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Lundi 14 avril 2008

**Standing committee on
social policy**

Healthy Food for Healthy
Schools Act, 2008

**Comité permanent de
la politique sociale**

Loi de 2008 portant
sur une alimentation saine
pour des écoles saines

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 14 April 2008

Lundi 14 avril 2008

*The committee met at 1545 in committee room 1.*HEALTHY FOOD FOR HEALTHY
SCHOOLS ACT, 2008LOI DE 2008 PORTANT
SUR UNE ALIMENTATION SAINE
POUR DES ÉCOLES SAINES

Consideration of Bill 8, An Act to amend the Education Act / Projet de loi 8, Loi modifiant la Loi sur l'éducation.

The Chair (Mr. Shafiq Qadri): Ladies and gentlemen, colleagues and members of the committee, I'd like to welcome you to the standing committee on social policy. As you know, we're here for clause-by-clause consideration of Bill 8, An Act to Amend the Education Act. As you'll note, procedurally a copy of the amendments was received by the clerk at the deadline of 5 p.m. on Thursday. Those amendments have been distributed and numbered according to the order that we'll consider them in.

On behalf of all members of the committee, I'd like to acknowledge not only our usual standing committee social policy team but also legislative counsel, Ms. Catherine Oh.

I'd now like to open the floor by asking if there are any general comments, questions or amendments to any part or section of the bill. Yes, Ms. Scott?

Ms. Laurie Scott: I'll just note that we feel that most of this bill will be done in regulations. I know there's been a committee that has been set up. We felt this was a shell legislation, therefore we didn't bring any amendments forward. We'll deal with details as the regulations come forward. I just wanted to make that comment.

The Chair (Mr. Shafiq Qadri): Thank you, Ms. Scott. Any comments? Any replies?

Mrs. Liz Sandals: Just to acknowledge that Ms. Scott is right: A lot of the work that is going on in this bill will in fact be regulatory. There are a number of government motions, but they're in the nature of technical motions to improve the structure around which we can hang the regulations.

The Chair (Mr. Shafiq Qadri): That's great. Seeing no further comments, we'll now move to consideration of the motions. As has been distributed to you, we'll now consider government motion 1. I'd invite any member of

the government committee to please read that into the record. Ms. Sandals?

Mrs. Liz Sandals: Yes. I move that paragraph 29.3 of subsection 8(1) of the act, as set out in section 1 of the bill, be amended by striking out "on board property".

The Chair (Mr. Shafiq Qadri): Are there any comments? Mr. Marchese.

Mr. Rosario Marchese: Mr. Chair, could I have the parliamentary assistant explain the rationale for that amendment?

Mrs. Liz Sandals: Yes. Is it okay with you, after I place each of these, to go right into the explanation? I will do that if that's okay.

Mr. Rosario Marchese: Yes, please.

Mrs. Liz Sandals: This is the section that enumerates the powers of the minister. The nutritional guidelines were intended to apply in schools. The concern that has been raised is that you often run into the situation where there is board property which has been leased out to other tenants. It would not be the intent that, where board property is leased out to someone else, the nutritional requirements would apply. So you might have as a tenant some other social service agency or perhaps a private organization of some nature. It is not our intent that the nutritional guidelines apply to them; our intent is that the nutritional guidelines apply in schools. In fact, the clause does still talk about "on school premises or in connection with a school-related activity."

Mr. Rosario Marchese: Did anyone raise that last week when we debated this or are there other people that you've been talking to?

Mrs. Liz Sandals: It has been raised by some other organizations, and there's one we will get into. Quite frankly, it's been raised by legislative counsel that we need to be careful that we're saying precisely what we mean. So these amendments are largely, as I say, technical.

Mr. Rosario Marchese: Just for the record, Mr. Chair, none of the deputants who came last week raised this issue. I just wanted to say that on the record.

Mrs. Liz Sandals: No. Most of these amendments are largely technical.

Mr. Rosario Marchese: It's not just technical. This is not a technical issue, I would say to the parliamentary assistant. I suspect a lot of the people who came last Thursday supported this, supported the language of "on board property," because what it meant to dietitians and

others is that by keeping it, you're sending a message, not just to events that happen during school hours but any event that's held by anybody on school property. My suspicion is that most of the people who came would have said, "Keep that language," and they will disagree with you as you remove it.

1550

So, it's not a technical thing; it is a political thing. I'm probably on the side of the dietitians on this.

Recorded vote on this one.

Ayes

Dhillon, Jaczek, Ramal, Rinaldi, Sandals.

Nays

Marchese.

The Chair (Mr. Shafiq Qaadri): Government motion 1 carries.

Shall section 1, as amended, carry? Those in favour? Those opposed? Carried.

We'll now proceed to consideration of government motion 2, and I would invite Mrs. Sandals to read it into the record.

Mrs. Liz Sandals: I move that section 317 of the act, as set out in section 2 of the bill, be amended by striking out the definition of "special event day."

