

1-1 By: Lucio S.B. No. 867
1-2 (In the Senate - Filed February 16, 2009; March 9, 2009,
1-3 read first time and referred to Committee on Education;
1-4 April 16, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 1; April 16, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 867 By: Patrick

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to summer nutrition programs provided for by school
1-11 districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 12, Agriculture Code, is amended by
1-14 adding Section 12.0026 to read as follows:

1-15 Sec. 12.0026. SUMMER NUTRITION PROGRAMS. (a) In this
1-16 section:

1-17 (1) "Agency" means the Texas Education Agency.

1-18 (2) "Field office" means a field office of a nutrition
1-19 program administered by the department.

1-20 (3) "Summer nutrition program" means the summer food
1-21 service program under 42 U.S.C. Section 1761. The term includes the
1-22 seamless summer option under 42 U.S.C. Section 1761(a)(8).

1-23 (b) Unless the department grants a school district a waiver
1-24 under Subsection (f), a district in which 50 percent or more of the
1-25 students are eligible to participate in the national free or
1-26 reduced-priced lunch program under 42 U.S.C. Section 1751 et seq.
1-27 shall provide or arrange for the provision of a summer nutrition
1-28 program for at least 30 weekdays during the period in which district
1-29 schools are recessed for the summer.

1-30 (c) Not later than October 31 of each year, the department
1-31 shall notify of its responsibility concerning provision of a summer
1-32 nutrition program during the next period in which school is
1-33 recessed for the summer:

1-34 (1) each school district described by Subsection (b);
1-35 and

1-36 (2) each field office.

1-37 (d) Not later than November 30 of each year, the board of
1-38 trustees of a school district that intends to request a waiver under
1-39 Subsection (e)(2) must inform district residents of the district's
1-40 intention by sending written notice to the district's local school
1-41 health advisory council and to the principal of each elementary
1-42 school in the district and by posting the notice on a district
1-43 Internet website. The notice must include:

1-44 (1) information explaining the summer nutrition
1-45 program;

1-46 (2) information concerning the general requirement
1-47 under this section that the district operate the program;

1-48 (3) an explanation of the district's reason for
1-49 requesting a waiver of the requirement;

1-50 (4) any district plan to attempt to arrange for the
1-51 provision of a summer nutrition program by an alternate provider;
1-52 and

1-53 (5) a statement of the method by which a person may
1-54 comment to the district on the district's intention to request a
1-55 waiver.

1-56 (e) Each school district that receives a notice under
1-57 Subsection (c) shall, not later than January 31 of the year
1-58 following the year in which the notice was received:

1-59 (1) inform the department in writing that the district
1-60 intends to operate a summer nutrition program during the next
1-61 period in which district schools are recessed for the summer; or

1-62 (2) request in writing that the department grant the
1-63 district a waiver of the requirement to operate a summer nutrition

2-1 program.

2-2 (f) The department may grant a school district a waiver of
 2-3 the requirement to operate a summer nutrition program only if:

2-4 (1) the board of trustees of the district by
 2-5 resolution has authorized the district's request for a waiver;

2-6 (2) the district provides documentation, verified by
 2-7 the department, showing that:

2-8 (A) there are fewer than 100 children in the
 2-9 district currently eligible for the national free or reduced-priced
 2-10 lunch program;

2-11 (B) transportation to enable district students
 2-12 to participate in the program is an insurmountable obstacle to
 2-13 providing the program despite consultation by the district with
 2-14 public transit providers;

2-15 (C) the district is unable to operate a summer
 2-16 nutrition program due to renovation or construction of district
 2-17 facilities and the unavailability of an appropriate alternate
 2-18 provider or site; or

2-19 (D) the district is unable to operate a summer
 2-20 nutrition program due to another specified extenuating
 2-21 circumstance and the unavailability of an appropriate alternate
 2-22 provider or site; and

2-23 (3) the district has worked with the field offices to
 2-24 identify another possible provider for the summer nutrition program
 2-25 in the district.

2-26 (g) A waiver granted under Subsection (f) is for a one-year
 2-27 period.

2-28 (h) If a school district has requested a waiver under
 2-29 Subsection (e)(2) and has been unable to provide to the department a
 2-30 list of possible providers for the summer nutrition program, the
 2-31 field offices shall continue to attempt to identify an alternate
 2-32 provider for the district's summer nutrition program.

2-33 (i) The department and the agency jointly shall develop a
 2-34 plan for increasing access to summer nutrition programs. The plan
 2-35 must include a list of any barrier to access to the programs,
 2-36 including a barrier that a provider encounters in providing a
 2-37 program and a description of any action taken to overcome a barrier.
 2-38 The department and the agency each shall designate an agency
 2-39 administrative employee to assist in administering this
 2-40 subsection.

2-41 (j) Not later than December 31 of each even-numbered year,
 2-42 the department and the agency shall provide to the legislature a
 2-43 joint report that includes, for each year of the biennium:

2-44 (1) the name of each school district that receives a
 2-45 notice under Subsection (c) that:

2-46 (A) has provided for a summer nutrition program;
 2-47 or

2-48 (B) has failed to provide a program;

2-49 (2) an explanation, as applicable, of the plan
 2-50 required under Subsection (i) or of any update to the plan; and

2-51 (3) the funds, other than federal funds, used by
 2-52 school districts and the state in complying with this section.

2-53 (k) The commissioner of agriculture, in consultation with
 2-54 the commissioner of education, shall adopt rules and procedures for
 2-55 obtaining a waiver under Subsection (f). The commissioner of
 2-56 agriculture shall adopt other rules as necessary to administer this
 2-57 section.

2-58 SECTION 2. Section 33.024, Human Resources Code, is
 2-59 repealed.

2-60 SECTION 3. This Act takes effect September 1, 2009.

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