

AN ACT

relating to summer nutrition programs provided for by school districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.0029 to read as follows:

Sec. 12.0029. SUMMER NUTRITION PROGRAMS. (a) In this section:

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

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

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

(c) Not later than October 31 of each year, the department shall notify each school district described by Subsection (b) of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is

1 recessed for the summer.

2 (d) Not later than November 30 of each year, the board of
3 trustees of a school district that intends to request a waiver under
4 Subsection (e)(2) must send written notice of the district's
5 intention to the district's local school health advisory council.
6 The notice must include an explanation of the district's reason for
7 requesting a waiver of the requirement.

8 (e) Each school district that receives a notice under
9 Subsection (c) shall, not later than January 31 of the year
10 following the year in which the notice was received:

11 (1) inform the department in writing that the district
12 intends to provide or arrange for the provision of a summer
13 nutrition program during the next period in which district schools
14 are recessed for the summer; or

15 (2) request in writing that the department grant the
16 district a waiver of the requirement to provide or arrange for the
17 provision of a summer nutrition program.

18 (f) The department may grant a school district a waiver of
19 the requirement to provide or arrange for the provision of a summer
20 nutrition program only if:

21 (1) the district:

22 (A) provides documentation, verified by the
23 department, showing that:

24 (i) there are fewer than 100 children in the
25 district currently eligible for the national free or reduced-price
26 lunch program;

27 (ii) transportation to enable district

1 students to participate in the program is an insurmountable
2 obstacle to the district's ability to provide or arrange for the
3 provision of the program despite consultation by the district with
4 public transit providers;

5 (iii) the district is unable to provide or
6 arrange for the provision of a program due to renovation or
7 construction of district facilities and the unavailability of an
8 appropriate alternate provider or site; or

9 (iv) the district is unable to provide or
10 arrange for the provision of a program due to another specified
11 extenuating circumstance and the unavailability of an appropriate
12 alternate provider or site; and

13 (B) has worked with the field offices to identify
14 another possible provider for the program in the district; or

15 (2) the cost to the district to provide or arrange for
16 provision of a program would be cost-prohibitive, as determined by
17 the department using the criteria and methodology established under
18 Subsection (g).

19 (g) The department by rule shall establish criteria and a
20 methodology for determining whether the cost to a school district
21 to provide or arrange for provision of a summer nutrition program
22 would be cost-prohibitive for purposes of granting a waiver under
23 Subsection (f)(2).

24 (h) A waiver granted under Subsection (f) is for a one-year
25 period.

26 (i) If a school district has requested a waiver under
27 Subsection (e)(2) and has been unable to provide to the department a

1 list of possible providers for the summer nutrition program, the
2 field offices shall continue to attempt to identify an alternate
3 provider for the district's summer nutrition program.

4 (j) Not later than December 31 of each even-numbered year,
5 the department shall provide to the legislature by e-mail a report
6 that, for each year of the biennium:

7 (1) states the name of each school district that
8 receives a notice under Subsection (c) and indicates whether the
9 district:

10 (A) has provided or arranged for the provision of
11 a summer nutrition program; or

12 (B) has not provided or arranged for the
13 provision of a program and did not receive a waiver;

14 (2) identifies the funds, other than federal funds,
15 used by school districts and the state in complying with this
16 section; and

17 (3) identifies the total amount of any profit made or
18 loss incurred through summer nutrition programs under this section.

19 (k) The department shall post and maintain on the
20 department's Internet website the most recent report required by
21 Subsection (j).

22 SECTION 2. Section 33.024, Human Resources Code, is
23 repealed.

24 SECTION 3. Not later than October 1, 2011, the Department of
25 Agriculture shall adopt rules under Subsection (g), Section
26 12.0029, Agriculture Code, as added by this Act, establishing
27 criteria and a methodology regarding costs of school district

1 summer nutrition programs.

2 SECTION 4. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 89 passed the Senate on April 20, 2011, by the following vote: Yeas 24, Nays 7; May 25, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

I hereby certify that S.B. No. 89 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting; May 26, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 121, Nays 25, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor