

Capitolwire: Push to allow whole milk with school lunches is giving district officials heartburn.

By John Finnerty

Capitolwire.com Bureau Chief

HARRISBURG (April 20) – The state House last week almost unanimously approved legislation, House Bill 2397, that would empower local school districts to serve whole milk despite a federal prohibition against it. A similar bill, Senate Bill 1181, was unanimously approved by the Senate Agriculture and Rural Affairs committee on April 5, and is now awaiting a final vote by the full Senate.

But the broad and bipartisan support from lawmakers doesn't mean the proposal isn't without controversy.

School officials worry that because the legislation doesn't provide additional funding, members of the public might be expecting their local schools to make a change that the local schools can't afford.

Even as lawmakers prepared to vote on the matter, they acknowledged the obvious problem with the legislation.

"There's a real issue in whether schools will participate," said Rep. Emily Kinkead, D-Allegheny, who said that while the legislation does stipulate that the attorney general should defend schools, local officials will be faced with the prospect of losing access to federal funding while any legal challenges are ongoing.

Rep. John Lawrence, R-Chester, the prime sponsor of the legislation, didn't dismiss those concerns.

"She's correct," he said. "It's a valid point," he said.

Lawrence said he sought to mitigate the potential for federal pushback by including language in the bill indicating that schools should use state or local dollars to cover the cost of providing whole milk.

He agreed that most schools would probably take a wait-and-see approach while allowing "two or three brave" school districts to test the waters and see what kind of response the federal government makes.

The issue stems from a 2010 federal law, the Healthy, Hunger-Free Kids Act passed by Congress, which changed nutritional standards for school lunches. After that legislation, policies implemented by the USDA by 2012 then banned whole and 2% white milk, as well as 1% and 2% flavored milk, according to Politifact. That limited students' milk options to flavored skim, white skim or white 1% until 2017. Those regulations have loosened the last few years.

Congress allowed schools to offer 1% flavored milk if they could demonstrate "operational hardship" to their state agency in the 2017-'18 school year, and beginning in 2018-'19 they were able to offer the 1% flavored milk without a waiver, according to the USDA.

The federal government has offered waivers to schools to allow them to offer free school meals to all students through the COVID-19 pandemic. Those waivers are due to expire this summer, meaning schools will return to more normal operations for school meals – before COVID just over half the students in the state got free or reduced lunches through the National School Lunch Program.

For school officials, the prospect of having to come up with the cost of providing whole milk or passing along that cost to families or taxpayers while risking the loss of federal subsidies, all combine to make the proposal an unpalatable, unfunded mandate.

If the state doesn't increase its reimbursement to cover the cost of providing the whole milk, "it's going to be on "either on the students to pay for it, or it will be through property tax," Andrew Armagost, director of advocacy and analytics for the Pennsylvania Association of School Business Officials.

"We don't know where litigation will go in terms of, you know, challenging the federal nutritional guidance – at least all the way up to the US Supreme Court," said Armagost.

So, the legislation's provision requiring the attorney general to defend school districts "is not sufficient to be able to fully and I think efficiently implement that program."

Armagost said the school group isn't opposed to the idea of making whole milk available to students, they are just concerned about the practicality of the plan and the legal implications of defying federal guidelines.

Proponents of the legislation have asserted that the move to offer skim milk at school has resulted in many students refusing to drink milk at all at school.

A 2019 study on food waste in schools completed by the World Wildlife Fund estimated that milk waste in schools could have approached 45 million gallons in 2018.

That study didn't include a recommendation that schools be allowed to offer whole milk as a way to combat the problem and instead suggested that schools reinforce to students and staff that students are not obligated to get milk with their school meals if they don't intend to drink it. The report also suggested that rather than serve milk in cartons, schools can reduce waste by shifting to milk dispensers that allow students to determine how much milk they want.

The study found that when served milk from dispensers instead of from cartons, students were far less likely to throw out wasted milk.

When milk was served in cartons, the average student wasted 32 cartons of milk per year, while students who were served milk from dispensers, they wasted the equivalent of 4.5 cartons of milk per year.

Officials at PASBO said they didn't immediately have data on milk waste in schools in this state. And they added that it's not crystal clear that offering whole milk will make the beverage that much more popular with students.

The ban on whole milk for school meals has been in place for such a long time that preferences in beverage options have changed, said Timothy Shrom, director of research for PASBO.

"It's a whole different generation," he said.