

BILL ANALYSIS

C.S.H.B. 3706
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been recent reports of several high profile cases of fraud in the food service programs administrated by the Department of Agriculture, including an account detailing the fraudulent activities of a former ex-convict who received state money to run two separate, poorly managed programs. C.S.H.B. 3706 seeks to address these concerns with respect to the summer food service program.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 3706 amends the Government Code to entitle the Department of Agriculture 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 summer food service program.

C.S.H.B. 3706 amends the Human Resources Code to make provisions relating to program participant requirements of the Child and Adult Care Food Program applicable to the summer food service program, providing for certain rulemaking authority for the commissioner of agriculture. The bill defines "principal" with respect to the Child and Adult Care Food Program and with respect to the summer food service program and provides for the meanings of "sponsor" with respect to the summer food service program.

EFFECTIVE DATE

September 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3706 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 411.1146(a), Government Code, as added by Chapter 870 (S.B. 77), Acts of the 82nd Legislature, Regular Session, 2011, is amended.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. The heading to Section 33.0271, Human Resources Code, is amended.

SECTION 3. Sections 33.0271(a), (b), (c), (d), (g), and (h), Human Resources Code, are amended to read as follows:

(a) In this section:

(1) with respect to the Child and Adult Care Food Program,

"institution" and "principal" have the meanings assigned by 7 C.F.R. Section 226.2; and

(2) with respect to the summer food service program:

(A) "principal" means any individual who holds a management position within, or is an officer of, a sponsor, including all members of the sponsor's board of directors; and

(B) "sponsor" has the meaning assigned by 7 C.F.R. Section 225.2.

(b) To the extent permitted under federal law, each [a] sponsoring organization and sponsor shall maintain a performance bond in an amount specified by department rule from a company holding a certificate of authority as an acceptable surety on federal bonds from the United States secretary of the treasury. To determine whether a company holds a certificate of authority as an acceptable surety on federal bonds, the department, [and] a sponsoring organization, and a sponsor may rely on the list published by the United States Department of the Treasury in accordance with 31 C.F.R. Section 223.16.

(c) To the extent permitted under federal law, on application for or renewal of participation in the Child and Adult Care Food Program or summer food service program, a nongovernmental entity applying to participate or to renew participation in the Child and Adult Care Food Program [program] as a sponsoring organization or

SECTION 2. Same as introduced version.

SECTION 3. Sections 33.0271(a), (c), (d), (g), and (h), Human Resources Code, are amended to read as follows:

(a) In this section:

(1) with respect to the Child and Adult Care Food Program:

(A) [;] "institution" has [and "principal" have] the meaning [meanings] assigned by 7 C.F.R. Section 226.2; and

(B) "principal" means any individual who holds a management position with, or is an officer of, an institution, other than a person whose only role for the institution is serving as a member, other than the chair, of the institution's board of directors; and

(2) with respect to the summer food service program:

(A) "principal" means any individual who holds a management position with, or is an officer of, a sponsor, other than a person whose only role for the sponsor is serving as a member, other than the chair, of the sponsor's board of directors; and

(B) "sponsor" has the meaning assigned by 7 C.F.R. Section 225.2.

No equivalent provision.

(c) To the extent permitted under federal law, on application for or renewal of participation in the Child and Adult Care Food Program or summer food service program, a nongovernmental entity applying to participate or to renew participation in the Child and Adult Care Food Program [program] as a sponsoring organization or

other institution, or in the summer food service program as a sponsor, must submit to the department the following with respect to each of the entity's principals for use in conducting a background and criminal history check:

(1) a copy of a government-issued form of identification of the principal, which may include a copy of:

(A) a driver's license issued by this state or another state;

(B) an identification card issued by this state, another state, or the federal government;

(C) a passport; or

(D) another form of identification approved by the department; and

(2) proof of the principal's residential mailing address, which may include:

(A) official mail sent to the principal's address from a utility provider, governmental agency, or financial institution;

(B) a residential lease executed by the principal; or

(C) any other form of proof approved by the department.

(d) If there is a change in a principal or the residential mailing address of a principal of a nongovernmental entity participating in the Child and Adult Care Food Program as a sponsoring organization or other institution, or in the summer food service program as a sponsor, the entity must submit to the department the same information required under Subsection (c) with respect to the principal for use in conducting a background and criminal history check.

(g) If a background and criminal history check authorized under Subsection (e) reveals that the principal of an entity that is an applicant for or participant in the Child and Adult Care Food Program or summer food service program 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 department, the department:

(1) shall deny the entity's application for participation in the program; or

other institution, or in the summer food service program as a sponsor, must submit to the department the following with respect to each of the entity's principals for use in conducting a background and criminal history check:

(1) a copy of a government-issued form of identification of the principal, which may include a copy of:

(A) a driver's license issued by this state or another state;

(B) an identification card issued by this state, another state, or the federal government;

(C) a passport; or

(D) another form of identification approved by the department; and

(2) proof of the principal's residential mailing address, which may include:

(A) official mail sent to the principal's address from a utility provider, governmental agency, or financial institution;

(B) a residential lease executed by the principal; or

(C) any other form of proof approved by the department.

(d) If there is a change in a principal or the residential mailing address of a principal of a nongovernmental entity participating in the Child and Adult Care Food Program as a sponsoring organization or other institution, or in the summer food service program as a sponsor, the entity must submit to the department the same information required under Subsection (c) with respect to the principal for use in conducting a background and criminal history check.

(g) If a background and criminal history check authorized under Subsection (e) reveals that the principal of an entity that is an applicant for or participant in the Child and Adult Care Food Program or summer food service program 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 department, the department:

(1) shall deny the entity's application for participation in the program; or

(2) may, at the department's discretion, revoke the entity's authority to participate in the program.

(h) The executive commissioner by rule may establish procedures that would allow an entity that had the entity's application to participate in the Child and Adult Care Food Program or summer food service program denied or authority to participate in the program revoked under Subsection (g) to appeal the department's determination under that subsection.

SECTION 4. This Act takes effect September 1, 2013.

(2) may, at the department's discretion, revoke the entity's authority to participate in the program.

(h) The executive commissioner by rule may establish procedures that would allow an entity that had the entity's application to participate in the Child and Adult Care Food Program or summer food service program denied or authority to participate in the program revoked under Subsection (g) to appeal the department's determination under that subsection.

SECTION 4. This Act takes effect September 1, 2014.