

By: Lucio

S.B. No. 18

A BILL TO BE ENTITLED

AN ACT

relating to a statewide initiative regarding the prevention and treatment of obesity-related health concerns.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 161, Health and Safety Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. OBESITY-RELATED TREATMENT AND PREVENTION INITIATIVES

Sec. 161.901. INTERAGENCY OBESITY COUNCIL. (a) The commissioner of agriculture, commissioner of state health services, and commissioner of education shall meet at least once a year as an interagency council to discuss the status of each agency's programs that promote better health and nutrition and prevent obesity among children and adults in this state.

(b) Not later than January 15 of each odd-numbered year, the interagency council shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives on the activities of the council during the preceding two calendar years.

(c) A meeting held under this section is not subject to the provisions of the open meetings law, Chapter 551, Government Code.

Sec. 161.902. PUBLIC AWARENESS CAMPAIGNS. The Department of State Health Services in the department's existing statewide or targeted public awareness campaigns to improve consumer health

1 shall publicize the adverse consequences of obesity and steps
2 people may take to prevent and reverse obesity.

3 Sec. 161.904. NUTRITION AND PHYSICAL ACTIVITY PROMOTION
4 ANALYSIS. (a) The Department of State Health Services, with
5 assistance from interested public and private entities, shall
6 analyze the capacity of a local community selected by the
7 department to improve the nutrition and physical activity behaviors
8 within that community.

9 (b) In identifying a community in which to conduct the
10 analysis, the department shall consider only communities with
11 existing or potential resources that may be expended for the
12 purpose of preventing or treating obesity-related health concerns
13 in the community's population, including the resources of:

14 (1) the local health authority, health department, or
15 public health district;

16 (2) the special supplemental nutrition program for
17 women, infants, and children;

18 (3) school-based health clinics, coordinated school
19 health programs, and school health advisory committees;

20 (4) state or federal diabetes funding;

21 (5) state or federal obesity-prevention funding;

22 (6) local media outlets; and

23 (7) other available sources of support.

24 (c) The department shall coordinate with existing community
25 resources to:

26 (1) identify segments of the population that are not
27 reached by current resources;

1 (2) determine whether current resources can be
2 expanded to reach the missing segments of the population; and

3 (3) determine the feasibility of a comprehensive
4 obesity-prevention initiative.

5 (d) The department shall analyze whether current resources
6 in the community address:

7 (1) public awareness;

8 (2) school, community, and worksite interventions;

9 (3) clinical programs that improve nutrition and
10 physical activity; and

11 (4) surveillance, research, and evaluation.

12 (e) The department shall work with the community to make
13 recommendations regarding:

14 (1) the introduction of new health-related activities
15 into the community;

16 (2) the reallocation of existing resources for
17 health-related activities in the community to address the problem
18 of obesity; and

19 (3) monitoring the progress of the community while the
20 community implements the changes.

21 (f) The department shall coordinate with community
22 resources to conduct the analysis over a three-year period.

23 (g) This section expires September 1, 2009.

24 SECTION 2. Title 2, Agriculture Code, is amended by adding
25 Chapter 22 to read as follows:

26 CHAPTER 22. NUTRITION IN PUBLIC SCHOOLS

27 Sec. 22.001. GENERAL RESPONSIBILITIES. The department

1 shall work to:

2 (1) develop recommendations to promote participation
3 in the national school breakfast and lunch programs;

4 (2) expand the use of Texas agricultural products in
5 public school breakfast and lunch meals to:

6 (A) improve the quality and nutritional content
7 of the meals; and

8 (B) promote Texas agriculture, with special
9 emphasis on fresh Texas-grown fruits and vegetables;

10 (3) collect information related to innovative
11 community and school district partnerships designed to improve
12 education regarding the benefits of healthy eating habits and
13 regular physical activity, including partnerships with:

14 (A) nonprofit organizations that provide health
15 and fitness programs for school-age children; and

16 (B) local grocery providers to create donation
17 programs to assist with universal breakfast and lunch programs for
18 children in the district.

19 Sec. 22.002. OPERATION OF BREAKFAST PROGRAMS IN CERTAIN
20 DISTRICTS. (a) If at least 60 percent of the students enrolled in
21 a school district are eligible to participate in the national free
22 or reduced-price breakfast program established under 42 U.S.C.
23 Section 1751 et seq., the district shall consider seeking approval
24 to act under the appropriate special assistance provision of the
25 program that allows the district to:

26 (1) offer free breakfast to all students enrolled at
27 each campus in the district; and

1 (2) reduce administrative costs and requirements
2 associated with the program.

