

By: Lucio

S.B. No. 1379

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. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. OBESITY-RELATED TREATMENT AND

PREVENTION INITIATIVES

SUBCHAPTER A. NUTRITION AND HEALTH WORK GROUP

Sec. 114.001. DEFINITION. In this subchapter, "work group" means the Nutrition and Health Work Group.

Sec. 114.002. APPOINTMENT OF WORK GROUP; TERMS OF MEMBERS.

(a) The Nutrition and Health Work Group is composed of the following 7 members:

(1) the commissioner of education, or the commissioner's designee, who must be an executive-level employee of the Texas Education Agency;

(2) the commissioner of state health services, or the commissioner's designee, who must be an executive-level employee of the Department of State Health Services;

(3) the commissioner of agriculture, or the commissioner's designee, who must be an executive-level employee of the Department of Agriculture;

(4) the following public members, appointed by the

commissioner of education:

(A) a parent of a school-age child;

(B) a public school superintendent; and

(C) a member of a school board; and

(5) a physician who provides health services to school-age children, appointed by the commissioner of state health services.

(b) Public members of the work group serve staggered six-year terms.

Sec. 114.003. COMPENSATION; REIMBURSEMENT. A member of the work group may not receive compensation for service on the work group and may not be reimbursed for travel expenses incurred while conducting the business of the work group.

Sec. 114.004. OPERATION OF WORK GROUP. (a) The members of the work group shall annually elect a member to serve as presiding officer.

(b) The work group shall meet every six months and at the call of the presiding officer.

(c) The work group may:

(1) seek expert testimony or assistance; and

(2) form subcommittees as needed to accomplish the business of the work group.

(d) The work group is administratively supported by the Texas Education Agency, the Department of State Health Services, and the Department of Agriculture. The Texas Education Agency, the Department of State Health Services, and the Department of Agriculture shall adopt a memorandum of understanding on the

1 provision of necessary staff and facilities to assist the work  
2 group in performing its duties.

3 Sec. 114.005. REPORT. Not later than January 15 of each  
4 odd-numbered year, the work group shall report to the governor, the  
5 lieutenant governor, and the speaker of the house of  
6 representatives on the activities of the work group during the  
7 preceding two calendar years.

8 Sec. 114.006. GENERAL POWERS AND DUTIES. (a) The work  
9 group shall develop and set priorities designed to improve the  
10 nutritional health of children and adults, including  
11 recommendations for activities and programs designed to reduce  
12 obesity and nutrition-related chronic diseases.

13 (b) The work group shall:

14 (1) make recommendations to the Texas Education  
15 Agency, the Department of State Health Services, the Department of  
16 Agriculture, and other appropriate state and local governmental  
17 entities regarding the priorities developed under Subsection (a);

18 (2) develop recommendations to promote participation  
19 in the national school breakfast program, as consistent with  
20 activities of the Texas Education Agency;

21 (3) develop statewide or targeted public awareness  
22 campaigns to improve consumer health by promoting smaller portions  
23 of food and publicizing the adverse consequences of obesity and  
24 steps people may take to prevent and reverse obesity;

25 (4) recommend to the Texas Education Agency, the  
26 Department of State Health Services, and the Department of  
27 Agriculture programs designed to expand the use of Texas

agricultural products in school breakfast and school lunch meals to:

(A) improve the quality, nutritional content, and cost-efficiency of the meals; and

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

(5) identify and create menus for school breakfast and school lunch meals that are more attractive to students and help schools to develop methods to provide adequate time and space for students to eat school meals;

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

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

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

(7) develop with the assistance of school health advisory councils, school nurses, food service directors, teachers, and parents a statewide mentoring program for middle school and high school students using trained volunteer students to work with other students on weight and health issues, including diabetes, high blood pressure, and eating disorders.

Sec. 114.007. IMPLEMENTATION OF PUBLIC NUTRITION AND HEALTH AWARENESS CAMPAIGN. Subject to funds being appropriated for the

1 purpose, the Department of State Health Services shall implement  
2 the statewide or targeted public awareness campaigns developed by  
3 the work group.

4 [Sections 114.008-114.050 reserved for expansion]

5 SUBCHAPTER B. DEPARTMENT PROGRAMS

6 Sec. 114.051. FITNESS PROGRAMS. The Department of State  
7 Health Services, with the assistance of the Texas Department of  
8 Insurance, shall develop programs to encourage employers and health  
9 insurers or other health benefit plan issuers to provide or  
10 subsidize the cost of memberships to gyms or health clubs for  
11 employees or covered persons.

