

By: Lucio, et al.  
(Rodriguez)

S.B. No. 89

A BILL TO BE ENTITLED

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 a report that, for  
6 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  
18 through summer nutrition programs under this section.

19 SECTION 2. Section 33.024, Human Resources Code, is  
20 repealed.

21 SECTION 3. Not later than October 1, 2011, the Department of  
22 Agriculture shall adopt rules under Subsection (g), Section  
23 12.0029, Agriculture Code, as added by this Act, establishing  
24 criteria and a methodology regarding costs of school district  
25 summer nutrition programs.

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