

1-1 By: Lucio, et al. S.B. No. 89
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Education;
1-4 April 18, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 89 By: Van de Putte
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to summer nutrition programs provided for by school
1-11 districts.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Chapter 12, Agriculture Code, is amended by
1-14 adding Section 12.0029 to read as follows:

1-15 Sec. 12.0029. SUMMER NUTRITION PROGRAMS. (a) In this
1-16 section:

1-17 (1) "Field office" means a field office of a nutrition
1-18 program administered by the department.

1-19 (2) "Summer nutrition program" means the summer food
1-20 service program under 42 U.S.C. Section 1761. The term includes the
1-21 seamless summer option under 42 U.S.C. Section 1761(a)(8).

1-22 (b) Unless the department grants a school district a waiver
1-23 under Subsection (f), a district in which 50 percent or more of the
1-24 students are eligible to participate in the national free or
1-25 reduced-price lunch program under 42 U.S.C. Section 1751 et seq.
1-26 shall provide or arrange for the provision of a summer nutrition
1-27 program for at least 30 days during the period in which district
1-28 schools are recessed for the summer.

1-29 (c) Not later than October 31 of each year, the department
1-30 shall notify each school district described by Subsection (b) of
1-31 the district's responsibility concerning provision of a summer
1-32 nutrition program during the next period in which school is
1-33 recessed for the summer.

1-34 (d) Not later than November 30 of each year, the board of
1-35 trustees of a school district that intends to request a waiver under
1-36 Subsection (e)(2) must send written notice of the district's
1-37 intention to the district's local school health advisory council.
1-38 The notice must include an explanation of the district's reason for
1-39 requesting a waiver of the requirement.

1-40 (e) Each school district that receives a notice under
1-41 Subsection (c) shall, not later than January 31 of the year
1-42 following the year in which the notice was received:

1-43 (1) inform the department in writing that the district
1-44 intends to provide or arrange for the provision of a summer
1-45 nutrition program during the next period in which district schools
1-46 are recessed for the summer; or

1-47 (2) request in writing that the department grant the
1-48 district a waiver of the requirement to provide or arrange for the
1-49 provision of a summer nutrition program.

1-50 (f) The department may grant a school district a waiver of
1-51 the requirement to provide or arrange for the provision of a summer
1-52 nutrition program only if:

1-53 (1) the district:
1-54 (A) provides documentation, verified by the
1-55 department, showing that:

1-56 (i) there are fewer than 100 children in the
1-57 district currently eligible for the national free or reduced-priced
1-58 lunch program;

1-59 (ii) transportation to enable district
1-60 students to participate in the program is an insurmountable
1-61 obstacle to the district's ability to provide or arrange for the
1-62 provision of the program despite consultation by the district with
1-63 public transit providers;

2-1 (iii) the district is unable to provide or
2-2 arrange for the provision of a program due to renovation or
2-3 construction of district facilities and the unavailability of an
2-4 appropriate alternate provider or site; or

2-5 (iv) the district is unable to provide or
2-6 arrange for the provision of a program due to another specified
2-7 extenuating circumstance and the unavailability of an appropriate
2-8 alternate provider or site; and

2-9 (B) has worked with the field offices to identify
2-10 another possible provider for the program in the district; or

2-11 (2) the cost to the district to provide or arrange for
2-12 provision of a program would be cost-prohibitive, as determined by
2-13 the department using the criteria and methodology established under
2-14 Subsection (g).

2-15 (g) The department by rule shall establish criteria and a
2-16 methodology for determining whether the cost to a school district
2-17 to provide or arrange for provision of a summer nutrition program
2-18 would be cost-prohibitive for purposes of granting a waiver under
2-19 Subsection (f) (2).

2-20 (h) A waiver granted under Subsection (f) is for a one-year
2-21 period.

2-22 (i) If a school district has requested a waiver under
2-23 Subsection (e) (2) and has been unable to provide to the department a
2-24 list of possible providers for the summer nutrition program, the
2-25 field offices shall continue to attempt to identify an alternate
2-26 provider for the district's summer nutrition program.

2-27 (j) Not later than December 31 of each even-numbered year,
2-28 the department shall provide to the legislature a report that, for
2-29 each year of the biennium:

2-30 (1) states the name of each school district that
2-31 receives a notice under Subsection (c) and indicates whether the
2-32 district:

2-33 (A) has provided or arranged for the provision of
2-34 a summer nutrition program; or

2-35 (B) has not provided or arranged for the
2-36 provision of a program and did not receive a waiver;

2-37 (2) identifies the funds, other than federal funds,
2-38 used by school districts and the state in complying with this
2-39 section; and

2-40 (3) identifies the total amount of any profit made
2-41 through summer nutrition programs under this section.

2-42 SECTION 2. Section 33.024, Human Resources Code, is
2-43 repealed.

2-44 SECTION 3. Not later than October 1, 2011, the Department of
2-45 Agriculture shall adopt rules under Subsection (g), Section
2-46 12.0029, Agriculture Code, as added by this Act, establishing
2-47 criteria and a methodology regarding costs of school district
2-48 summer nutrition programs.

2-49 SECTION 4. This Act takes effect September 1, 2011.

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