

# Economic Impact Statement

## Office of Legislative Oversight

### Bill 1-22

### Eating and Drinking Establishments – Healthy Meals for Children

#### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 1-22 would have a negative impact on economic conditions in the County. By requiring food service facilities that offer children’s meals to include certain healthy food and beverage options, the change in law likely would increase net operating costs for certain businesses, with the potential to decrease business income. Moreover, OLO expects certain food service facilities to pass on a portion of the cost of implementing the health children’s meals regulation to customers, thereby potentially increasing household expenses for customers. Finally, the Bill could weaken the competitiveness of the food service sector in the County by establishing a regulation that would take full effect in six months after becoming law, whereas Prince George’s County is phasing in a similar policy over four years.

#### BACKGROUND

##### *Bill Description*

The goal of Bill 1-22 is “[t]o improve access to healthy meals for children at food service facilities,” with the ultimate aim of reducing childhood obesity in the County.<sup>1</sup> The Bill would attempt to achieve these goals by requiring “children’s meals offered by food service facilities to include certain healthy food and beverage options.”<sup>2</sup> The Bill would also require the Director of the Department of Health and Human Services to create and disseminate written informational resources and signage in multiple languages that summarizes the Bill’s requirements. If enacted, the requirements would take effect six months after they become law.<sup>3</sup> Any violations of the requirements would constitute a Class A Violation.<sup>4</sup>

##### *Primary Economic Stakeholders*

The Bill would affect certain food service facilities, defined in the Code of Montgomery County Regulations (COMCOR) as “[a]ny enterprise that prepares, serves, or sells food or drink for human consumption, on or off the premises, with or without charge.”<sup>5</sup> Exempt from the Bill’s requirements would be food service facilities that do not offer children’s meals

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<sup>1</sup> Legislative Request Report, Bill 1-22; and Wellons to County Council, Memorandum, January 6, 2022.

<sup>2</sup> Bill 1-22.

<sup>3</sup> Ibid.

<sup>4</sup> Class A Violations carry a maximum criminal penalty of a \$1000 fine and 6-month jail term, and a maximum civil penalty of \$500 for an initial offense and \$750 for a repeat offense. Montgomery County Code, Sec. 1-19.

<sup>5</sup> According to COMCOR, 15.00.01, “A food service facility includes the following types of facilities: 1. a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, soda fountain, retail market, or retail bakery outlet; or 2. a food operation in an industry, institution, hospital, club, school, camp, church, catering kitchen, commissary, or a similar place in which

# Economic Impact Statement

## Office of Legislative Oversight

and those that offer only prepackaged children's meals. Thus, the primary economic stakeholders of the change in law would be:

- **food service facilities** that currently provide prepared children's meals which do not meet the requirements of "healthy children's meals," as well as facilities in the future that otherwise would provide such children's meals in the absence of the change in law; and
- **customers** of these facilities.

## INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess Bill 1-22's impacts on County-based private organizations and residents in terms of the Council's priority economic indicators.<sup>6</sup> In subsequent sections of this statement, OLO focuses on the Bill's potential impacts on operating costs, household and business incomes, and competitiveness of the primary economic stakeholders previously identified. Excluded from this analysis are the Bill's potential impacts on demand for food service facilities, food distributors and other economic stakeholders, whether the change in law would mitigate the long-term economic impacts of obesity, and other factors.<sup>7</sup>

To assess Bill 1-22's impacts on the Council's priority indicators focused on here, OLO performs a qualitative assessment based on correspondence with an owner of local restaurant and a representative of the restaurant industry, as well as a brief comparison between the Bill and Prince George's Healthy Kids' Meals Policy. Note that OLO reached out to other industry stakeholders but did not hear back from them.

## VARIABLES

The primary variables that would affect the economic impacts of enacting Bill 1-22 are the following:

- total net increase in food and beverage costs to food service facilities;
- total net increase in labor costs;
- total net cost of software and consultation support to comply with healthy children's menu requirements; and
- percentage of costs passed onto customers.

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food or drink is prepared for sale or for service on or off the premises. A food service facility does not include: 1. a kitchen in a private home where food is prepared at no charge for residents or guests in the home, for guests at a private social gathering or for members of a nonprofit organization, but not served to the public; or 2. a facility that is owned or operated by and inspected by the Federal government."