3 (b) A school district that does not have sufficient funds
4 available to provide breakfast under Subsection (a) may apply to
5 nonprofit foundations, governmental entities, or other sources for
6 grants for that purpose.

7 Sec. 22.003. SCHOOL NUTRITION POLICY. (a) The
8 commissioner shall establish a public school nutrition policy in
9 accordance with this chapter. Any changes made to the public school
10 nutrition policy shall be made by rule.

11 (b) In establishing public school nutrition policy, the
12 commissioner may seek input from the commissioner of education and
13 the commissioner of state health services.

14 (c) Public school nutrition policy may be more stringent
15 than any recommended or required federal guidelines.

16 (d) The commissioner may not change public school nutrition
17 policy in a manner that would allow more foods of minimal
18 nutritional value to be served at a public school than the amount
19 allowed by the policy on January 1, 2005.

20 Sec. 22.004. ACCESS TO CERTAIN BEVERAGES. A beverage that
21 is a food of minimal nutritional value, as defined by 7 C.F.R. Part
22 210, may not be sold on a public school campus in a container larger
23 than 12 ounces. Not more than 30 percent of beverages in vending
24 machines on a public school campus may be beverages that are foods
25 of minimal nutritional value as defined in 7 C.F.R. Part 210.

26 SECTION 3. Subsection (a), Section 38.013, Education Code,
27 is amended to read as follows:

1 (a) The agency shall make available to each school district
2 one or more coordinated health programs designed to prevent
3 obesity, cardiovascular disease, and Type 2 diabetes in elementary
4 school students. Each program must provide for coordinating:

- 5 (1) health education;
- 6 (2) physical education and physical activity;
- 7 (3) nutrition services, which may include nutrition
8 education for elementary school children and their parents; and
- 9 (4) parental involvement.

10 SECTION 4. Subchapter A, Chapter 38, Education Code, is
11 amended by adding Section 38.017 to read as follows:

12 Sec. 38.017. MENTOR PROGRAM. School health advisory
13 councils, working together with student councils, peer-assisted
14 leadership groups, and other student groups, may develop mentoring
15 programs for middle school and high school students by training
16 students to act as friends or mentors and offer peer support to
17 other students on weight-loss programs approved by their physicians
18 and parents or legal guardians and to students coping with health
19 problems related to obesity. The district and the school health
20 advisory council shall monitor mentors and students participating
21 in a mentoring program.

22 SECTION 5. Chapter 38, Education Code, is amended by adding
23 Subchapter C to read as follows:

24 SUBCHAPTER C. RECOGNIZING EXTRAORDINARY ACHIEVEMENT IN
25 CHILDREN'S HEALTH (REACH) PROGRAM

26 Sec. 38.101. DEFINITIONS. In this subchapter:

- 27 (1) "Department" means the Department of Agriculture.

1 (2) "Program" means the Recognizing Extraordinary
2 Achievement in Children's Health (REACH) Program.

3 Sec. 38.102. PROGRAM. (a) The Department of Agriculture,
4 as the state agency responsible for administering the National
5 School Lunch Program and School Breakfast Program in the state,
6 shall administer the Recognizing Extraordinary Achievement in
7 Children's Health Program.

8 (b) The department may consult with the agency, regional
9 education service centers, local school health advisory councils,
10 and other appropriate entities in establishing and administering
11 the program.

12 Sec. 38.103. ELIGIBILITY FOR PARTICIPATION. A school is
13 eligible to participate in the program if the school participates
14 in the national school lunch program established under 42 U.S.C.
15 Section 1751 et seq. or the national school breakfast program
16 provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section
17 1773).

18 Sec. 38.104. MEASURING HEALTH PERFORMANCE. (a) The
19 department may measure the health performance of each school that
20 participates in the program by using:

21 (1) the school health index developed by the Centers
22 for Disease Control and Prevention of the United States Public
23 Health Service; and

24 (2) any other criteria adopted by the department.

25 (b) The department, in consultation with school health
26 experts, shall determine the minimum health performance score a
27 school must achieve under this section for the school to be eligible

1 for a monetary program award under Section 38.105.

