

By: Lucio

S.B. No. 73

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. 161.903. RESEARCH. The Department of State Health
4 Services, with the assistance of the Texas Department of Insurance,
5 shall identify and encourage evidence-based clinical interventions
6 to prevent and treat obesity. The Department of State Health
7 Services may promote guidelines for the medical community and
8 insurers or other health benefit plan issuers in developing
9 prevention or treatment plans for obesity-related health concerns.

10 Sec. 161.904. NUTRITION AND PHYSICAL ACTIVITY PROMOTION
11 ANALYSIS. (a) The Department of State Health Services, with
12 assistance from interested public and private entities, shall
13 analyze the capacity of a local community selected by the
14 department to improve the nutrition and physical activity behaviors
15 within that community.

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

21 (1) the local health authority, health department, or
22 public health district;

23 (2) the special supplemental nutrition program for
24 women, infants, and children;

25 (3) school-based health clinics, coordinated school
26 health programs, and school health advisory committees;

27 (4) state or federal diabetes funding;

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

2 (6) local media outlets; and

3 (7) other available sources of support.

4 (c) The department shall coordinate with existing community
5 resources to:

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

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

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

12 (d) The department shall analyze whether current resources
13 in the community address:

14 (1) public awareness;

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

16 (3) clinical programs that improve nutrition and
17 physical activity; and

18 (4) surveillance, research, and evaluation.

19 (e) The department shall work with the community to make
20 recommendations regarding:

21 (1) the introduction of new health-related activities
22 into the community;

23 (2) the reallocation of existing resources for
24 health-related activities in the community to address the problem
25 of obesity; and

26 (3) monitoring the progress of the community while the
27 community implements the changes.

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

3 (g) This section expires September 1, 2011.

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

6 CHAPTER 22. NUTRITION IN PUBLIC SCHOOLS

7 Sec. 22.001. GENERAL RESPONSIBILITIES. The department
8 shall:

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

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

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

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

17 (3) identify and create menus for public school
18 breakfast and lunch meals that are more attractive to students, and
19 help schools develop guidelines to provide adequate time and space
20 for students to eat public school meals; and

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

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

27 (B) local grocery providers to create donation

1 programs to assist with universal breakfast and lunch programs for
2 children in the district.

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

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

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

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

18 Sec. 22.003. BREAKFAST FUND; GIFTS, GRANTS, AND DONATIONS.

19 (a) The breakfast fund is an account established in the general
20 revenue fund. The fund is composed of money appropriated to the
21 fund and gifts, grants, and donations accepted for the fund under
22 this section. Money in the breakfast fund may be appropriated only
23 to the department to provide grants to school districts to operate
24 breakfast programs under Section 22.002.

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

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

3 Sec. 22.004. SCHOOL NUTRITION POLICY. (a) The
4 commissioner shall establish a public school nutrition policy in
5 accordance with this chapter. Any changes made to the public school
6 nutrition policy shall be made by rule.

7 (b) In establishing public school nutrition policy, the
8 commissioner may seek input from the commissioner of education and
9 the commissioner of state health services.

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

12 (d) The commissioner may not change public school nutrition
13 policy in a manner that would allow more foods of minimal
14 nutritional value to be served at a public school than the amount
15 allowed by the policy on January 1, 2007.

16 Sec. 22.005. ACCESS TO CERTAIN BEVERAGES. A beverage that
17 is a food of minimal nutritional value, as defined by 7 C.F.R. Part
18 210, may not be sold on a public school campus in a container larger
19 than 12 ounces. Not more than 30 percent of beverages in vending
20 machines on a public school campus may be beverages that are foods
21 of minimal nutritional value as defined in 7 C.F.R. Part 210.

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

24 (a) The agency shall make available to each school district
25 one or more coordinated health programs designed to prevent
26 obesity, cardiovascular disease, and Type 2 diabetes in elementary
27 school, middle school, and junior high school students. Each

1 program must provide for coordinating:

- 2 (1) health education;
- 3 (2) physical education and physical activity;
- 4 (3) nutrition services, which may include nutrition
5 education for students and their parents; and
- 6 (4) parental involvement.

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

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

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

21 SUBCHAPTER C. RECOGNIZING EXTRAORDINARY ACHIEVEMENT IN
22 CHILDREN'S HEALTH (REACH) PROGRAM

23 Sec. 38.101. DEFINITIONS. In this subchapter:

- 24 (1) "Department" means the Department of Agriculture.
- 25 (2) "Program" means the Recognizing Extraordinary
26 Achievement in Children's Health (REACH) Program.

27 Sec. 38.102. PROGRAM. (a) The Department of Agriculture,

1 as the state agency responsible for administering the United States
2 Department of Agriculture's child nutrition programs, shall
3 administer the Recognizing Extraordinary Achievement in Children's
4 Health Program.