12 Sec. 114.052. RESEARCH. The Department of State Health  
13 Services, with the assistance of the Texas Department of Insurance,  
14 shall encourage research to prevent and treat obesity and identify  
15 evidence-based strategies to prevent and treat obesity that are  
16 supported by research findings. The Department of State Health  
17 Services may publish its findings regarding research to serve as  
18 guidelines for the medical community and insurers or other health  
19 benefit plan issuers in developing prevention or treatment plans  
20 for obesity-related health concerns.

21 [Sections 114.053-114.100 reserved for expansion]

22 SUBCHAPTER C. COMMUNITY PROGRAMS TO PREVENT AND TREAT

23 OBESITY-RELATED HEALTH CONCERNS

24 Sec. 114.101. COMPREHENSIVE NUTRITION AND PHYSICAL  
25 ACTIVITY PILOT PROGRAM. (a) The Department of State Health Services  
26 shall develop and implement a five-year pilot program in one  
27 community to improve nutrition and physical activity within that

1 community.

2 (b) The community chosen for the pilot program must have a  
3 population of less than 100,000. In choosing the community in which  
4 to implement the program the department shall consider:

5 (1) the prevalence of poor nutrition and physical  
6 inactivity in the community;

7 (2) the location of the community;

8 (3) the cost of reaching the community through media  
9 available in the community; and

10 (4) the diversity of the population in the community.

11 (c) The program must include:

12 (1) an intensive public awareness campaign;

13 (2) school and community intervention programs;

14 (3) clinical programs; and

15 (4) study and evaluation of program participants.

16 (d) In developing the pilot program, the department shall  
17 seek input from members of the selected community, including:

18 (1) elected officials;

19 (2) community coalitions;

20 (3) schools and other academic institutions;

21 (4) local media outlets;

22 (5) hospitals and clinics;

23 (6) the local health authority, health department, or  
24 public health district;

25 (7) businesses and industries;

26 (8) faith-based organizations; and

27 (9) other entities as appropriate.

1       (e) This section expires September 1, 2011.

2       Sec. 114.102. NUTRITION AND PHYSICAL ACTIVITY PROMOTION  
3 ANALYSIS. (a) The Department of State Health Services, with  
4 assistance from interested public and private entities, shall  
5 analyze the local activities of a community related to the  
6 improvement of nutrition and physical activity within that  
7 community.

8       (b) In identifying a community in which to conduct the  
9 analysis, the department shall consider the resources in the  
10 community that are being expended for the purpose of preventing or  
11 treating obesity-related health concerns in the community's  
12 population, including the resources of:

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

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

17               (3) school-based health clinics or a coordinated  
18 school health program;

19               (4) state or federal diabetes funding;

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

21               (6) local media outlets; and

22               (7) other available sources of support.

23       (c) The department shall:

24               (1) assist in coordinating the existing resources for  
25 evaluation as a comprehensive obesity-prevention initiative;

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

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

3           (d) The department shall analyze whether current resources  
4 in the community address:

5                 (1) public awareness;

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

7                 (3) clinical programs that improve nutrition and  
8 physical activity; and

9                 (4) surveillance, research, and evaluation.

10           (e) In developing the program, the department shall collect  
11 information regarding:

12                 (1) the introduction of new health-related activities  
13 into the community;

14                 (2) the discontinuation of health-related activities  
15 in the community;

16                 (3) the rate of obesity and the number of overweight  
17 persons in the community; and

18                 (4) if possible, the causes of obesity and excessive  
19 weight gain.

20           (f) The department shall conduct the analysis over a  
21 five-year period.

22           (g) This section expires December 31, 2010.

23           SECTION 2. Subchapter Z, Chapter 33, Education Code, is  
24 amended by adding Sections 33.9011 and 33.9012 to read as follows:

25           Sec. 33.9011. OPERATION OF BREAKFAST PROGRAMS IN CERTAIN  
26 DISTRICTS. (a) If at least 60 percent of the students enrolled in a  
27 school district are eligible to participate in the national free or



1 reduced-price breakfast program established under 42 U.S.C.  
2 Section 1751 et seq., the district shall consider seeking approval  
3 to act under the appropriate special assistance provision of the  
4 program that allows the district to:

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

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

9 (b) A school district shall offer free breakfast to every  
10 child if funds are available for that purpose.

