

## **BILL ANALYSIS**

Senate Research Center  
81R6592 CAS-D

S.B. 867  
By: Lucio  
Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Summer Nutrition Program (program) provides low-income children with nutritious meals during the summer months. Schools or alternative sites participating in the program receive a federal reimbursement for each meal served. Summer meals are important because while many children gain weight in the summer months, others that rely on school meals during the academic year often go hungry. Unfortunately, participation in the program is extremely low. According to Feeding America, only 14 percent of children who participate in the National School Lunch Program receive food through the program. In Texas, the Food Action Resource Center reports that less than 10 percent of low-income children are served through the program. Major barriers to participating in the program include insufficient number of service sites, minimal days of operation, transportation issues, and lack of awareness.

As proposed, S.B. 867 requires a school district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program, unless the school district obtains a certain waiver, to provide or arrange for the provision of a summer nutrition program for at least 30 consecutive weekdays during the period in which school districts are recessed for the summer.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 1 (Section 12.0026, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 12, Agriculture Code, by adding Section 12.0026, as follows:

Sec. 12.0026. SUMMER NUTRITION PROGRAMS. (a) Defines "agency," "field office," and "summer nutrition program."

(b) Requires a school district (district) in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program under 42 U.S.C. Section 1751 et seq., unless the Texas Department of Agriculture (TDA) grants a district a waiver under Subsection (h), to provide or arrange for the provision of a summer nutrition program for at least 30 consecutive weekdays during the period in which district schools are recessed for the summer.

(c) Requires a district to use a district facility for the summer nutrition program unless the district provides documentation, verified by TDA, showing that the program will operate at an adequate alternate facility.

(d) Requires Texas Education Agency, not later than October 1 of each year, to provide to TDA a list of districts described by Subsection (b).

(e) Requires TDA, not later than October 31 of each year, to notify each school district that is on the list required by Subsection (d) and each field office of its responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer.

(f) Requires the board of trustees of a district that intends to request a waiver under Subsection (g)(2) to inform district residents of the district's intention by sending written notice to the district's local school health advisory council and to the principal of each elementary school in the district and by posting the notice on a district Internet website not later than November 30 of each year. Sets forth the required content of the notice.

(g) Requires each school district that receives a notice under Subsection (e) to, not later than January 31 of the year following the year in which the notice was received to inform TDA in writing that the district intends to operate a summer nutrition program during the next period in which district schools are recessed for the summer, or request in writing that TDA grant the district a waiver of the requirement to operate a summer nutrition program.

(h) Authorizes TDA to grant a school district a waiver of the requirement to operate a summer nutrition program only if:

(1) the board of trustees of the district by resolution has authorized the district's request for a waiver;

(2) the district provides documentation, verified by TDA, showing that there are fewer than 100 children in the district currently eligible for the national free or reduced-price lunch program; transportation to enable district students to participate in the program is an insurmountable obstacle to providing the program despite consultation by the district with public transit providers; the district is unable to operate a summer nutrition program due to renovation or construction of district facilities and unavailability of an appropriate alternate provider or site; or the district is unable to operate a summer nutrition program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site; and

(3) the district has worked with the field offices to identify another possible provider for the summer nutrition program in the district.

(i) Provides that a waiver granted under Subsection (h) is for a one-year period.

(j) Requires the field offices, if a school district has requested a waiver under Subsection (g)(2) and has been unable to provide to TDA a list of possible providers for the summer nutrition program, to continue to attempt to identify an alternate provider for the district's summer nutrition program.

(k) Requires TDA and TEA to jointly develop a plan for increasing access to summer nutrition programs. Requires that the plan include a list of any barrier to access to the programs, including a barrier that a provider encounters in providing a program and a description of any action taken to overcome a barrier. Requires TDA and TEA to each designate an agency administrative employee to assist in administering this subsection.

(l) Requires TDA and TEA, not later than December 31 of each even-numbered year, to provide to the legislature a joint report that includes, for each year of the biennium, the name of each school district that receives a notice under Subsection (e) that has provided for a summer nutrition program or has failed to provide a program; an explanation, as applicable, of the plan required under Subsection (k) or of any update to the plan; and the costs, other than costs paid by federal funds, incurred by school districts and the state in complying with this section.

(m) Requires the commissioner of agriculture (commissioner), in consultation with the commissioner of education, to adopt rules and procedures for obtaining a waiver under Subsection (h). Requires the commissioner to adopt other rules as necessary to administer this section.

SECTION 2. Repealer: Section 33.024 (Summer Food Service Program), Human Resources Code.

SECTION 3. Effective date: September 1, 2009.