

BILL ANALYSIS

C.S.S.B. 867
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The summer nutrition program provides low-income children with nutritious meals during the summer months. Schools or alternative sites participating in the program receive a federal reimbursement for each meal served. Summer meals are important because while many children gain weight in the summer months, others that rely on school meals during the academic year often go hungry. Unfortunately, participation in the program is extremely low. According to Feeding America, only 14 percent of children who participate in the national free or reduced-price lunch program receive food through the program. In Texas, the Food Action Resource Center reports that less than 10 percent of low-income children are served through the program. Major barriers to participating in the program include an insufficient number of service sites, minimal days of operation, transportation issues, and lack of awareness.

C.S.S.B. 867 amends current law relating to summer nutrition programs provided for by school districts. The bill requires a school district in which 50 percent or more of the students are eligible to participate in the national free or reduced-priced lunch program under federal law to provide or arrange for the provision of a summer nutrition program for at least 30 weekdays during the period in which district schools are recessed for the summer unless granted a waiver by the Department of Agriculture (TDA). The bill requires TDA and the Texas Education Agency to jointly develop a plan for increasing access to summer nutrition programs.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 1 of this bill.

ANALYSIS

C.S.S.B. 867 amends the Agriculture Code to require a school district in which 50 percent or more of the students are eligible to participate in the national free or reduced-priced lunch program to provide or arrange for the provision of a summer nutrition program for at least 30 weekdays during the period in which district schools are recessed for the summer, unless the Texas Department of Agriculture (TDA) grants a district a waiver. The bill requires TDA, not later than October 31 of each year, to notify each applicable district and each departmental field office of its responsibility concerning provision of such a program during the next period in which school is recessed for the summer. The bill requires the board of trustees of a school district that intends to request a waiver to send written notice of the district's intention to the district's local school health advisory council, not later than November 30 of each year, and requires the notice to include an explanation of the district's reason for requesting a waiver of the requirement. The bill requires each notified district, not later than January 31 of the year following the year in which the notice was received, either to inform TDA in writing that the district intends to operate such a program during the next period in which district schools are recessed for the summer or to request in writing that TDA grant the district a waiver.

C.S.S.B. 867 authorizes TDA to grant a district a waiver only if the board of trustees of the

district by resolution has authorized the district's request for a waiver, the district provides specified documentation that is verified by TDA, and the district has worked with the field offices to identify another possible provider for the summer nutrition program in the district. The bill requires the provided documentation to show that there are fewer than 100 children in the district currently eligible for the national free or reduced-priced lunch program, that transportation to enable district students to participate in the program is an insurmountable obstacle to providing the program despite consultation by the district with public transit providers, the district is unable to operate a summer nutrition program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site, or the district is unable to operate such a program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site. The bill specifies that a waiver of the requirement to operate a summer nutrition program is for a one-year period.

C.S.S.B. 867 requires the field offices to continue to attempt to identify an alternate provider for a district's summer nutrition program if the district has requested a waiver and has been unable to provide to TDA a list of possible providers for the program.

C.S.S.B. 867 requires TDA and the Texas Education Agency (TEA) jointly to develop a plan for increasing access to summer nutrition programs. The bill requires the plan to include a list of any barrier to access to the programs, including a barrier that a provider encounters in providing a program and a description of any action taken to overcome a barrier. The bill requires TDA and TEA each to designate an agency administrative employee to assist in administering plan development.

C.S.S.B. 867 requires TDA and TEA, not later than December 31 of each even-numbered year, to provide to the legislature a joint report that includes, for each year of the biennium, the name of each school district that receives a notice of its responsibility regarding provision of a summer nutrition program that has provided for or has failed to provide such a program. The bill requires the report to include an explanation of the joint plan for increasing access to a summer nutrition program or of any update to the plan and the funds, other than federal funds, used by districts and the state in complying with the provisions of the bill.

C.S.S.B. 867 requires the commissioner of agriculture, in consultation with the commissioner of education, to adopt rules and procedures for a school district to obtain a waiver of the requirement to operate a summer nutrition program. The bill requires the commissioner of agriculture to adopt other rules as necessary to administer the summer nutrition programs.

C.S.S.B. 867 defines "summer nutrition program" to mean the summer food service program under federal law and includes in the term the seamless summer option. The bill also defines "agency" and "field office."

C.S.S.B. 867 repeals Section 33.024, Human Resources Code, that establishes a summer food service program requiring the Health and Human Services Commission and TEA to develop a plan to ensure that children residing in a school district in which 60 percent or more children are eligible for free or reduced-price meals have access to the summer food service program.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 867 adds provisions not in the original requiring the board of trustees of a school district that intends to request a waiver to send written notice of the district's intention to the district's local school health advisory council, not later than November 30 of each year, and requires the notice to include an explanation of the district's reason for requesting a waiver of the

requirement. The substitute removes language in the original, in provisions setting forth the documentation a district must provide before the Department of Agriculture may grant the district a waiver, including the fact that the district does not offer a summer program as an extenuating circumstance due to which the district is unable to operate a summer nutrition program.