11 (c) A school district that does not have sufficient funds  
12 available to provide breakfast under Subsection (b) may apply to  
13 the agency for a grant under Section 33.9012 or to nonprofit  
14 foundations, governmental entities, or other sources for grants for  
15 that purpose.

16 Sec. 33.9012. BREAKFAST FUND; GIFTS, GRANTS, AND DONATIONS.

17 (a) The breakfast fund is an account established in the general  
18 revenue fund. The fund is composed of money appropriated to the  
19 fund and gifts, grants, and donations accepted for the fund under  
20 this section. Money in the breakfast fund may be appropriated only  
21 to the agency to provide grants to school districts to operate  
22 breakfast programs under Section 33.9011.

23 (b) The agency may seek and accept gifts, grants, and  
24 donations for the breakfast fund from appropriate nonprofit  
25 foundations, governmental entities, and other sources.

26 (c) All gifts, grants, and donations of money accepted under  
27 this section shall be deposited to the credit of the breakfast fund.

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

Sec. 262.153. DUTY TO PROVIDE NUTRITIONAL EDUCATION INFORMATION. A dental hygienist shall provide nutritional education information with dental hygiene services performed in schools, Head Start centers, and day-care facilities to help establish good nutritional and oral care habits at the earliest age possible.

SECTION 4. Chapter 12, Agriculture Code, is amended by adding Section 12.039 to read as follows:

Sec. 12.039. CHANGES IN SCHOOL NUTRITION POLICY. (a) In establishing school nutrition policy, the commissioner shall seek input from the commissioner of education and the commissioner of state health services.

(b) School nutrition policy may be more stringent than any recommended or required federal guidelines.

(c) The Department of Agriculture may not change school nutrition policy in a manner that would allow more competitive foods or foods of minimal nutritional value to be served at a school than the amount allowed by the policy on January 1, 2005.

SECTION 5. (a) The Department of State Health Services shall analyze and evaluate whether a statewide wellness council would assist the department in promoting consumer health and educating Texans on the importance of proper nutrition and physical activity in preventing obesity-related health concerns. Not later than September 1, 2006, the Department of State Health Services shall submit a report to the governor, the lieutenant governor, and

1 the speaker of the house of representatives regarding the  
2 department's recommendation for the creation of a statewide  
3 wellness council.

4 (b) The Texas Department of Insurance shall analyze and  
5 evaluate the changes in law needed to require health insurers and  
6 other health benefit plan issuers to provide coverage for the  
7 treatment and prevention of obesity, including coverage for  
8 counseling of overweight and obese individuals. Not later than  
9 September 1, 2006, the Texas Department of Insurance shall submit a  
10 report to the governor, the lieutenant governor, and the speaker of  
11 the house of representatives regarding the department's  
12 recommendations for required changes in law.

13 SECTION 6. (a) Not later than July 1, 2006, the Department  
14 of State Health Services shall develop the pilot program required  
15 by Section 114.101, Health and Safety Code, as added by this Act,  
16 and select the community in which to implement the pilot program.

17 (b) Not later than August 1, 2006, the Department of State  
18 Health Services shall implement the pilot program required by  
19 Section 114.101, Health and Safety Code, as added by this Act.

20 (c) Not later than December 31 of each even-numbered year  
21 through December 2010, the Department of State Health Services  
22 shall submit a report to the governor, the lieutenant governor, and  
23 the speaker of the house of representatives on the pilot program  
24 required by Section 114.101, Health and Safety Code, as added by  
25 this Act, regarding:

26 (1) the success of the pilot program in changing the  
27 nutritional and physical activity within the community;

1           (2) any problems encountered during the pilot program;  
2 and

3           (3) the department's recommendations for the expansion  
4 of the pilot program.

5           (d) The Department of State Health Services shall submit a  
6 final report as described by Subsection (c) of this section not  
7 later than December 31, 2011.

8           SECTION 7. (a) Not later than October 1, 2005, the  
9 Department of State Health Services shall begin the analysis  
10 required by Section 114.102, Health and Safety Code, as added by  
11 this Act.

12           (b) Not later than December 31 of each even-numbered year  
13 through December 2010, the Department of State Health Services  
14 shall submit a report to the governor, the lieutenant governor, and  
15 the speaker of the house of representatives regarding the  
16 department's findings and analysis under Section 114.102, Health  
17 and Safety Code, as added by this Act.

18           SECTION 8. This Act takes effect September 1, 2005.