

BILL ANALYSIS

Senate Research Center
82R1032 CAS-F

S.B. 89
By: Lucio
Education
4/13/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of S.B. 89 is to increase participation in the Summer Food Program (SFP), which provides low-income children with nutritious meals during summer months. Currently, Texas law requires school districts to participate in the program if at least 60 percent of students are eligible for free or reduced price lunch. The program can be administered either on campus or at alternative sites in the community, and the districts have the ability to apply for a waiver if they cannot provide the program.

S.B. 89 aims to boost participation in the program by aligning state eligibility with federal rules by including districts with 50 percent or more eligible children. The bill also moves the program from the Human Resources Code to the Agriculture Code in order to reflect the transfer of the program to the Texas Department of Agriculture (TDA), which occurred in 2005. The bill also amends the waiver process, by simply requiring school boards to send a letter to the school health advisory council notifying them of the school's desire to waive out of the program and pass a resolution stating their desire to do so. Under the bill, TDA and the Texas Education Agency are also asked to develop rules for the waiver process and develop a plan for increasing participation in the program.

As proposed, S.B. 89 amends current law relating to summer nutrition programs provided for by school districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 1 (Section 12.0029, Agriculture Code) of this bill.

Rulemaking authority previously granted to the commissioner of agriculture is rescinded in SECTION 2 (Section 33.024, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 12, Agriculture Code, by adding Section 12.0029, as follows:

Sec. 12.0029. SUMMER NUTRITION PROGRAMS. (a) Defines "agency," "field office," and "summer nutrition program" in this section.

(b) 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 under 42 U.S.C. Section 1751 et seq. to provide or arrange for the provision of a summer nutrition program for at least 30 weekdays during the period in which district schools are recessed for the summer, unless the Texas Department of Agriculture (TDA) grants a school district a waiver under Subsection (f).

(c) Requires TDA, not later than October 31 of each year, to notify each school district described by Subsection (b) 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.

(d) Requires the board of trustees of a school district that intends to request a waiver under Subsection (e)(2), not later than November 30 of each year, to send written notice of the district's intention to the district's local school health advisory council. Requires that the notice include an explanation of the district's reason for requesting a waiver of the requirement.

(e) Requires each school district that receives a notice under Subsection (c) to, not later than January 31 of the year following the year in which the notice was received:

(1) 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

(2) request in writing that TDA grant the district a waiver of the requirement to operate a summer nutrition program.

(f) 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:

(A) there are fewer than 100 children in the district currently eligible for the national free or reduced-priced lunch program;

(B) 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;

(C) the district is unable to operate a summer nutrition program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; or

(D) 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.

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

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

(i) Requires TDA and the Texas Education Agency (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 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.

(j) Requires TDA and TEA, not later than December 31 of each even-numbered year, to provide the legislature a joint report that, for each year of the biennium:

(1) states the name of each school district that receives a notice under Subsection (c) and indicates whether the district has provided for a summer nutrition program or has failed to provide a program;

(2) provides an explanation, as applicable, of the plan required under Subsection (i) or of any update to the plan; and

(3) identifies the funds, other than federal funds, used by school districts and the state in complying with this section.

(k) Requires the commissioner of agriculture, in consultation with the commissioner of education, to adopt rules and procedures for obtaining a waiver under Subsection (f). Requires the commissioner of agriculture 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, 2011.