

SENATE AMENDMENTS

2nd Printing

By: Miller

H.B. No. 4062

A BILL TO BE ENTITLED

AN ACT

relating to certain administrative duties and responsibilities of the Department of Agriculture.

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

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.0025 to read as follows:

Sec. 12.0025. NUTRITION PROGRAMS. The department may administer federal and state nutrition programs.

SECTION 2. Section 12.020(c), Agriculture Code, as amended by Chapters 374 and 1124, Acts of the 77th Legislature, Regular Session, 2001, is reenacted to read as follows:

(c) The provisions of this code subject to this section and the applicable penalty amounts are as follows:

| Provision | Amount of Penalty |
|---|-------------------------|
| Chapter 41 | \$1,000 |
| Chapters 13, 14A, 18, 46, 61, 94, 95, 101, 102, 103, 121, 125, 132, and 134 | not more than \$500 |
| Subchapter B, Chapter 71 | |
| Chapter 19 | |
| Chapter 76 | not more than \$2,000 |
| Subchapters A and C, Chapter 71 | |
| Chapters 72, 73, and 74 | not more than \$5,000 |
| Chapter 14 | not more than \$10,000. |

1 SECTION 3. Section 12.0012, Agriculture Code, as added by
2 Chapter 369, Acts of the 78th Legislature, Regular Session, 2003,
3 is repealed.

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

By: Miller / Nelson

H.B. No. 4062

Substitute the following for H.B. No. 4062:

By: Jane Nelson

C.S. H.B. No. 4062

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement and administration of certain programs
3 by the Department of Agriculture.

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

5 SECTION 1. Chapter 12, Agriculture Code, is amended by
6 adding Section 12.0025 to read as follows:

7 Sec. 12.0025. NUTRITION PROGRAMS. The department shall
8 administer the following federal and state nutrition programs:

9 (1) the commodity supplemental food program under 7
10 U.S.C. Section 612c;

11 (2) the food distribution program under 7 U.S.C.
12 Section 612c;

13 (3) the emergency food assistance program under 7
14 U.S.C. Section 7501 et seq.;

15 (4) the school lunch program under 42 U.S.C. Section
16 1751 et seq.;

17 (5) the summer food service program under 42 U.S.C.
18 Section 1761;

19 (6) the child and adult care food program under 42
20 U.S.C. Section 1766;

21 (7) the special milk program under 42 U.S.C. Section
22 1772; and

23 (8) the school breakfast program under 42 U.S.C.
24 Section 1773.

1 SECTION 2. Section 12.020(c), Agriculture Code, as amended
2 by Chapter 374 and 1124, Acts of the 77th Legislature, Regular
3 Session, 2001, is reenacted to read as follows:

4 (c) The provisions of this code subject to this section and
5 the applicable penalty amounts are as follows:

| 6 Provision | Amount of Penalty |
|--|-------------------------|
| 7 Chapter 41 | \$1,000 |
| 8 Chapters 13, 14A, 18, 46, 61, 94, 9 95, 101, 102, 103, 121, 125, 132, 10 and 134 | not more than \$500 |
| 11 Subchapter B, Chapter 71 | |
| 12 Chapter 19 | |
| 13 Chapter 76 | not more than \$2,000 |
| 14 Subchapters A and C, Chapter 71 | |
| 15 Chapters 72, 73, and 74 | not more than \$5,000 |
| 16 Chapter 14 | not more than \$10,000. |

17 SECTION 3. Chapter 12, Agriculture Code, is amended by
18 adding Section 12.042 to read as follows:

19 Sec. 12.042. TRANS-FATTY ACID STUDY. (a) Not later than
20 December 1, 2008, the department shall prepare and submit a report
21 to the governor, lieutenant governor, speaker of the house of
22 representatives, and appropriate standing committees of the
23 legislature containing information on the department's and the
24 United States Department of Agriculture's steps to reduce
25 trans-fatty acids from all school meals and nutrition programs.
26 The report shall detail all initiatives, proposals, and programs
27 that the department and the United States Department of Agriculture

1 are then currently conducting or planning to conduct and include
2 the department's recommendations for legislative action to assist
3 in reducing trans-fatty acids from school meals.

4 (b) This section expires December 2, 2008.

5 SECTION 4. Chapter 12, Agriculture Code, is amended by
6 adding Section 12.043 to read as follows:

7 Sec. 12.043. STUDY REGARDING PARTICIPATION IN BREAKFAST
8 PROGRAM. (a) In this section, "breakfast program" means the
9 national school breakfast program provided for by the Child
10 Nutrition Act of 1966 (42 U.S.C. Section 1773).

