program where medical resources in the community
67 shall collaborate with public schools to identify children in need of nutritional services, and
68 provide these resources through in-school, outpatient and inpatient settings, where appropriate.

69 (c)(1) The department, in consultation with the department of elementary and secondary
70 education, shall promulgate regulations establishing nutritional standards for the sale or
71 provision of competitive foods or beverages in public schools.

72 (2) All competitive foods or beverages sold or provided in public schools shall be limited
73 to foods or beverages that comply with the nutritional standards; provided, however, that the

74 nutritional standards shall not apply to competitive foods or beverages sold on school grounds up
75 to 30 minutes before the beginning of the school day or 30 minutes after the end of the school
76 day with the exception of competitive foods or beverages sold through vending machines, in
77 which case the nutritional standards shall apply at all times; and provided further, that the
78 department may make reasonable exceptions for the application of the nutritional standards to
79 competitive foods or beverages sold during the school day at booster sales, concession stands,
80 and other school-sponsored or school-related fundraisers and events.

81 (3) In developing the regulations, the department, in consultation with the department of
82 elementary and secondary education, shall consider nutritional and dietary recommendations
83 developed by state, federal and independent departments and health advisory associations
84 including, but not limited to: the United States Department of Health and Human Services, the
85 United States Department of Agriculture, the American Dietetic Association, the national School
86 Nutrition Association, the Institute of Medicine, the American Heart Association and the School
87 Nutrition Association of Massachusetts; provided, however, that the department, where
88 appropriate, may develop the regulations in conformity with federal nutritional standards.

89 (4) The regulations shall include, but not be limited to, the following requirements for
90 public schools:

91 (i) making available plain, potable water to all public school students during the day, at
92 no cost to the students;

93 (ii) offering for sale fresh fruit and non-fried vegetables at any location where food is
94 sold; provided, however, that this shall not include non-refrigerated vending machines and
95 vending machines which dispense only beverages;

96 (iii) making nutritional information available to students for non-prepackaged
97 competitive foods or beverages; provided, however, that this shall not include fresh fruit or fresh
98 vegetables and foods or beverages sold during the school day at booster sales, concession stands,
99 and other school-sponsored or school-related fundraisers and events;

100 (iv) prohibiting fryolators in the preparation of competitive foods; provided, however,
101 that the department may establish exceptions for the use of fryolators in the preparation of
102 competitive foods sold during the school day at booster sales, concession stands and other
103 school-sponsored or school-related fundraisers and events; and

104 (v) ensuring that all foods, including competitive foods or beverages sold or provided to
105 students during the school day, meet state and federal food safety requirements.

106 (d) The department, in collaboration with the department of elementary and secondary
107 education, shall assist public schools in the implementation of the nutritional standards relative to
108 the sale or provision of competitive foods or beverages in public schools. The assistance may
109 include:

110 (1) additional training in nutrition and diet available for school food service directors;

111 (2) an assessment of a school's capacity, resources and equipment to prepare and provide
112 recommended foods; and

113 (3) recommendations on the duration of school lunch periods.

114 (e) Every 5 years, the department, in consultation with the department of elementary and
115 secondary education, shall conduct a review of the nutritional standards and update the
116 nutritional standards as needed pursuant to subsection (c). In August of the last year of the 5-

117 year period, the department shall report the findings of the review to the speaker of the house of
118 representatives, the president of the senate, the joint committee on health care financing, the joint
119 committee on public health and the joint committee on education. The report shall include, but
120 not be limited to, the following information:

121 (1) an assessment of the success of implementing the nutritional standards in public
122 schools;

123 (2) the challenges or barriers experienced by public schools upon implementation of the
124 nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

125 (3) changes in revenue received from the sale of federally-reimbursable school meals;

126 (4) changes in total revenue from federally-reimbursable school meals and competitive
127 sales combined that were lost or gained after implementation of the nutritional standards and
128 guidelines for the sale or provision of competitive foods and beverages;

129 (5) notable changes in student participation in the federally-reimbursable school meals
130 programs; and

131 (6) recommendations for improvement of the nutritional standards and guidelines for the
132 sale or provision of competitive foods and beverages.