2 (c) In determining a school's health performance score
3 under Subsection (b), the department, as provided by department
4 rule, shall award additional points to a school that has a high
5 percentage of educationally disadvantaged students.

6 (d) A school that achieves the minimum health performance
7 score under Subsection (b) may receive a monetary program award
8 only if sufficient funds are available under Section 38.106.

9 Sec. 38.105. PROGRAM AWARDS. (a) Subject to the
10 availability of funding for the program, the department may provide
11 a school that participates in the program and achieves the minimum
12 health performance score under Section 38.104(b) with a monetary
13 program award.

14 (b) Subject to the availability of funds The department by
15 rule shall establish the criteria for determining the amount of
16 money awarded to a school. The criteria must include consideration
17 of the average daily attendance and the grade levels provided at the
18 applicant schools.

19 (c) The department may provide a nonmonetary award to a
20 school as determined by the department.

21 Sec. 38.106. FUNDING. (a) The department may solicit and
22 accept gifts and grants for the benefit of the program.

23 (b) The department shall administer the program using gifts
24 and grants received under Subsection (a) and funds appropriated to
25 the department for program purposes.

26 (c) A school may use the monetary program award as
27 determined by the school, but should use a portion of the money to

1 pay for implementing the program or administering new or
2 administering existing health improvement programs at the school.

3 Sec. 38.107. APPLICATIONS. (a) An eligible school may
4 apply to the department to participate in the program. In applying,
5 the school shall provide the department with:

6 (1) the completed school health index assessment
7 described by Section 38.104(a)(1) for the school;

8 (2) information concerning the average daily
9 attendance of students at the school;

10 (3) a statement of the number of educationally
11 disadvantaged students at the school; and

12 (4) any other information the department requires.

13 (b) Before submitting the application to the department, a
14 school must present the application for verification and approval
15 to the superintendent of the school district in which the school is
16 located or the superintendent's designee or to any other official
17 determined by the department.

18 Sec. 38.108. AGREEMENT. The department shall enter into an
19 agreement with each school that participates in the program before
20 the school receives a monetary program award from the department.
21 The agreement must:

22 (1) specify any recordkeeping requirements for
23 participation in the program; and

24 (2) provide that the department or its designee may
25 audit records required under Subdivision (1) and otherwise monitor
26 compliance with program rules.

27 Sec. 38.109. RULES. The department may adopt rules as

1 necessary to administer this subchapter.

2 SECTION 6. Subchapter D, Chapter 262, Occupations Code, is
3 amended by adding Section 262.153 to read as follows:

4 Sec. 262.153. DUTY TO PROVIDE NUTRITIONAL EDUCATION
5 INFORMATION. A dental hygienist when providing nutrition
6 information related to oral health with dental hygiene services
7 performed in schools, Head Start centers, and day-care facilities
8 to help establish good nutritional and oral care habits at the
9 earliest age possible must do so in accordance with nationally
10 recognized guidelines for oral health.

11 SECTION 7. (a) The Department of State Health Services
12 shall analyze and evaluate whether a statewide wellness council
13 would assist the department in promoting consumer health and
14 educating Texans on the importance of proper nutrition and physical
15 activity in preventing obesity-related health concerns. The
16 wellness council would promote and advance a healthy community
17 through workplace activities in the public and private sectors. In
18 analyzing and evaluating the statewide wellness council, the
19 department shall consider whether the council could achieve
20 objectives related to health care cost containment, reduced
21 absenteeism, improved employee health status, and improved morale.
22 Not later than September 1, 2006, the Department of State Health
23 Services shall submit a report to the governor, lieutenant
24 governor, and speaker of the house of representatives regarding the
25 department's recommendation for the creation of a statewide
26 wellness council.

27 SECTION 8. (a) Not later than October 1, 2005, the

1 Department of State Health Services shall begin the analysis
2 required by Section 161.904, Health and Safety Code, as added by
3 this Act.

4 (b) Not later than December 31 of each even-numbered year
5 through December, 2010, the Department of State Health Services
6 shall submit a report to the governor, lieutenant governor, and
7 speaker of the house of representatives regarding the department's
8 findings and analysis under Section 161.904, Health and Safety
9 Code, as added by this Act.

10 (c) Subchapter C, Chapter 38, Education Code, as added by
11 this Act, applies beginning with the 2005-2006 school year.

12 SECTION 9. This Act takes effect September 1, 2005.