11 (b) The department shall identify methods for increasing
12 the number of students who eat breakfast, including:

13 (1) conducting a cost-benefit analysis in a sample of
14 school districts in which 60 percent or more of the students qualify
15 for free or reduced-price breakfast to determine the impact of
16 providing a free breakfast to:

17 (A) students who would otherwise pay a reduced
18 price for breakfast; and

19 (B) all students in the district regardless of
20 family income;

21 (2) identifying programs and practices in school
22 districts in this state and other states that are effective in
23 increasing participation in the breakfast program; and

24 (3) providing information at the beginning of the
25 school year to students and parents about the importance of eating
26 breakfast.

27 (c) The cost-benefit analysis required under Subsection (b)

1 must assess:

- 2 (1) administrative costs to a school district;
3 (2) federal reimbursement made to a school district
4 for free or reduced-price breakfast;
5 (3) cost per breakfast to a school district; and
6 (4) participation of students in the breakfast
7 program.

8 (d) Not later than October 31, 2008, the commissioner shall
9 prepare and deliver a report describing the results of the study to
10 the governor, the lieutenant governor, and the speaker of the house
11 of representatives. The report must:

- 12 (1) include the cost-benefit analysis required under
13 Subsection (b);
14 (2) outline effective programs and practices
15 identified under Subsection (b); and
16 (3) recommend to the legislature methods for
17 increasing participation in the breakfast program.

18 (e) This section expires January 1, 2009.

19 SECTION 5. Chapter 33, Human Resources Code, is amended by
20 adding Sections 33.0005 and 33.0006 to read as follows:

21 Sec. 33.0005. DEFINITIONS. In this chapter:

- 22 (1) "Department" means:
23 (A) with respect to the food stamp program, the
24 Health and Human Services Commission; and
25 (B) with respect to any other nutritional
26 assistance program or special nutrition program listed in
27 Subdivision (3), the Health and Human Services Commission or the

1 agency of this state that operates the program, as applicable.

2 (2) "Executive commissioner" means the executive
3 commissioner of the Health and Human Services Commission, or the
4 chief administrative officer of an agency of this state operating a
5 nutritional assistance program, as applicable.

6 (3) "Nutritional assistance program" or "special
7 nutrition program" includes the following programs authorized by
8 federal law that provide nutritional assistance to needy
9 individuals in this state:

10 (A) the food stamp program;

11 (B) the child and adult care food program;

12 (C) the summer food service program;

13 (D) the food distribution program;

14 (E) the emergency food assistance program; and

15 (F) the commodity supplemental food program.

16 Sec. 33.0006. OPERATION OF FOOD STAMP PROGRAM. The Health
17 and Human Services Commission operates the food stamp program.

18 SECTION 6. Sections 33.002(b) and (e), Human Resources
19 Code, are amended to read as follows:

20 (b) The department may enter into agreements with federal
21 agencies that are required as a prerequisite to the allocation of
22 the commodities or food stamps. The department may enter into
23 agreements with eleemosynary institutions, schools, and other
24 eligible agencies and recipients of the commodities and food
25 stamps. The department administering the distribution of federal
26 surplus commodities and other resources may cooperate with a
27 municipality or county as necessary to properly administer that

1 distribution.

2 (e) The department [~~Texas Department of Human Services~~]
3 shall screen all applicants for expedited issuance on a priority
4 basis within one working day. Applicants who meet the federal
5 criteria for expedited issuance and have an immediate need for food
6 assistance shall receive either a manual Authorization-to-Purchase
7 card or the immediate issuance of food stamp coupons within one
8 working day.

9 SECTION 7. Section 33.004(b), Human Resources Code, is
10 amended to read as follows:

11 (b) The advisory boards shall be of the size, membership,
12 and experience that the executive commissioner determines to be
13 essential for the accomplishment of the purposes of this chapter
14 and not in conflict with or duplicative of other laws on this
15 subject.

16 SECTION 8. Section 33.013(c), Human Resources Code, is
17 amended to read as follows:

18 (c) Where emergency food programs do not exist, the
19 department [~~Texas Department of Human Services~~] office shall assist
20 community groups in establishing emergency food assistance
21 programs.

22 SECTION 9. Section 33.024(e), Human Resources Code, is
23 amended to read as follows:

24 (e) School district facilities shall be utilized for the
25 summer program unless:

26 (1) the district provides documentation, verified by
27 the department and the agency, showing that the cost to the district

1 exceeds the funds available for the summer program; or

2 (2) the department [~~Department of Human Services~~]
3 verifies that the program will operate at adequate alternative
4 facilities.

5 SECTION 10. Section 12.0012, Agriculture Code, as added by
6 Chapter 369, Acts of the 78th Legislature, Regular Session, 2003,
7 is repealed.

8 SECTION 11. All records, contracts, assets, personal
9 property, and personnel of the Health and Human Services Commission
10 associated with or engaged in the administration of a nutrition
11 program transferred to the Department of Agriculture by this Act
12 are transferred to the Department of Agriculture.

