

**STORAGE NAME:** h0545.sgc.doc  
**DATE:** March 29, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE  
COUNCIL FOR SMARTER GOVERNMENT  
ANALYSIS**

**BILL #:** HB 545  
**RELATING TO:** David Levitt School Food Anti-Hunger Act of 2001  
**SPONSOR(S):** Representative(s) Carassas  
**TIED BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) GENERAL EDUCATION YEAS 10 NAYS 0
  - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 9 NAYS 0
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

The United States Department of Agriculture (USDA) primarily governs school food service programs. The USDA strongly encourages the donation of unused food to charitable organizations.

While many Florida school districts actively participate in the donation of unused food products to charitable organizations, neither s. 228.195, F.S., *School Service Programs*; s. 570.0725, F.S., *Food Recovery*; nor the Florida Administrative Code, address the donation by schools of unused food to charitable or not-for-profit organizations.

HB 545 creates the David Levitt School Food Anti-Hunger Act of 2001. This act provides that school districts should enter into agreements to donate their unused food products that would otherwise be discarded to charities and not-for-profit corporations whose mission is to feed hungry families. Districts, which do not have appropriate organizations in their community or do not have substantial unused food products, are exempt from this requirement. Additionally, the Department of Education is authorized to adopt rules to implement the provisions of this bill.

The effective date of this bill is upon becoming law.

There are no significant fiscal impacts to the state or to local school districts.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1993, as a middle school student, David Levitt, for whom this bill is named, urged the Pinellas School District to start a program that would donate their unused food to charities that feed the hungry. Presently, this program donates approximately 230,000 pounds of food a year to the Tampa Bay Harvest.

**Federal Requirements**

The United States Department of Agriculture (USDA) primarily governs food service programs. The two main school food service programs under Title 7, Code of Federal Regulations 210, 220, are the National School Lunch and Breakfast Programs. USDA regulations do not restrict the disposal of unused food by school districts, with the exception of USDA commodities.

USDA Policy Memorandum 210,10-13, "strongly encourages" the donation of leftover food to not-for-profit institutions. Additionally, the memorandum recommends that donating school districts enter into contractual agreements with recipient institutions. It is recommended that these contracts contain protective stipulations regarding liability for food transportation, storage, and safety.

**Florida Requirements**

Currently, s. 570.0725, F.S., addresses the donation of surplus food. This section provides for the Department of Agriculture to facilitate procedures and programs to aid in the donation of surplus or blemished fruit and vegetables to charitable or nonprofit organizations that help feed the homeless or others who are in need of food. Section 570.0725, F.S., does not address the donation of food by school districts. No Florida Statute or Administrative Code restricts the donation of unused food by school districts.

According to the Department of Education, school districts continually train and monitor food service staff to plan and prepare meals so as to minimize leftovers. When there are leftovers, the procedure is to serve them the next day as an additional menu choice, or to freeze the leftovers for service at the first opportunity. When that is not practical, some districts have procedures to donate unused food items to specified non-profit organizations (e.g. Tampa Bay Harvest, Boys and Girls Clubs, etc.). Those districts having substantial donations execute contracts with the receiving organizations that include the USDA recommended "hold harmless" provision, which protects districts from liability associated with food transportation, storage, and safety.

C. EFFECT OF PROPOSED CHANGES:

HB 545 provides that school districts should enter into agreements to donate their unused food products that would otherwise be discarded to charities and not-for-profit corporations whose mission is to feed hungry families. Districts, which do not have appropriate organizations in their community or do not have substantial unused food products, are exempt from this subsection. Additionally, the Department of Education is authorized to adopt rules to implement the provisions of this bill.

According to the Department of Education, most school districts do not have substantial unused food products or already donate their unused food products to charities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Cites the act as the, "David Levitt School Food Anti-Hunger Act of 2001."

Section 2: Amends s. 228.195, F.S.; requiring school districts to donate unused food products that would otherwise be discarded to charities and not-for-profit corporations which give food to hungry families; requiring school districts to enter into agreements with charities and not-for-profits in the community whose mission is to provide meals to hungry families; providing exemptions to school districts that do not readily have such groups in their communities, or do not have substantial unused food products; providing rulemaking authority to the Department of Education to implement goals of the act.

Section 3: Provides that the act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Education the authority to adopt rules to ensure the provisions of this bill are met.

C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee for General Education considered this bill on March 26, 2001, and reported it favorably with one amendment. The amendment makes two technical changes. The amendment standardizes some of the language within the bill, and references s. 768.136, F.S., which pertains to liability relating to the donation of food.

The Council for Smarter Government considered this bill on March 29, 2001, and reported it favorable with one amendment to the amendment. The amendment changes the interval at which unused food should be donated from a "weekly" to "regular" basis allowing localities to decide for themselves the best schedule for distribution.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

Floyd Faglie

Staff Director:

Ouida Ashworth

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AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Staff Director:

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Maggie Moody

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Don Rubottom