

By: Lucio

S.B. No. 867

A BILL TO BE ENTITLED

1 AN ACT
2 relating to summer nutrition programs provided for by school
3 districts.

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 12.0026 to read as follows:

7 Sec. 12.0026. SUMMER NUTRITION PROGRAMS. (a) In this
8 section:

9 (1) "Agency" means the Texas Education Agency.

10 (2) "Field office" means a field office of a nutrition
11 program administered by the department.

12 (3) "Summer nutrition program" means the summer food
13 service program under 42 U.S.C. Section 1761. The term includes the
14 seamless summer option under 42 U.S.C. Section 1761(a)(8).

15 (b) Unless the department grants a school district a waiver
16 under Subsection (e), a district in which 50 percent or more of the
17 students are eligible to participate in the national free or
18 reduced-priced lunch program under 42 U.S.C. Section 1751 et seq.
19 shall provide or arrange for the provision of a summer nutrition
20 program for at least 30 weekdays during the period in which district
21 schools are recessed for the summer.

22 (c) Not later than October 31 of each year, the department
23 shall notify of its responsibility concerning provision of a summer
24 nutrition program during the next period in which school is

1 recessed for the summer:

2 (1) each school district described by Subsection (b);

3 and

4 (2) each field office.

5 (d) Each school district that receives a notice under
6 Subsection (c) shall, not later than January 31 of the year
7 following the year in which the notice was received:

8 (1) inform the department in writing that the district
9 intends to operate a summer nutrition program during the next
10 period in which district schools are recessed for the summer; or

11 (2) request in writing that the department grant the
12 district a waiver of the requirement to operate a summer nutrition
13 program.

14 (e) The department may grant a school district a waiver of
15 the requirement to operate a summer nutrition program only if:

16 (1) the board of trustees of the district by
17 resolution has authorized the district's request for a waiver;

18 (2) the district provides documentation, verified by
19 the department, showing that:

20 (A) there are fewer than 100 children in the
21 district currently eligible for the national free or reduced-priced
22 lunch program;

23 (B) transportation to enable district students
24 to participate in the program is an insurmountable obstacle to
25 providing the program despite consultation by the district with
26 public transit providers;

27 (C) the district is unable to operate a summer

1 nutrition program due to renovation or construction of district
2 facilities and the unavailability of an appropriate alternate
3 provider or site; or

4 (D) the district is unable to operate a summer
5 nutrition program due to another specified extenuating
6 circumstance, such as the fact that the district does not offer a
7 summer program, and the unavailability of an appropriate alternate
8 provider or site; and

9 (3) the district has worked with the field offices to
10 identify another possible provider for the summer nutrition program
11 in the district.

12 (f) A waiver granted under Subsection (e) is for a one-year
13 period.

14 (g) If a school district has requested a waiver under
15 Subsection (d)(2) and has been unable to provide to the department a
16 list of possible providers for the summer nutrition program, the
17 field offices shall continue to attempt to identify an alternate
18 provider for the district's summer nutrition program.

19 (h) The department and the agency jointly shall develop a
20 plan for increasing access to summer nutrition programs. The plan
21 must include a list of any barrier to access to the programs,
22 including a barrier that a provider encounters in providing a
23 program and a description of any action taken to overcome a barrier.
24 The department and the agency each shall designate an agency
25 administrative employee to assist in administering this
26 subsection.

27 (i) Not later than December 31 of each even-numbered year,

1 the department and the agency shall provide to the legislature a
2 joint report that includes, for each year of the biennium:

3 (1) the name of each school district that receives a
4 notice under Subsection (c) that:

5 (A) has provided for a summer nutrition program;
6 or

7 (B) has failed to provide a program;

8 (2) an explanation, as applicable, of the plan
9 required under Subsection (h) or of any update to the plan; and

10 (3) the funds, other than federal funds, used by
11 school districts and the state in complying with this section.

12 (j) The commissioner of agriculture, in consultation with
13 the commissioner of education, shall adopt rules and procedures for
14 obtaining a waiver under Subsection (e). The commissioner of
15 agriculture shall adopt other rules as necessary to administer this
16 section.

17 SECTION 2. Section 33.024, Human Resources Code, is
18 repealed.

19 SECTION 3. This Act takes effect September 1, 2009.