

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 367  
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Agriculture, Water & Rural Affairs  
5/16/2017  
Committee Report (Substituted)

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

Relating to the authority of a school district to donate food to a non-profit organization to be served to students of the district and relating to school district grace period policies and the provision of meals to public school students with insufficient balances on prepaid meal cards or meal accounts.

Texas ranks second in the nation for food insecurity and 1.9 million Texas children are food insecure. Many of these children do not have access to food at home or over the weekend. In order to help children access meals on a consistent basis, schools are able to provide food to students on campus through the Federal Free and Reduced Breakfast, Lunch, Snack and Dinner programs. However, not all free and reduced meal options are offered on all campuses. In addition, often times unopened and uneaten food that has been served to students as part of these meal programs is thrown away. Examples of unopened, uneaten food include: packaged/unpackaged unserved food; served/unserved food with packaging in good condition; whole, uncut produce; wrapped raw produce, and/or fruit which will be peeled (bananas, oranges).

Under the federal Bill Emerson Good Samaritan Act, the left-over food that has been served and is uneaten is permitted to be donated by the school to a non-profit organization, like a food bank. Once the food is donated, it leaves the campus to the non-profit organization's facility where it is sorted and prepared for distribution to those in need. Currently, this model does not allow for students who attend the school and are food insecure to access this left over/food donated food directly.

This bill, however, allows schools to designate individuals who are directly affiliated with the campus (teacher, counselor, PTA member) to serve as official representatives of a non-profit organization in order to receive donated food items on campus. These individuals can then store and redistribute that donated food on that same campus.

Committee Substitute changes:

- (1) Adds open-enrollment charter schools.
- (2) Adds the language of C.S.H.B. 2159, by Rep. Helen Giddings' School Lunch Shaming Bill, which was voted unanimously out of House Public Education 11-0.

It is hard to believe that poverty and hunger are real in Texas. In Dallas, 40 percent of our children are food insecure. One in every four kids in North Texas is food insecure—that's more than 300,000 children. Food insecure children are sick more often and are more likely to suffer developmental delays.

Current law requires any Texas school district in which students use a prepaid meal card or account to purchase school meals to have a grace period during which students continue receiving meals even after their accounts are depleted. However, each district is allowed to determine how long this grace period could be. In some cases, districts chose to adopt a one-lunch grace period, meaning they will only provide one lunch after a child's account is depleted.

After the grace period has expired, a school may choose to provide an "alternative meal," which usually only consists of a cold sandwich, or nothing at all.

Even when a sack lunch is provided, it can be extremely embarrassing and upsetting for a child to have their lunch taken away in front of their peers and replaced with a brown bag lunch. As it stands, there are thousands of students across our state who go without food when their lunch accounts go empty.

What the provisions from H.B. 2159 do:

Requires school board trustees to adopt a policy with a reasonable grace period to replenish their lunch accounts and during that period, continue allowing students to select a hot lunch of their choice.

Requires districts to make at least one attempt per week to notify the parent of the situation and provide assistance with an application for free/reduced lunch.

Authorizes districts to solicit and maintain in a separate account, private donations for the purpose of paying the balance on unpaid meal accounts.

With this bill, school districts may not publicly identify a student with a negative balance on a meal card or account, and must implement any action in a manner that protects the student's privacy. The district's policy must identify the manner in which the district will assure the student's privacy is protected.

It is unreasonable to deny a child a nutritious meal because their parents cannot afford to immediately replenish their accounts. Financial matters should be left to the adults, and should never result in a hungry and embarrassed child. With these measures in place, we will reduce the number of needy children in Texas schools going without lunch.

Support: Feeding Texas, Central Texas Food Bank, Center for Public Policy Priorities, Texas State Teachers Association.

C.S.H.B. 367 amends current law relating to donation and distribution of surplus food at public schools and grace period policies for public school students with insufficient balances on prepaid meal cards.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 33.907, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Requires that this Act be known as the Student Fairness in Feeding Act.

SECTION 2. Amends Subchapter Z, Chapter 33, Education Code, by adding Section 33.907, as follows:

Sec. 33.907. DONATION OF FOOD. (a) Defines "donate" and "nonprofit organization."

(b) Authorizes a school district or open-enrollment charter school to allow a campus to elect to donate food to a nonprofit organization through an official of the nonprofit organization who is directly affiliated with the campus, including a teacher, counselor, or parent of a student enrolled at the campus. Authorizes the donated food to be received, stored, and distributed on campus. Authorizes food donated by the campus to include surplus food prepared for breakfast, lunch, or dinner meals or a snack to be served at the campus cafeteria, subject to any applicable local, state, and federal requirements, or food donated to the campus as the result of a food drive or similar event.

(c) Authorizes the type of food donated under this section to include packaged or unpackaged unserved food, packaged served food if the packaging is in good condition, whole, uncut produce, wrapped raw produce, and unpeeled fruit required to be peeled before consumption.

(d) Authorizes food donated under this section to a nonprofit organization to be distributed at the campus at any time. Authorizes campus employees to assist in preparing and distributing the food as volunteers for the nonprofit organization.

(e) Authorizes the commissioner of education to adopt rules as necessary to implement this section.

SECTION 3. Amends Section 33.908, Education Code, as follows:

Sec. 33.908. GRACE PERIOD POLICY FOR EXHAUSTED OR INSUFFICIENT MEAL CARD OR ACCOUNT BALANCE. (a) Defines "regular meal."

(b) Creates this subsection from existing text. Provides that the grace period policy regarding the use of meal cards or accounts by students:

(1) is required to allow a student whose meal card or account balance is exhausted or insufficient to continue, for a grace period determined by the board of trustees of the district, rather than for a period determined by the district, to purchase regular meals, rather than meals, in certain manners;

(2) must to require the district to make at least one attempt by telephone or email during each week of the grace period to privately provide certain information and assistance relating to the student's meal card or account balance;

(3) must to require the district to provide the parent or other person with a written notice of a negative balance or other amount due that includes information on how to obtain an application for free or reduced-price meals;

(4) creates this subdivision from existing text and makes no further changes to this subdivision; and

(5) is authorized to permit the district to set a schedule for repayment on the account balance or other amount due if the district is unable to set a repayment schedule by agreement through efforts required under Subdivision (2), rather than set a schedule for repayment on the account balance as part of the notice to the parent or person standing in parental relation to the student. Redesignates existing Subdivision (4) as Subdivision (5).

(c) Authorizes the school district, after expiration of the grace period, to:

(1) permit the student to continue to purchase regular meals in the manner prescribed by Subsection (b)(1); or

(2) provide the student with alternate meals at no cost.

(d) Requires a school district that elects to provide alternate meals to privately notify the student's parent or person standing in parental relation to the student of the district's action and provide those meals through the same serving line as regular meals.

(e) Authorizes a school district, if the school district provides regular meals to a student under Subsection (c)(1) and is unable at the end of the school year to obtain payment for the meals from the student's parent or person standing in parental relation to the student, to pay the negative balance on the student's meal card or account using private donations solicited by the district from individuals and entities for that purpose and maintained in a separate district account. Provides that the amount of any private donations received under this subsection is in addition to any reimbursement to which the district is entitled under federal law.

(f) Prohibits a school district from publicly identifying a student with a negative balance on a meal card or account and requires a school district to implement any action authorized under this section in a manner that protects the student's privacy, Requires that the district's policy identify the manner in which the district will protect the student's privacy.

SECTION 4. Provides that this Act applies beginning with the 2017-2018 school year.

SECTION 5. Effective date: upon passage or September 1, 2017.