

BILL ANALYSIS

C.S.S.B. 1379

By: Lucio

Public Health

Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a growing epidemic of obesity, poor nutrition, and lack of physical activity among Texas children. The number of children who are overweight has doubled in the last two to three decades; currently one child in five is overweight. The increase is in both children and adolescents, and in all age, race and gender groups. C.S.S.B. 1379 creates a statewide initiative regarding the prevention and treatment of obesity.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 2 of this bill.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 5 of this bill.

ANALYSIS

The substitute requires specific commissioners to meet at least once annually 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. It requires the interagency council, not later than January 15 of each odd-numbered year, to submit a report on the activities of the council during the preceding two calendar years, to specific government officials. It states that a meeting held under this section is not subject to the provisions of the open meeting law.

The substitute requires the Department of State Health Services (DSHS) in its existing statewide or targeted public awareness campaigns to improve consumer health to publicize the adverse consequences of obesity and steps people may take to prevent and reverse obesity.

The substitute requires DSHS, with assistance from interested public and private entities, to analyze the capacity of a local community selected by DSHS to improve the nutrition and physical activity behaviors within that community. It requires DSHS, in identifying a community in which to conduct the analysis, to consider only those with existing or potential resources that may be expanded for the purpose of preventing or treating obesity-related health concerns in the community's population, including specific resources. It requires DSHS to coordinate with existing community resources; analyze whether current resources in the community address specific issues; work with the community to make certain recommendations; coordinate with community resources to conduct the analysis over a three-year period; this provision expires September 1, 2009.

The substitute sets forth requirements of TDA to work towards improving the nutrition in public schools. The substitute requires the school district to consider seeking approval to act under the appropriate special assistance provision of the national free or reduced-price breakfast program established under 42 U.S.C. Section 1751 et seq. that allows districts specific options in choosing a breakfast plan, if at least 60 percent of the students enrolled in the school district are eligible to participate in the program. It authorizes a school district that does not have sufficient funds available to provide breakfast to apply to nonprofit foundations, governmental entities, or other sources for grants for that purpose.

The substitute requires the commissioner of agriculture to establish a public school nutrition policy in accordance with this chapter and any changes made to the public school nutrition

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policy shall be made by rule. It authorizes the commissioner, in establishing the policy, to seek input from the commissioner of education and the commissioner of state health services; policy to be more stringent than any recommended or required federal guidelines; Prohibits the commissioner from changing the policy in a manner that would allow more foods of minimal nutritional value to be served at a public school than the amount allowed by the policy on January 1, 2005.

The substitute prohibits foods of minimal nutritional value, as defined by 7 C.F. R. part 210, from being sold on a public school campus in a container larger than 12 ounces. Provides that not more than 30 percent of beverages in vending machines on a public school campus may be beverages that are foods of minimal nutritional value as defined in 7 C.F.R part 210.

The substitute requires the program [health programs designed to prevent specific diseases], to provide for coordinating nutrition services, which may include nutrition education for elementary school children and their parents.

The substitute authorizes specific councils and groups to develop mentoring programs for middle school and high school students by training students to act as friends or mentors and offer peer support to other students on weight-loss programs approved by their physicians and parents or legal guardians, and to students coping with health problems related to obesity. Requires the school district and the school health advisory council to monitor mentors and students participating in a mentoring program.

The substitute requires the Texas Department of Agriculture (TDA), as the state agency responsible for administering the national school lunch program and school breakfast program in the state, to administer the Recognizing Extraordinary Achievement in Children's Health Program (program). It authorizes TDA to consult with the Texas Education Agency (TEA), regional education service centers, local school health advisory councils, and other appropriate entities in establishing and administering the program. It provides that a school is eligible to participate in the program if the school participates in the national school lunch program established under 42 U.S.C. Section 1751 et seq. or the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773).

The substitute allows TDA to measure the health performance of each school that participates in the program by using specific criteria.

The substitute requires TDA, in consultation with school health experts, to determine the minimum health performance score a school must achieve under this section for the school to be eligible for a monetary program award; it requires TDA, in determining a school's health performance score, as provided by TDA rule, to award additional points to a school that has a high percentage of educationally disadvantaged students. It authorizes a school that achieves the minimum health performance score to receive a monetary program award only if sufficient funds are available.

The substitute authorizes TDA, subject to the availability of funding for the program, to provide a school that participates in the program and achieve the minimum health performance score with a monetary program award.

The substitute requires TDA, by rule and as funding is available, to establish the criteria for determining the amount of money awarded to a school. Requires the criteria to include consideration of the average daily attendance and the grade levels provided by the applicant schools; provide a nonmonetary award to a school as determined by TDA.

The substitute authorizes TDA to solicit and accept gifts and grants for the benefit of the program. It requires TDA to administer the program using gifts and grants and funds appropriated to TDA for program purposes; Authorizes a school to use the monetary program award as determined by the school, but provides that it should use a portion of the money to pay for implementing the program or administering new or existing health improvement programs at school.

The substitute authorizes an eligible school to apply to TDA to participate in the program. Requires the school, in applying, to provide TDA with specific information. It requires the school to present the application for verification and approval to the superintendent of the school district, the superintendent's designee, or any other official determined by TDA, before submitting the application.

The substitute requires TDA to enter into an agreement, with specific guidelines, with each school that participates in the program before the school receives a monetary program award from TDA.

The substitute requires DSHS to analyze and evaluate whether a statewide wellness council would assist DSHS in promoting consumer health and educating Texans on the importance of proper nutrition and physical activity in preventing obesity-related health concerns, in order to promote and advance a health community through workplace activities in the public and private sectors. Requires DSHS, in analyzing and evaluating the statewide wellness council, to consider whether the council could achieve objectives related to health care cost containment, reduced absenteeism, improved employee health status, and improved morale. Requires DSHS, not later than September 1, 2006, to submit a report regarding recommendations for the creation of a statewide wellness council to specific government officials.

The substitute requires DSHS, not later than October 1, 2005, to begin the analysis required by Section 161.904, Health and Safety Code, as added by this Act. It requires DSHS, not later than December 31 of each even-numbered year through December 2010, to submit a report regarding findings and analysis under Section 161.904, Health and Safety Code, as added by this Act, to specific government officials. It makes application of Subchapter C, Chapter 38, Education Code, as added by this Act, prospective to the 2005-2006 school year.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute removes the research provision that required DSHS, with the assistance of the Texas Department of Insurance (TDI), to identify and encourage evidence-based clinical interventions to prevent and treat obesity. Authorizes DSHS to promote guidelines for the medical community and insurers or other health benefit plan issuers in developing prevention or treatment plans for obesity-related health concerns. the requirement for TDI to perform analysis and also removes the section that requires dental hygienists to provide nutritional education information. The substitute removes the requirement that the department identify and create menus for the public schools, and develop guidelines that that provide for a time and place to eat. The substitute removes the Breakfast fund; Gifts; Grants; and Donations section from the original bill. The substitute modifies the original by adding the words "Subject to the availability of funding for the program," under the section titled Program Awards. The substitute removes from the original bill the section that requires dental hygienists to provide nutritional education information. The substitute removes the requirement that TDI study and analyze the benefits of having health plans or health insurers cover counseling or treatment of obesity and the reporting requirement. The substitute makes technical, conforming changes, and renumbers the sections accordingly.