

By: Lucio

S.B. No. 89

A BILL TO BE ENTITLED

1 AN ACT
2 relating to summer nutrition programs provided for by school
3 districts.

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

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

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

9 (1) "Agency" means the Texas Education Agency.

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

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

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

22 (c) Not later than October 31 of each year, the department
23 shall notify of its responsibility concerning provision of a summer
24 nutrition program during the next period in which school is

1 recessed for the summer:

2 (1) each school district described by Subsection (b);

3 and

4 (2) each field office.

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

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

14 (1) inform the department in writing that the district
15 intends to operate a summer nutrition program during the next
16 period in which district schools are recessed for the summer; or

17 (2) request in writing that the department grant the
18 district a waiver of the requirement to operate a summer nutrition
19 program.

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

22 (1) the board of trustees of the district by
23 resolution has authorized the district's request for a waiver;

24 (2) the district provides documentation, verified by
25 the department, showing that:

26 (A) there are fewer than 100 children in the
27 district currently eligible for the national free or reduced-priced

1 lunch program;

2 (B) transportation to enable district students
3 to participate in the program is an insurmountable obstacle to
4 providing the program despite consultation by the district with
5 public transit providers;

6 (C) the district is unable to operate a summer
7 nutrition program due to renovation or construction of district
8 facilities and the unavailability of an appropriate alternate
9 provider or site; or

10 (D) the district is unable to operate a summer
11 nutrition program due to another specified extenuating
12 circumstance and the unavailability of an appropriate alternate
13 provider or site; and

14 (3) the district has worked with the field offices to
15 identify another possible provider for the summer nutrition program
16 in the district.

17 (g) A waiver granted under Subsection (f) is for a one-year
18 period.

19 (h) If a school district has requested a waiver under
20 Subsection (e)(2) and has been unable to provide to the department a
21 list of possible providers for the summer nutrition program, the
22 field offices shall continue to attempt to identify an alternate
23 provider for the district's summer nutrition program.

24 (i) The department and the agency jointly shall develop a
25 plan for increasing access to summer nutrition programs. The plan
26 must include a list of any barrier to access to the programs,
27 including a barrier that a provider encounters in providing a

1 program and a description of any action taken to overcome a barrier.
2 The department and the agency each shall designate an agency
3 administrative employee to assist in administering this
4 subsection.

5 (j) Not later than December 31 of each even-numbered year,
6 the department and the agency shall provide to the legislature a
7 joint report that, for each year of the biennium:

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

11 (A) has provided for a summer nutrition program;

12 or

13 (B) has failed to provide a program;

14 (2) provides an explanation, as applicable, of the
15 plan required under Subsection (i) or of any update to the plan; and

16 (3) identifies the funds, other than federal funds,
17 used by school districts and the state in complying with this
18 section.

19 (k) The commissioner of agriculture, in consultation with
20 the commissioner of education, shall adopt rules and procedures for
21 obtaining a waiver under Subsection (f). The commissioner of
22 agriculture shall adopt other rules as necessary to administer this
23 section.

24 SECTION 2. Section 33.024, Human Resources Code, is
25 repealed.

26 SECTION 3. This Act takes effect September 1, 2011.