

## **BILL ANALYSIS**

C.S.H.B. 2084  
By: Kolkhorst  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that with the increase of food products being imported into Texas, some from thousands of miles away, fresh fruits and vegetables produced by local agriculture and small businesses become increasingly vital to both urban and rural areas as a source of employment and quality foods and products.

C.S.H.B. 2084 seeks to create a better regulatory environment for local small food businesses and provide for an interim study relating to the regulation of certain dairy operations, the development of a nutritional assistance program for use by farmers' markets, and certain issues regarding the eligibility of land for agricultural use appraisal.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2084 amends the Health and Safety Code to establish that a cottage food production operation is not a food service establishment for purposes of provisions regulating food service establishments, retail food stores, mobile food units, and roadside food vendors. The bill defines "cottage food production operation" as an individual, operating out of the individual's home, who produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the person's home or a farmers' market; who has an annual gross income of \$50,000 or less from the sale of such food; and who sells the foods only directly to consumers.

C.S.H.B. 2084 prohibits a local health department from regulating the production of food at a cottage food production operation. The bill requires each local health department and the Department of State Health Services (DSHS) to maintain a record of a complaint made by a person against a cottage food production operation. The bill defines "baked good," "executive commissioner," and "home" and makes technical corrections to the definition of "board" and "department."

C.S.H.B. 2084 requires the speaker of the house of representatives to charge a house standing committee with subject matter jurisdiction over food regulation to conduct an interim study on the regulation of small food production and sales operations. The bill requires the designated committee to study the regulation of small dairy production operations and analyze whether a regulatory scheme that is separate from the regulatory scheme for dairy producers under provisions of law governing dairy products should be developed for small dairy production operations and whether permit fees for small dairy production operations should be decreased. The bill requires the designated committee to study the feasibility and desirability of establishing a nutritional assistance program that would allow a person receiving benefits under a nutritional assistance program administered by the state to purchase at a farmers' market items eligible under the program, provide an affordable method for enabling individual sellers at a farmers'

market to accept and process an electronic benefits transfer as payment for food, and make available to a person receiving benefits under a nutritional assistance program administered by the state information regarding the program and a list of participating farmers' markets. The bill requires the designated committee, in coordination with the comptroller of public accounts, to determine whether land is eligible, under current law, for appraisal under provisions of the Tax Code relating to the appraisal of agricultural land and land designated for agricultural use, if the land is used to cultivate an urban farm; cultivate a community garden; produce specialty crops; or raise livestock or produce crops using organic, sustainable, or other unconventional methods. The bill requires the designated committee, in coordination with the comptroller, to study issues regarding the eligibility of land used for such purposes for appraisal under provisions of the Tax Code governing the appraisal of agricultural land and land designated for agricultural use.

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2084 differs from the original, in the provision defining "cottage food production operation," by specifying that the term includes an individual who has an annual gross income of \$50,000 or less from the sale of applicable food products, rather than an annual gross income of \$250,000 or less from the sale of applicable food products, as in the original.

C.S.H.B. 2084 omits a provision included in the original authorizing a local health department to investigate a cottage food production operation only if the local health department receives a complaint regarding the operation. The substitute omits a provision included in the original requiring a cottage food production operation's owner, if the Department of State Health Services (DSHS) receives a complaint about the operation, to provide DSHS with a current financial statement, federal income tax return, sales receipts, or other documentation to establish that the annual gross sales of the operation do not exceed \$250,000. The substitute contains a provision not included in the original requiring each local health department and DSHS to maintain a record of a complaint made by a person against a cottage food production operation.

C.S.H.B. 2084 contains provisions not included in the original requiring the speaker of the house of representatives to charge a house standing committee with subject matter jurisdiction over food regulation to conduct an interim study on the regulation of food production and sales operations.

C.S.H.B. 2084 differs from the original by requiring the house committee charged by the speaker of the house of representatives to conduct the interim study to study the regulation of small dairy production operations and analyze whether a separate regulatory scheme should be developed for small dairy production operations and whether permit fees for small dairy production operations should be decreased, whereas the original prohibits a person from operating a small dairy production operation unless the person holds such a permit; establishes provisions relating to the application, issuance, and required fees for such a permit; and makes provisions establishing fees relating to a permit to sell milk inapplicable to a small dairy production operation. The substitute omits a provision included in the original defining "small dairy production operation."

C.S.H.B. 2084 differs from the original by requiring the house committee charged by the speaker of the house of representatives to conduct the interim study to study the feasibility and desirability of establishing a nutritional assistance program that would, among other provisions, allow a person receiving benefits under a nutritional assistance program administered by the state to purchase at a farmers' market items eligible under the program, whereas the original establishes provisions relating to the development and implementation of a farmers' market nutritional assistance program.

C.S.H.B. 2084 differs from the original by requiring the house committee charged by the speaker of the house of representatives to conduct the interim study, in coordination with the comptroller of public accounts, to determine whether land is eligible, under current law, for appraisal under certain provisions of the Tax Code if the land is used to cultivate an urban farm; cultivate a community garden; produce specialty crops; or raise livestock or produce crops using organic, sustainable, or other unconventional methods and to study issues regarding the eligibility of land used for such purposes for appraisal under those provisions of the Tax Code, whereas the original requires the comptroller of public accounts to make such a determination and study such eligibility issues and to submit a report to the appropriate standing committees of the senate and the house of representatives.

C.S.H.B. 2084 omits a provision included in the original requiring a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and authorizing the agency to delay implementation until the federal waiver or authorization is obtained. The substitute differs from the original in conforming ways.