



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

October 14, 2020

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin *JH*
Senior Legislative Budget and Policy Analyst

FROM: Cassandra Fields *KCF*
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Note
CB-071-2020, Healthy Children's Meals and Beverages

CB-071-2020 (Sponsored by: Councilmembers Council Members Harrison, Glaros, Streeter, Taveras, Davis, Dernoga, Hawkins, Franklin and Anderson-Walker)

Referred to the Committee of the Whole (COW)

AN ACT CONCERNING HEALTHY CHILDREN'S MEALS AND BEVERAGES, for the purpose of defining children's meal at a food service facility, food service facility, covered establishments and independent service facilities; establishing nutritional requirements and default beverages; and providing for enforcement and penalties.

Fiscal Summary

Direct Impact:

Expenditures: Potentially negative, based on inspection and enforcement efforts.

Revenues: Potentially positive, based on fines assessed for violations.

Indirect Impact:

Potentially positive, as the health benefits inherent in the alternative meal options could improve the overall health of children and, over time, the general population.

Legislative Summary:

CB-071-2020, sponsored by Councilmembers Harrison, Glaros, Streeter, Taveras, Davis, Dernoga, Hawkins, Franklin and Anderson-Walker was presented to the County Council on September 22, 2020 and referred to the Committee of the Whole (COW). CB-071-2020 seeks to define the following terms: *children's meal* at a food service facility, *a food service facility*, *covered establishments*, and *independent food service facilities*. The proposed legislation would establish default beverage options and establish nutritional requirements for children's meals. The bill would further provide certain qualifications, enforcement and penalties as it generally relates to healthy children's meals and beverages through a phased in process.

Current Law/Background:

The purpose of the Healthy Children's Meals and Beverages Act is to address the significant dietary health concerns for children in Prince George's County. The United States Centers for Disease Control and Prevention (CDC) has reported that children who suffer obesity are more likely to have obesity as an adult. An adult with obesity has a higher risk of developing heart disease, type 2 diabetes, metabolic syndrome, and many types of cancer. A joint release from Sugar Free Kids Maryland, the American Heart Association (AHA), Prince George's County Food Equity Council (FEC) and the Center for Science in Public Interest (CSPI) noted that the children of Prince George's County risk developing chronic diseases such as type 2 diabetes and heart disease at "alarming rates." The 2017 Prince George's County Health Report found that over 30% of high school students in the county were either overweight or obese, exceeding the state's prevalence at 26.4%. The major contributing factor to these problems is the overconsumption of sugary drinks.¹ These conditions also have shown to have a direct correlation to increased instances of becoming severely ill after contracting COVID-19.²

The legislation allows for a parent to choose as to whether their child selects restaurant items from the regular restaurant menu or the children's menu, however, as drafted, this legislation requires children's meal items to follow the United States Department of Agriculture (USDA) nutrition guidelines for a children's meal.³

This month, the CSPI published an updated chart that listed State and Local Restaurant Kids' Meal Policies.⁴ Of the twenty (20) communities, seventeen (17) enacted default beverage provisions to their code, whilst two (2) imposed regulations governing nutritional standards for single food items and meals sold with a toy/incentive item. The majority require meals being sold to include a beverage that is water or sparkling water, with no added sweetener, non-fat or low fat milk, or 100% fruit or vegetable juice, with no additional sweetener.⁵ A handful have more stringent restrictions pertaining to beverages to include

¹ Maryland Health Organizations Show Support For Prince George's County Council Healthy Kids' Meals Bill, Joint Release by Sugar Free Kids Maryland, AHA, FEC, and CSPI, 22 September 2020.

² Id.

³ <https://www.ersi.info/PDF/MealGuide1-12.pdf>

⁴ https://cspinet.org/sites/default/files/attachment/CSPI_chart_of_local_km_policies_October_2019_0.pdf

⁵ Cities of Philadelphia, Pennsylvania (Ord. 19-0505), New York City, New York (Ord. 1064-B), Wilmington, Delaware (Ord. 18-046), Baltimore, Maryland (17-0152), Louisville, Kentucky(Ord. O-064-18), Daly City, California (Ord. 1415), Long Beach, California (Ord. O 17-0027), Cathedral City, California (Ord. 803), Lafayette, Colorado (Ord. 2017-40), Berkley, California (Ord. 7560), Perris, California (Ord. 1340), Stockton, California (Ord. 2016-06-07-1502), Davis, California (Ord. 2451), San Francisco, California (Ord. 290-10).

specific caloric guidelines.⁶ In addition to a default beverage mandate, Louisville includes a “positive food component” requiring a children’s meal to include a fruit, vegetable, whole grain or lean protein.⁷ The inspection and enforcement provisions of these regulations were equally divided between self-certification, the State and/or local Department of Health, and the local licensing/inspection agency of the respective government agency.

