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21 May-19 AM 09:20
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: King of Hemphill

1 Amend S.B. No. 703 (house committee report) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION _____. Chapter 12, Agriculture Code, is amended by
5 adding Sections 12.0022, 12.0023, and 12.0024 to read as follows:

6 Sec. 12.0022. NUTRITION PROGRAMS: SCHOOL FOOD AUTHORITY
7 SELECTION OF FOOD SERVICE MANAGEMENT COMPANY. (a) In this section:

8 (1) "Food service management company" and "school food
9 authority" have the meanings assigned by 7 C.F.R. Subtitle B,
10 Chapter II.

11 (2) "Nutrition program" means a program described by
12 Section 12.0025.

13 (b) This section applies to a school food authority that
14 uses competitive bidding, competitive sealed proposals, or a
15 request for proposals to award a contract to a food service
16 management company for purposes of a nutrition program.

17 (c) In determining which bid or proposal offers the best
18 value for the school food authority, the school food authority:

19 (1) may consider cost reimbursable and fixed price
20 contracts as authorized by federal law;

21 (2) shall primarily consider the purchase price and
22 the extent to which the offeror's goods or services meet the school
23 food authority's specifications; and

24 (3) may, in addition to the factors described by
25 Subdivision (2), consider other relevant factors including:

26 (A) the relative value received by the school
27 food authority under a cost reimbursable contract and a fixed price
28 contract;

29 (B) the quality and reliability of the offeror's

1 goods or services; and

2 (C) indicators of probable offeror performance
3 under the contract, such as:

4 (i) past offeror performance;

5 (ii) the offeror's financial resources;

6 (iii) the offeror's ability to perform; and

7 (iv) the offeror's experience or
8 demonstrated capability in providing the goods or services.

9 Sec. 12.0023. NUTRITION PROGRAMS: FOOD SERVICE MANAGEMENT
10 COMPANY AS AGENT FOR SCHOOL FOOD AUTHORITY. (a) In this section:

11 (1) "Food service management company" and "school food
12 authority" have the meanings assigned by 7 C.F.R. Subtitle B,
13 Chapter II.

14 (2) "Nutrition program" means a program described by
15 Section 12.0025.

16 (b) A school food authority may by contract authorize a food
17 service management company to act as agent in performing designated
18 administrative functions related to a nutrition program, including
19 communicating directly with the department regarding contractual
20 or regulatory matters.

21 (c) A school food authority:

22 (1) retains authority over and responsibility for any
23 function not delegated to a food service management company as
24 provided by Subsection (b);

25 (2) may renew, modify, or terminate a food service
26 management company's authority to act as agent with respect to any
27 function; and

28 (3) may seek and obtain any available legal remedy,
29 including damages, in the event of a breach of duty by the food
30 service management company.

31 Sec. 12.0024. NUTRITION PROGRAMS: FOOD AND NUTRITION

1 DIVISION EFFICIENCY AUDIT. (a) For purposes of this section,
2 "efficiency audit" means an investigation of the operations of the
3 department's food and nutrition division by the state auditor to
4 examine fiscal management, efficiency, and outcomes for children
5 and families served by the department's public school food and
6 nutrition programs, including consistency and quality of
7 communications with stakeholders and the utilization of federal
8 resources.

9 (b) During the state fiscal year ending August 31, 2022, and
10 every fourth year after that date, the state auditor shall conduct
11 an efficiency audit.

12 (c) In a year in which an efficiency audit is completed as
13 required by this section, the efficiency audit may satisfy, to the
14 extent applicable, the department's annual internal audit
15 requirements under Chapter 2102, Government Code.

16 (d) The department shall pay the costs associated with an
17 efficiency audit required under this section using money
18 appropriated for administrative and internal audit operations in
19 the state fiscal year the audit is conducted.

20 (e) If the department fails to pay the costs associated with
21 an efficiency audit as required by Subsection (d), the amount
22 appropriated to the department by the legislature for the next
23 state fiscal biennium may not exceed the department's baseline
24 budget.

25 (f) Not later than March 1 of the state fiscal year in which
26 an efficiency audit is required under this section, the state
27 auditor and commissioner, in collaboration with the food and
28 nutrition division of the department, shall assess and recommend
29 improvements to the efficiency of services and communications with
30 stakeholders associated and involved with the department's food and
31 nutrition programs.

1 (g) The state auditor shall complete the efficiency audit
2 not later than the 90th day after the date the audit is initiated.

3 (h) The state auditor and commissioner, in collaboration
4 with public schools and other food and nutrition program
5 stakeholders, shall establish the scope of the efficiency audit and
6 determine the areas of investigation for the audit, including:

7 (1) reviewing the department's resources to determine
8 whether they are being used effectively and efficiently to achieve
9 desired outcomes for rural and urban school districts;

10 (2) reviewing the quality, choice, and nutritional
11 balance of food prepared and provided to children and the impact to
12 rural and urban families served by the food and nutrition division
13 of the department;

14 (3) identifying cost savings or reallocations of
15 resources; and

16 (4) identifying opportunities for improving services
17 through consolidation of essential functions, outsourcing, and
18 elimination of duplicative efforts.

19 (i) Not later than November 1 of the calendar year an
20 efficiency audit is conducted, the state auditor shall prepare and
21 submit a report of the audit and recommendations for efficiency
22 improvements to the governor, the Legislative Budget Board, the
23 commissioner, and the chairs of the standing committees of the
24 senate and house of representatives with primary jurisdiction over
25 the department.