13 SECTION 12. A rule or form adopted by the Health and Human
14 Services Commission for the administration of a federal or state
15 nutrition program transferred by this Act is a rule or form of the
16 Department of Agriculture until changed by the Department of
17 Agriculture.

18 SECTION 13. If before implementing any provision of this
19 Act an agency of this state determines that a waiver or
20 authorization from a federal agency is necessary for implementation
21 of that provision, the agency affected by the provision shall
22 request the waiver or authorization and may delay the
23 implementation of that provision until the waiver or authorization
24 is granted.

25 SECTION 14. This Act takes effect immediately if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

1 If this Act does not receive the vote necessary for immediate
2 effect, this Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 10, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4062 by Miller (Relating to the enforcement and administration of certain programs by the Department of Agriculture.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill provides the Texas Department on Agriculture (TDA) with the authority to administer federal and state nutrition programs including: the commodity supplemental food program; the food distribution program; the emergency food assistance program; the school lunch program; the summer food service program; the child and adult care food program; the special milk program; and the school breakfast program. The bill also amends Chapter 33 of the Human Resources Code to clarify that TDA operates nutritional assistance programs and special nutrition programs, except for the food stamp program.

These provisions provide TDA with statutory authority to administer the National School Breakfast and Lunch programs in public schools. The agency has been administering these programs, which were transferred from the Texas Education Agency, since August 2003 pursuant to a waiver from the U.S. Department of Agriculture (USDA), so no fiscal impact is anticipated associated with these provisions.

The bill would also provide for the transfer of the nutrition programs currently being administered by the Health and Human Services Commission, with the exception of the food stamp program, to TDA, including 99 FTEs and the associated funds to implement and administer these nutrition programs - \$1,719,874 in General Revenue and \$531,769,547 in Federal Funds for the 2008-09 biennium. There would be, however, no significant fiscal impact to the state as the bill simply transfers these funds from one agency to another. Any technological costs associated with the transfer of the programs will be funded with federal State Administrative Expense (SAE) funds.

The bill would require TDA to prepare and submit a report to the governor, lieutenant governor, speaker of the House of Representatives, and appropriate standing committees of the legislature containing information on the department's and the USDA's steps to reduce trans-fatty acids from all school meals and nutrition programs. The agency does not anticipate the cost to do this study to be significant and assumes that any costs associated with it would be paid with federal SAE funds.

The bill would also require TDA to conduct a study and submit a report to the governor, lieutenant governor, and the speaker of the House of Representatives identifying methods for increasing the number of students participating in the national school breakfast program. The report must include: a cost-benefit analysis to determine the impact of providing a free breakfast to students receiving reduced price breakfast as well as all students regardless of income; outline effective programs and practices to increase breakfast participation; and recommend methods to the legislature for increasing breakfast participation. The agency anticipates that the cost to do the study would be a one-time cost of \$250,000 and assumes that these costs would be covered with federal SAE funds.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 551 Department of Agriculture, 701 Central Education Agency

LBB Staff: JOB, CL, ZS, JF

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4062 by Miller (Relating to certain administrative duties and responsibilities of the Department of Agriculture.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill clarifies the authority of the Texas Department of Agriculture (TDA) to administer state and federal nutrition programs. For purposes of this fiscal note, it is assumed that the programs referred to in this legislation are the Child Nutrition programs currently being administered by TDA pursuant to a waiver from the U.S. Department of Agriculture; this legislation simply provides statutory authority for TDA to administer these programs and is not anticipated to result in a fiscal impact to the State.

The bill also modifies section 12.020 (c) of the Agriculture Code to clarify the maximum penalty amount for a grain warehouse violation, and repeals Section 12.0012 of the Agriculture Code, which is duplicative. Neither of these changes to statute is expected to result in a fiscal impact to the State.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 551 Department of Agriculture

LBB Staff: JOB, CL, WK, ZS, JF, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Sid Miller, Chair, House Committee on Agriculture & Livestock

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB4062 by Miller (Relating to certain administrative duties and responsibilities of the Department of Agriculture.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill clarifies the authority of the Texas Department of Agriculture (TDA) to administer state and federal nutrition programs. For purposes of this fiscal note, it is assumed that the programs referred to in this legislation are the Child Nutrition programs currently being administered by TDA pursuant to a waiver from the U.S. Department of Agriculture; this legislation simply provides statutory authority for TDA to administer these programs and is not anticipated to result in a fiscal impact to the State.

The bill also modifies section 12.020 (c) of the Agriculture Code to clarify the maximum penalty amount for a grain warehouse violation, and repeals Section 12.0012 of the Agriculture Code; which is duplicative. Neither of these changes to statute is expected to result in a fiscal impact to the State.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 551 Department of Agriculture

LBB Staff: JOB, WK, ZS, JF, DB