

BILL ANALYSIS

S.B. 77
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Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under the federally funded Child and Adult Care Food Program, certain care centers and homes may obtain low-cost meals by either contracting directly with the Texas Department of Agriculture (TDA) or by going through a sponsoring entity that will work with the TDA. Observers note that most care centers and care homes choose to work through a sponsoring entity because they do not have sufficient resources to await reimbursement through a contract arrangement. The observers further note that it is more efficient for the TDA to administer the program with a limited number of sponsoring entities rather than with thousands of individual care centers and care homes. There is concern, however, that sponsors are not required to be bonded, show proof of residence or government-issued identification, or undergo a background and criminal history check.

S.B. 77 seeks to strengthen the integrity of the Child and Adult Care Food Program by establishing certain requirements for certain sponsoring organizations and other institutions participating in the program.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Agriculture and to the commissioner of agriculture in SECTION 3 of this bill.

ANALYSIS

S.B. 77 amends the Government Code to entitle the Department of Agriculture (TDA) to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is a principal of a nongovernmental entity that is a participant in or applicant for participation in the federal Child and Adult Care Food Program. The bill prohibits such criminal history record information obtained by the TDA from being released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the person who is the subject of the information.

S.B. 77 amends the Human Resources Code to require a sponsoring organization in the Child and Adult Care Food Program, to the extent permitted under federal law, to maintain a performance bond in an amount specified by TDA rule from a company holding a certificate of authority as an acceptable surety on federal bonds from the United States secretary of the treasury. The bill authorizes the TDA and a sponsoring organization, in order to determine whether a company holds a certificate of authority as an acceptable surety on federal bonds, to rely on the list of certificate holding companies published by the United States Department of the Treasury in accordance with federal law.

S.B. 77 requires a nongovernmental entity applying to participate or to renew participation in the Child and Adult Care Food Program as a sponsoring organization or other institution, to the extent permitted under federal law and on application for or renewal of participation in the program, to submit to the TDA, with respect to each of the entity's principals for use in

conducting a background and criminal history check, the following documentation: a copy of a government-issued form of identification of the principal, which may include a copy of certain specified forms of identification, and proof of the principal's residential mailing address, which may include certain specified documents. The bill requires a nongovernmental entity participating in the program as a sponsoring organization or other institution, if there is a change in a principal or the residential mailing address of a principal of the entity, to submit to the TDA such documentation with respect to the principal for use in conducting a background and criminal history check.

S.B. 77 authorizes the TDA to conduct a background and criminal history check on each principal of a nongovernmental entity subject to program participation requirements established by the bill to the TDA using the information submitted to the TDA and the criminal history record information made available to the TDA by the Department of Public Safety, the Federal Bureau of Investigation, or another criminal justice agency. The bill authorizes the TDA, if the background and criminal history check reveals that an entity knowingly falsified statements contained in the application for the program, to refer the matter to an appropriate prosecuting attorney for criminal prosecution. The bill requires the TDA to deny an entity's application for participation in the program or authorizes the TDA, at the department's discretion, to revoke the entity's authority to participate in the program if the background and criminal history check reveals that the principal of the entity has been convicted of fraud, violating an antitrust law, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstructing justice, or any other criminal offense that indicates a lack of business integrity as determined by the TDA.

S.B. 77 authorizes the commissioner of agriculture, by rule, to establish procedures that would allow an entity to appeal the department's determination if the TDA denies the entity's application to participate in the program or revokes the entity's authority to participate in the program based on a criminal conviction that indicates a lack of business integrity.

S.B. 77 provides for the meanings of "sponsoring organization," "institution," and "principal" by reference to federal law.

EFFECTIVE DATE

September 1, 2011.