We are now into the section of the bill which is the new section that has to do with nutritional standards. I would like to assure you that the lawyers, in looking at this, have decided that the definition and the special event criteria more appropriately belong in section 318, so I will turn around and put them back in with the next amendment. We are not getting rid of the reference to special event days.

The Chair (Mr. Shafiq Qaadri): Any further comments or questions? Seeing none, we'll proceed to the consideration and the vote. Those in favour of government motion 2? Those opposed? Motion 2 is carried.

I now invite government motion 3.

Mrs. Liz Sandals: I move that section 318 of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Trans fat prohibition

"318(1) A board shall ensure that a food or beverage offered for sale in a cafeteria of a school of the board does not contain more than the prescribed amount or percentage of trans fat.

"Ingredients

"(2) A board shall ensure that an ingredient used in the preparation, in a cafeteria of a school of the board, of a food or beverage offered for sale in the cafeteria does not contain more than the prescribed amount or percentage of trans fat.

"Exemptions

"(3) Subsections (1) and (2) do not apply to the board,

"(a) in respect of a food or beverage or an ingredient used in the preparation of a food or beverage specified in the regulations;

"(b) on a special event day; or

"(c) in the circumstances specified in the regulations.

"Special event day

"(4) For the purposes of clause (3)(b), a special event day is a day that meets the criteria set out in the regulations."

I'll just look at each one of those.

In (1) and (2), what we are doing is removing the reference to pupils. It originally talked about the sales to pupils in a cafeteria. It was not our intent that you could go to the student cafeteria and get a trans-free menu and then go over to the staff cafeteria and get one to which the rules did not apply. So, we are making clear that it doesn't matter who you're selling the food that is sold in the school to, whether it be the staff or students; that the rules apply in the school cafeteria to all. So we're simply deleting the reference about selling explicitly to pupils in (1) and (2).

The lawyers have had a look at the original wording of (3) and it didn't quite match up, from a legal perspective, with the way the first two clauses were worded. The first two clauses applied to the school board and the third clause applied to food, which isn't right. So, this is mainly a rewrite to make the whole thing apply to the board.

Most of this lines up, but note that in clause (b) we have put in the special event day that we deleted in the previous section.

Clause (3)(c) is an issue that has been raised by some of the lawyers from other ministries: that, for example, if you have a daycare in a school, there are explicit nutritional regulations under MCYS legislation around daycare. It is not our intent to go trumping other regulations. The circumstances specified in the regulation would allow us to take care of that.

Another possibility is that, especially in small communities, you often find that the school auditorium is the only hall in town. So we don't mean that if you hire the school hall for your 40th-anniversary party, the nutritional rules necessarily set up if it has been leased out by a third party group for a community event.

Those are the circumstances in which we would see a regulation under clause (c), the sorts of circumstances that that would handle.

Under "special event day," we're giving ourselves to set out criteria in the regulations for a special event day. That gives us a broader regulatory power than simply having a definition, because there have been some concerns raised during the hearings that if we're not pretty explicit about special event days, every day could be a special event day. This will allow us to set up a regulation in which we spell out the criteria about how you recognize a special event day, so that every day isn't special. Although, of course, in our schools, every day is special, but not necessarily a special event day.

The Chair (Mr. Shafiq Qaadri): Are there any other comments or questions with regard to government motion 3? Seeing none, we'll now proceed to the vote. All those in favour of government motion 3? Those opposed? Carried.

Shall section 2, as amended, carry? Those in favour? Those opposed? Carried.

We'll now move to consideration of section 3: government motion 4.

Mrs. Liz Sandals: This moves on to the vending machine clause.

I move that section 319 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Vending machines

"319(1) A board shall ensure that a food or beverage offered for sale in a vending machine on school premises meets any nutritional standards set out in the regulations.

"Exemption

"(2) Subsection (1) does not apply to the board in the circumstances specified in the regulations."

In the first clause, once again we are getting rid of two "pupils," so this would be anybody in the school. For those who are looking very closely, they will see that we've simplified the wordings around meeting any nutritional standards, because that's simply clear on its own: that you have to meet the nutritional standards set out in the regulations.

The exemption here, the "circumstances specified in the regulations," is the same argument I went through with the last exemption.

Mr. Rosario Marchese: I'm not clear, parliamentary assistant, about why you're eliminating the words "including any applicable standards relating to trans fat content." If it is redundant—

Mrs. Liz Sandals: It's redundant.

Mr. Rosario Marchese: —why not leave it? It speaks to the issue. Most of the time, governments will have redundancies in some places, so I'm not sure why you felt the need to get rid of it.

Mrs. Liz Sandals: The legal advice was that it was redundant.

Mr. Rosario Marchese: I see. So the legal advice didn't see that earlier on but saw it later on?

Mrs. Liz Sandals: That's what often happens with technical amendments.

Mr. Rosario Marchese: Is that right?

Mrs. Liz Sandals: The lawyers have a sober second pass.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments?