133 SECTION (a) There is hereby established a commission on school nutrition and
134 childhood obesity for the purpose of making an investigation and study of childhood obesity and
135 effective programs promoting proper nutrition and exercise for the children of the
136 commonwealth. The commission shall be co-chaired by the commissioner of public health and
137 the commissioner of elementary and secondary education, or their designees, and shall also

138 include: the commissioner of mental health or the commissioner's designee; the commissioner of
139 agricultural resources or the commissioner's designee; the chair of the statewide student advisory
140 council or the chair's designee; 2 members appointed by the Massachusetts association of school
141 superintendents; 1 member appointed by the Massachusetts association of secondary school
142 administrators; 1 member appointed by the Massachusetts nutrition board; 2 members appointed
143 by the governor, 1 of whom shall be a representative of the food or beverage industry; 1 member
144 appointed by the senate president and 1 member appointed by the speaker of the house of
145 representatives. The members of the commission shall serve without compensation.

146 (b) The commission shall conduct a comprehensive review of programs promoting proper
147 nutrition for children at each stage of development, both inside and outside of the school setting.
148 The commission's review shall consider, but not be limited to: (1) current school district
149 practices concerning nutrition and physical education in public schools; (2) current practices
150 related to the treatment and management of childhood obesity, type 2 diabetes and eating
151 disorders in the school setting; (3) methods for encouraging the consumption of well-balanced,
152 healthy meals, in accordance with the nutritional standards established by the department of
153 public health in subsection (c) of section 222 of chapter 111 of the General Laws, for students
154 both inside and outside of the school setting; and (4) the appropriate levels of physical education
155 and activity for all children of the commonwealth.

156 (c) The commission shall file a report detailing its review and recommendations, along
157 with any legislative proposals to implement the recommendations, with the clerk of the senate
158 and the clerk of the house of representatives not later than July 31, 2011.

159 SECTION Notwithstanding any general or special law to the contrary, the department of
160 elementary and secondary education shall evaluate the success of the Boston public school
161 system's a pilot program, known as Chefs in Schools to provide healthy, cost-effective meals to
162 students during the school day. The department's report shall identify other public schools in the
163 commonwealth in which similar programs may be implemented and shall include an estimated
164 budget for implementing such programs. The department shall report its findings to the joint
165 committee on public health and the joint committee on education by December 31, 2010.

166 SECTION (a) The department of agricultural resources shall collect data including, but
167 not limited to:

168 (1) public school districts and other educational institutions currently purchasing locally-
169 grown farm products, as well as school districts or other educational institutions not yet
170 preferentially purchasing locally grown farm products;

171 (2) the type of farm products public schools wish to purchase;

172 (3) farms interested in selling locally-grown farm products to public schools or other
173 educational institutions;

174 (4) the types of locally-grown farm products available; and

175 (5) the names and contact information of farmers and farm organizations marketing the
176 locally-grown farm products.

177 (b) The department of elementary and secondary education shall collect data including,
178 but not limited to:

179 (1) the name of the procurement contact person at each public school district;

180 (2) a list of public school districts that feature locally-grown foods on their published
181 cafeteria menus;

182 (3) a list of public school districts that have school garden or greenhouse projects;

183 (4) a list of public school districts that include local agriculture in their curricula; and

184 (5) a list of public school districts that include serving locally-grown foods in their
185 wellness policies as a strategy to encourage healthy student meals.

186 (c) Based upon the data collected under subsections (a) and (b), the department of
187 agricultural resources, in consultation with the department of elementary and secondary
188 education, shall work with programs that facilitate the acquisition of local agricultural products
189 by public schools, including the farm-to-school project developed by the department of
190 agricultural resources, to develop a process by which farms interested in selling to public schools
191 may notify public schools and public schools interested in purchasing locally-grown farm
192 products may notify farms; provided, however, that the process ensures fair opportunities for all
193 farms interested in selling products to public schools in accordance with applicable laws and
194 regulations.

195 (d) The department of agricultural resources, in consultation with the department of
196 elementary and secondary education, shall file a report with the office of the governor, the
197 speaker of the house of representatives, the president of the senate, the joint committee on
198 education, the joint committee on public health and the joint committee on environment, natural
199 resources and agriculture that details the results of the data collected under subsections (a) and
200 (b) of this section, the steps taken to comply with subsection (c) and any recommendations,

201 together with drafts of legislation necessary to carry out those recommendations, by March 1,
202 2011.

203 SECTION Notwithstanding any general or special law to the contrary, the department of
204 public health, in consultation with the department of elementary and secondary education, shall
205 develop the nutritional standards as provided in section 222 of chapter 111 of the General Laws
206 not later than January 1, 2011 and the nutritional standards shall be implemented in public
207 schools not later than August 1, 2012.