<sup>6</sup> Montgomery County Code, [Sec. 2-81B](#).

<sup>7</sup> For more on the negative economic externalities from obesity, see Hammond and Levine, "The Economic Impact of Obesity in the United States."

# Economic Impact Statement

## Office of Legislative Oversight

### IMPACTS

WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS

#### Businesses, Non-Profits, Other Private Organizations

OLO anticipates that enacting Bill 1-22 would have negative impacts on certain private organizations in the County in terms of operating costs and potentially other priority indicators of the Council.

OLO expects the Bill to increase net operating costs for some food service facilities that currently provide prepared children's meals which do not meet the requirements of healthy children's meals. Certain facilities likely would incur costs from purchasing additional food and beverage items from distributors, increasing labor costs associated with apportioning foods (e.g., one ounce or more of meat), and purchasing software and/or hiring nutrition consultants to help calculate the nutrient values. Holding all else, net increases in operating costs would reduce net business income.

However, certain facilities may attempt to mitigate increased operating costs by passing them down to customers, reducing their inventories of food and beverage items that would not qualify as "healthy children's meals," and/or removing altogether children's meals from their menus. Ultimately, OLO anticipates that there would be variation in terms of the Bill's net impact on individual food service facilities' operating costs and business incomes.

Even if the impacts on net operating costs of food service facilities are not significant, the Bill could also weaken the competitiveness of the food service sector in the County by adding another regulation that the food service industry needs to comply with. As of November 2021, Prince George's County was the only state or local jurisdiction in the Washington DC Metropolitan area to have enacted a restaurant children's meals policy (Council Bill 071-2020).<sup>8</sup> According to the Center for Science in the Public Interest's description of the Bill,

"The legislation follows a tiered approach. In years 1-2 and thereafter healthy default beverages (water, nonfat or 1% milk, 100% juice) are required. In years 2-3 and thereafter a healthy default side...is required. In years 3-4 and thereafter at least one kids' meal on the menu will meet expert nutrition standards."

Enforcement of the legislation will not begin until year five. In comparison, all requirements of Bill 1-22 would take effect six months after it becomes law. Enacting the Bill may decrease the competitiveness of the County as a place for entrepreneurs to open new food service facilities.

Beyond these potential impacts, OLO does not expect the Bill to affect food service facilities, nor other private organizations, in terms of the Council's other priority indicators.

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<sup>8</sup> Center for Science in the Public Interest, State and Local Restaurant Kids' Meals Policies.

# Economic Impact Statement

## Office of Legislative Oversight

### Residents

OLO anticipates that enacting Bill 1-22 would have negative impacts on certain residents in the County in terms of income. As previously stated, certain food service facilities may pass on the costs of implementing the healthy children's meal policy in the form of higher prices. Moreover, it is worth noting that if certain food service facilities remove children's meals from their menus, some customers may pay more from ordering adult-sized meals for their children. Holding all else, affected customers would experience a net household income loss.

Beyond this potential impact, OLO does not expect the Bill to affect residents in terms of the Council's other priority indicators.

### DISCUSSION ITEMS

Given the current challenges restaurants face due to omicron,<sup>9</sup> Councilmembers may want to consider whether to phase in the requirements of Bill 1-22 and delay their enforcement in a manner like Prince George's County's Healthy Kids' Meals Policy.

### WORKS CITED

Center for Science in the Public Interest. [State and Local Restaurant Kids' Meals Policies](#). November 2021.

COMCOR. [15.00.01 Food Service Facilities](#).

Diaz, Alicia. "[Omicron Is Threatening the Survival of U.S. Restaurants](#)." Bloomberg. January 14, 2022.

Hammond, Ross A. and Ruth Levine. "[The Economic Impact of Obesity in the United States](#)." Diabetes, Metabolic Syndrome and Obesity: Targets and Therapy (2010).

Montgomery County Code. [Sec. 1-19, Fines and Penalties](#).

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children](#). Introduced on January 11, 2022.

Wellons, Christine to County Council. [Memorandum](#). Bill 1-22, Eating and Drinking Establishments – Healthy Meals for Children. January 6, 2022.

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<sup>9</sup> Alicia Diaz, "Omicron Is Threatening the Survival of U.S. Restaurants."

# Economic Impact Statement

Office of Legislative Oversight

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.