

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 (h), 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 consecutive weekdays during the period in
21 which district schools are recessed for the summer.

22 (c) A school district shall use a district facility for the
23 summer nutrition program unless the district provides
24 documentation, verified by the department, showing that the program

1 will operate at an adequate alternate facility.

2 (d) Not later than October 1 of each year, the agency shall
3 provide to the department a list of school districts described by
4 Subsection (b).

5 (e) Not later than October 31 of each year, the department
6 shall notify of its responsibility concerning provision of a summer
7 nutrition program during the next period in which school is
8 recessed for the summer:

9 (1) each school district that is on the list required
10 by Subsection (d); and

11 (2) each field office.

12 (f) Not later than November 30 of each year, the board of
13 trustees of a school district that intends to request a waiver under
14 Subsection (g)(2) must inform district residents of the district's
15 intention by sending written notice to the district's local school
16 health advisory council and to the principal of each elementary
17 school in the district and by posting the notice on a district
18 Internet website. The notice must include:

19 (1) information explaining the summer nutrition
20 program;

21 (2) information concerning the general requirement
22 under this section that the district operate the program;

23 (3) an explanation of the district's reason for
24 requesting a waiver of the requirement;

25 (4) any district plan to attempt to arrange for the
26 provision of a summer nutrition program by an alternate provider;

27 and

1 (5) a statement of the method by which a person may
2 comment to the district on the district's intention to request a
3 waiver.

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

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

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

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

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

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

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

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

26 (C) the district is unable to operate a summer
27 nutrition program due to renovation or construction of district

1 facilities and the unavailability of an appropriate alternate
2 provider or site; or

3 (D) the district is unable to operate a summer
4 nutrition program due to another specified extenuating
5 circumstance and the unavailability of an appropriate alternate
6 provider or site; and

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

10 (i) A waiver granted under Subsection (h) is for a one-year
11 period.

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

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

25 (l) Not later than December 31 of each even-numbered year,
26 the department and the agency shall provide to the legislature a
27 joint report that includes, for each year of the biennium:

1 (1) the name of each school district that receives a
2 notice under Subsection (e) that:

3 (A) has provided for a summer nutrition program;

4 or

5 (B) has failed to provide a program;

6 (2) an explanation, as applicable, of the plan
7 required under Subsection (k) or of any update to the plan; and

8 (3) the costs, other than costs paid by federal funds,
9 incurred by school districts and the state in complying with this
10 section.

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

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

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