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

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

15 Sec. 38.104. MEASURING HEALTH PERFORMANCE. (a) The
16 department shall measure the health performance of each school that
17 participates in the program by using:

18 (1) the school health index developed by the Centers
19 for Disease Control and Prevention of the United States Public
20 Health Service; and

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

22 (b) The department, in consultation with school health
23 experts, shall determine the minimum health performance score a
24 school must achieve under this section for the school to be eligible
25 for a monetary program award under Section 38.105.

26 (c) In determining a school's health performance score
27 under Subsection (b), the department, as provided by department

1 rule, shall award additional points to a school that has a high
2 percentage of educationally disadvantaged students.

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

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

11 (b) The department by rule shall establish the criteria for
12 determining the amount of money awarded to a school. The criteria
13 must include consideration of the average daily attendance and the
14 grade levels provided at the applicant schools.

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

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

19 (b) The department shall administer the program using gifts
20 and grants received under Subsection (a) and funds appropriated to
21 the department for program purposes.

22 (c) A school may use the monetary program award as the
23 school determines, but should use a portion of the money to pay for
24 implementing the program or administering new or existing health
25 improvement programs at the school.

26 Sec. 38.107. APPLICATIONS. (a) An eligible school may
27 apply to the department to participate in the program. In applying,

1 the school shall provide the department with:

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

4 (2) information concerning the average daily
5 attendance of students at the school;

6 (3) a statement of the number of educationally
7 disadvantaged students at the school; and

8 (4) any other information the department requires.

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

14 Sec. 38.108. AGREEMENT. The department shall enter into an
15 agreement with each school that participates in the program before
16 the school receives a monetary program award from the department.
17 The agreement must:

18 (1) specify any recordkeeping requirements for
19 participation in the program; and

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

23 Sec. 38.109. RULES. The department may adopt rules as
24 necessary to administer this subchapter.

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

27 Sec. 262.153. DUTY TO PROVIDE NUTRITIONAL EDUCATION

1 INFORMATION. A dental hygienist shall provide nutrition
2 information related to oral health with dental hygiene services
3 performed in schools, Head Start centers, and day-care facilities
4 to help establish good nutritional and oral care habits at the
5 earliest age possible in accordance with nationally recognized
6 guidelines for oral health.

7 SECTION 7. (a) The Department of State Health Services
8 shall analyze and evaluate whether a statewide wellness council
9 would assist the department in promoting consumer health and
10 educating Texans on the importance of proper nutrition and physical
11 activity in preventing obesity-related health concerns. The
12 wellness council would promote and advance a healthy community
13 through workplace activities in the public and private sectors. In
14 analyzing and evaluating the statewide wellness council, the
15 department shall consider whether the council could achieve
16 objectives related to health care cost containment, reduced
17 absenteeism, improved employee health status, and improved morale.
18 Not later than September 1, 2008, the Department of State Health
19 Services shall submit a report to the governor, lieutenant
20 governor, and speaker of the house of representatives regarding the
21 department's recommendation for the creation of a statewide
22 wellness council.

23 (b) The Texas Department of Insurance shall study and
24 analyze the benefits of having health insurers and other health
25 benefit plan issuers providing coverage for the treatment and
26 prevention of obesity, including coverage for counseling of
27 overweight and obese individuals. In the report, the Texas

1 Department of Insurance shall include analysis detailing the fiscal
2 impact of such an initiative, including any findings, feedback, and
3 recommendations of health insurers and other health plan issuers.
4 Not later than September 1, 2008, the Texas Department of Insurance
5 shall submit a report to the governor, lieutenant governor, and
6 speaker of the house of representatives regarding the department's
7 findings and proposed initiatives for the legislature's
8 consideration to better address obesity treatment, prevention, and
9 health care coverage.

10 SECTION 8. (a) Not later than October 1, 2007, the
11 Department of State Health Services shall begin the analysis
12 required by Section 161.904, Health and Safety Code, as added by
13 this Act.

14 (b) Not later than December 31 of each even-numbered year
15 through December, 2012, the Department of State Health Services
16 shall submit a report to the governor, lieutenant governor, and
17 speaker of the house of representatives regarding the department's
18 findings and analysis under Section 161.904, Health and Safety
19 Code, as added by this Act.

20 (c) As soon as practicable after September 1, 2007, the
21 commissioner of agriculture shall adopt any rules necessary to
22 implement Chapter 22, Agriculture Code, as added by this Act.

23 (d) If a state or local governmental entity determines that
24 a waiver or authorization from a federal agency is necessary to
25 implement a provision of Chapter 22, Agriculture Code, as added by
26 this Act, the state or local governmental entity shall request the
27 waiver or authorization and may delay implementing that provision

1 until the waiver or authorization is granted.

2 (e) Subchapter C, Chapter 38, Education Code, as added by
3 this Act, applies beginning with the 2007-2008 school year.

4 SECTION 9. This Act takes effect September 1, 2007.