Discussion/Policy Analysis:

If enacted, CB-071-2020 would, over a five-year period, impose requirements relating to the default beverage, default side, and the offering of a healthy children’s meal. The proposed legislation would start by making water, milk and 100% fruit juice *default* beverage options for all children’s meals served at Prince George’s County restaurants. It would then require that the default healthy side be offered with all children’s meals. Finally, it would ensure options in children’s meals that would limit calories, sugar, salt and fat by requiring every covered food service facility to offer at least one healthy children’s meal as a menu option. Families would still be able to order other beverage and side items upon request.

The bill sets forth definitions for ***Child Friendly Restaurant*** as any Covered Food Service Facility offering Healthy Children’s Meals. It further defines a ***Children’s Meal*** as a combination of food items and beverage that is prepared by and offered for purchase at a food service facility as a unit at a single price and represented to be primarily intended for consumption by a child. It shall not include a combination of food items that has been prepackaged by or at a facility other than the food service facility offering the prepackaged combination for purchase.

Covered Food Service Facility is provided by Section 12-104(a)(7) of the existing County code.

Default Beverage refers to the beverage automatically included as part of a children's meal, absent a specific request by the purchaser of the children's meal for an alternative option.

Default Healthy Side means the healthiest side option available as part of a Healthy Children’s Meal.

CB-071-2020 establishes the guidelines for a ***Healthy Children’s Meal*** as one that contains not more than: 600 calories; 770 milligrams of sodium; 35 percent (35%) of calories from total sugars; 35 percent (35%) of calories from fat; 10 percent (10%) of calories from saturated fat; and 0.5 grams of trans fat; that includes at least 0.5 cups of non-fried fruit or non-fried vegetables (excluding white potatoes, juices, condiments, and spreads). Section 12-216(f)(1-2) sets forth the detailed foods and beverages that are deemed appropriate to be included with the ***Healthy Children’s Meal***.

The proposed legislation has a multi-tier approach whereby restrictions and requirements enter into force over a five (5)-year period. It also includes establishments with less than twenty (20) locations. In the first two (2) years, the healthy drink choice will be the default choice for kid’s meals. In the second and third years, all children’s meals are to offer the Default Healthy Side. In years three and four, CB-071-2020 would require an establishment to offer at least one children’s meal that is a Healthy Children’s Meal as defined in the Bill.

⁶ Long Beach, California (Ord. O 17-0027), State of California (SB 1192), City of Philadelphia, Pennsylvania (Ord. 19-05050), San Francisco, California (Ord. 290-10), Santa Clara County, California (Ord. NS-300.820)

⁷ Louisville Ordinance #081-2018

In the fifth year, these rules will begin to be enforced as an added part of existing inspection categories, whereby the first violation would result in a written warning, the second violation within a five-year period would result in a fine of not more than two-hundred and fifty dollars (\$250), and the third violation would be a fine of not more than (\$500). “Chronic Offenders,” as is defined by Section 12-104(a) of the County Code and subsequent action will be covered by Section 12-113 of the existing Code.

It should be noted that this would be one of the first bills of its kind in the nation, as it seeks to impose specific and detailed dietary guidelines. The other pieces of legislation have stopped short of doing so and instead regulated the default beverages as referenced above.⁸

Fiscal Impact:

Direct Impact

Enactment of CB-071-2020 would result in additional expenditures relating to inspection and enforcement within the tiered implementation. The amount of the additional expenditures would depend on whether enforcement is proactive or complaint-driven, and the degree to which any proactive inspections can be combined into or integrated with the existing health inspection regime.

Even though the majority of the inspections will be performed by the Health Department, DPIE has estimated that enactment of CB-071-2020 would require “one or two additional personnel” within Enforcement’s Zoning Unit.⁹ In response to the review of this bill, the Health Department advises that inspection and enforcement efforts will involve coordination across multiple agency programs and, as written, it is anticipated to result in operational impacts in conjunction with additional personnel costs. The costs would include additional inspection time, and a full-time dietician or nutritionist on staff to ensure education and compliance.¹⁰

Enactment of CB-071-2020 could result in an increase in revenue as a result of enforcement and violations. However, it is not anticipated to be substantial in nature.

Indirect Impact

Possible (positive) savings associated with health care costs, associated with overall improved quality of health and lifestyle modifications.

Appropriated in the Current Fiscal Year Budget

No.

⁸ https://cspinet.org/sites/default/files/attachment/CSPI_chart_of_local_km_policies_October_2019_0.pdf

⁹ County Agency Legislative Comment Request Form – DPIE

¹⁰ County Agency Legislative Comment Request Form – Health Department

Issues for Committee Consideration:

- Given that a far greater number of children's meals are consumed at school (lunches and breakfasts) than at restaurants, the Council may wish to consider working with PGCPS to improve the nutritional standards of those meals.
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Effective Date of Proposed Legislation:

The proposed Ordinance shall be effective six (6) months after adoption.

If you require additional information, or have questions about this fiscal impact statement, please call me.