Mr. Rosario Marchese: My comment there is that it just removes the emphasis. I'm not sure whether it makes it clearer, so I was in favour of leaving the language as it was—for the record.

1600

Mrs. Liz Sandals: If I may respond, one of the confusions around this bill seems to be that it's only about trans fats and, in fact, trans fats are only one piece of it. The vending machine guidelines will be much more

about pop and chocolate bars and those sorts of things, so vending machine trans fats aren't the issue that they are in school cafeterias, but if there are relevant trans fat nutritional guidelines, then they will be there as well.

The Chair (Mr. Shafiq Qaadri): Are there any further questions or comments? Seeing none, we'll now proceed to the consideration of government motion 4. Those in favour of government motion 4? Those opposed, if any? It's carried.

Shall section 3, as amended, carry? Those in favour? Those opposed? Section 3, as amended, carries.

We'll now proceed to the consideration of section 4, four motions preceding 2, motion 5.

Mrs. Liz Sandals: I move that clause 320(a) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

"(a) defining 'dairy product' and 'ruminant meat' for the purposes of this part and the regulations;"

There are a series of amendments here to clause 320, Chair. Clause 320 is the enumeration of regulatory powers under the bill. Each of these, then, has to do with regulatory power. Because we've picked up the special event day criteria in regulation elsewhere, that has been dealt with elsewhere, but what we're doing instead then is putting in the ability to put "dairy product" and "ruminant meat" into the regulations so that can be defined more clearly, if necessary.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? We'll proceed then to the consideration. Those in favour of government motion 5? Those opposed? Carried

Motion 6.

Mrs. Liz Sandals: I move that clause 320(c) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

"(c) specifying a food, beverage or ingredient for the purposes of clause 318(3)(a), including a food, beverage or ingredient in which the trans fat originates exclusively from ruminant meat or dairy products;

"(c.1) specifying circumstances for the purposes of clause 318(3)(c) or subsection 319(2);

"(c.2) setting out criteria for the purposes of subsection 318(4);"

This is really sorting out the language here so that it matches to the things that we already did. The first one makes a reference back to the trans fat exemption clause and allows it to be clarified. Clause 318(3)(c) and the other clauses that are referenced here have to do with special event days and other things that we've already amended, so it's setting up the clauses to refer back to them.

The Chair (Mr. Shafiq Qaadri): Are there any questions or comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 6? Those opposed? Carried.

Motion 7.

Mrs. Liz Sandals: I move that clause 320(d) of the act, as set out in section 4 of the bill, be amended by striking out "on board property."

This is the same issue as before, that we're wanting to make sure that this is schools used as schools or in connection with school-related activity; again, making sure that we're not tying up buildings that are simply leased out to totally third party entities.

The Chair (Mr. Shafiq Qaadri): Any further comments, questions or queries? Seeing none, those in favour of motion 7? Those opposed? Carried.

Motion 8.

Mrs. Liz Sandals: I move that clauses 320(e), (f) and (g) of the act, as set out in section 4 of the bill, be struck out and the following substituted:

“(e) requiring a board to ensure that the standards referred to in clause (d) are met, and prescribing rules for when the requirement first applies to the board;

“(f) prescribing rules for when a requirement set out in subsection 318(1), (2) or 319(1) first applies to a board.”

In the case of (e), that simplifies the rules around the overall nutrition standards, and (f) would be related to when the trans fat and vending machine clauses take effect.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Rosario Marchese: Just for the record, Mr. Chair, originally in the bill, clauses 320(f) and (g), which have now been struck out, referred specifically to outstanding contractual obligations. This particular motion removes those references and replaces them with something that's a little more ambiguous to me at least around trans fats, how they apply.

Mrs. Liz Sandals: Well, in each of these cases, because the regulatory power—remember, we're still dealing with the ability to make regulations, so that prescribing rules for when the requirement first applies would allow you to have something slightly more complicated than one date. So it doesn't change the meaning particularly—

Mr. Rosario Marchese: But how does the current language prevent you from doing whatever you want to do in regulations?

Mrs. Liz Sandals: I'm not sure that it does. I think that it was just a case of making it a little bit easier to dig through, and because we've moved some other things around, it now matches up properly again.

Mr. Rosario Marchese: I'm not sure about that. On a recorded vote, Mr. Chair.

Ayes

Dhillon, Jaczek, Ramal, Rinaldi, Sandals, Scott, Shurman.

Nays

Marchese.

The Chair (Mr. Shafiq Qaadri): Motion carried.

Shall section 4, as amended, carry? Those in favour? Those opposed? Section 4, as amended, is carried.

The Chair has, to date, not received any amendments for sections 5 or 6. If there be any, let them come forward. If not, we'll proceed to consider both sections simultaneously, and if there are no further questions or comments, shall sections 5 and 6 together carry? Opposed? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 8, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

If there are no further questions or comments, seeing none, the committee is adjourned.

The committee adjourned at 1608.

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