

## **BILL ANALYSIS**

Senate Research Center  
82R22334 CAS-F

C.S.S.B. 89  
By: Lucio et al.  
Education  
4/15/2011  
Committee Report (Substituted)

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

C.S.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 Texas Department 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Rulemaking authority previously granted to the commissioner of agriculture is rescinded in SECTION 2 (Section 33.024, Human Resources Code) of this bill.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 "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) 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 provide or arrange for the provision of 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 provide or arrange for the provision of a summer nutrition program.

(f) Authorizes TDA to grant a school district a waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:

(1) the district:

(A) provides documentation, verified by TDA, showing that:

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

(ii) transportation to enable district students to participate in the program is an insurmountable obstacle to the district's ability to provide or arrange for the provision of the program despite consultation by the district with public transit providers;

(iii) the district is unable to provide or arrange for the provision of a summer nutrition program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; or

(iv) the district is unable to provide or arrange for the provision of a summer nutrition program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site; and

(B) has worked with the field offices to identify another possible provider for the summer nutrition program in the district; or

(2) the cost to the district to provide or arrange for the provision of a program would be cost-prohibitive, as determined by TDA using the criteria and methodology established under Subsection (g).

(g) Requires TDA by rule to establish criteria and a methodology for determining whether the cost to a school district to provide or arrange for the provision of a summer nutrition program would be cost-prohibitive for purposes of granting a waiver under Subsection (f)(2).

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

(i) 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.

(j) Requires TDA, not later than December 31 of each even-numbered year, to provide the legislature a 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 or arranged for the provision of a summer nutrition program or has not provided or arranged for the provision of a program and did not receive a waiver;

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

(3) identifies the total amount of any profit made through summer nutrition programs under this section.

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

SECTION 3. Requires TDA, not later than October 1, 2011, to adopt rules under Section 12.0029(g), Agriculture Code, as added by this Act, establishing criteria and a methodology regarding costs of school district summer nutrition programs.

SECTION 4. Effective date: September 1, 2011.