

SUBJECT: Changing vendor requirements under the WIC program

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, Keough, Miller, Minjarez, Rose, Wu

3 nays — Frank, Klick, Swanson

WITNESSES: For — Mark Brumback; Michael Sammon

Against — None

On — (*Registered, but did not testify*: Evelyn Delgado, Texas Department of State Health Services)

BACKGROUND: The federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides grants to states for supplemental foods, health care referrals, and nutrition education for low-income, pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are at nutritional risk.

In all states, including Texas, WIC recipients receive their food benefits on an electronic benefit transfer (EBT) card that can only be used to buy groceries and baby formula as listed on the WIC shopping list. Recipients can use the card to pay for WIC-approved products at any store that accepts WIC.

The WIC program is a different from the federal supplemental nutrition assistance program (SNAP), commonly known as "food stamps," under Human Resources Code, ch. 33.

DIGEST: CSHB 3204 would prohibit the state from imposing requirements outside the scope of the federal special supplemental nutrition program for women, infants, and children (WIC) program for a "predominantly WIC program vendor" in a vendor agreement. The bill would define such a vendor as an individual store at a fixed location that had or was expected

to have sales of approved WIC food items that exceeded 50 percent of the store's total sales of food items eligible for purchase under the supplemental nutrition assistance program (SNAP).

In the predominantly WIC program vendor agreement, the bill would prohibit state requirements related to:

- vendor hours of operation;
- inventory stocking of food items other than approved WIC program food items; or
- restrictions on opening, closing, or relocating a store.

If a predominantly WIC program vendor changed ownership, the new owner, in applying for a new WIC vendor agreement, would be subject to the same vendor requirements as existing WIC vendor agreements.

If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary for implementing that provision, the agency affected by the provision would request the waiver or authorization and could delay implementing that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2017.

**SUPPORTERS  
SAY:**

CSHB 3204 would help ensure that small, family-owned, predominantly WIC program vendors would be treated as fairly as larger, commercial grocery stores that also carry WIC-eligible products. The bill also would maintain access to WIC program vendors for low-income Texans.

Predominantly WIC program vendors often have better locations than commercial grocery stores to serve the program's recipients, because they are located close to WIC clinics and in the neighborhoods where WIC recipients live. When these vendors go out of business, there are fewer choices for low-income Texans to get the baby formula and other groceries they need to keep their families healthy.

Under the bill, predominately WIC program vendors still would have to comply with WIC program rules. Certain predominantly WIC program vendors have reported being investigated at a higher rate by the state compared to larger, commercial grocery stores. The violations that were filed against a small number of predominantly WIC program vendors were for minor issues unrelated to WIC such as hours of operation or clerical errors, not major issues. The bill would help ensure these vendors were investigated only for noncompliance with WIC program rules, not for unrelated issues.

According to the Legislative Budget Board's most recent estimate, CSHB 3204 would have no significant fiscal implication to the state. The Department of State Health Services has indicated that any costs associated with the bill could be absorbed within the agency's existing resources.

**OPPONENTS  
SAY:**

The existing vendor requirements do not need to be changed. The predominantly WIC program stores that were closed had violations against them, and it is part of the state's role to inspect these vendors for compliance with WIC rules. While the Legislative Budget Board estimated no significant fiscal implication to the state for the bill, it did report that provisions in the bill could result in a minimal number of additional WIC vendors, which could increase costs for the program.

**NOTES:**

According to the Legislative Budget Board's fiscal note, the bill would have no significant fiscal implication to the state. The Department of State Health Services (DSHS) anticipates that the provisions of the bill would result in a minimal number of additional vendors participating in the WIC program. DSHS indicates that any costs associated with the bill could be absorbed within the agency's existing resources.