

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1379
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1379 addresses the growing epidemic of obesity, poor nutrition, and lack of physical activity among Texas children and adults. It ensures that the new school food nutrition policy is not weakened and will bring together the commissioners of agriculture, education, and state health services to review the status of health initiatives and programs to promote better health and nutrition and to prevent obesity at least once a year. C.S.S.B. 1379 also directs specific state agencies to create individual councils and prepare reports to promote consumer health and possibly require health insurance companies to offer benefit plans providing coverage for the treatment and prevention of obesity.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of public health in SECTION 2 (Section 22.004, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 5 (Sections 38.105 and 38.109, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 161, Health and Safety Code, by adding Subchapter Z, as follows:

SUBCHAPTER Z OBESITY-RELATED TREATMENT AND PREVENTION INITIATIVES

Sec. 161.901. INTERAGENCY OBESITY COUNCIL. (a) Requires specific commissioners to meet at least once annually as an interagency council to discuss the status of each agency's programs that promote better health and nutrition and prevent obesity among children and adults in this state.

(b) Requires the interagency council, not later than January 15 of each odd-numbered year, to submit a report on the activities of the council during the preceding two calendar years, to specific government officials.

Sec. 161.902. PUBLIC AWARENESS CAMPAIGNS. Requires the Department of State Health Services (DSHS) in its existing statewide or targeted public awareness campaigns to improve consumer health to publicize the adverse consequences of obesity and steps people may take to prevent and reverse obesity.

Sec. 161.903. RESEARCH. Requires DSHS, with the assistance of the Texas Department of Insurance (TDI), to identify and encourage evidence-based clinical interventions to prevent and treat obesity. Authorizes DSHS to promote guidelines for the medical community and insurers or other health benefit plan issuers in developing prevention or treatment plans for obesity-related health concerns.

Sec. 161.904. NUTRITION AND PHYSICAL ACTIVITY PROMOTION ANALYSIS. (a) Requires DSHS, with assistance from interested public and private entities, to analyze the capacity of a local community selected by DSHS to improve the nutrition and physical activity behaviors within that community.

(b) Requires DSHS, in identifying a community in which to conduct the analysis, to consider only those with existing or potential resources that may be expanded for the purpose of preventing or treating obesity-related health concerns in the community's population, including specific resources.

(c) Requires DSHS to coordinate with existing community resources to make certain determinations.

(d) Requires DSHS to analyze whether current resources in the community address specific issues.

(e) Requires DSHS to work with the community to make certain recommendations.

(f) Requires DSHS to coordinate with community resources to conduct the analysis over a three-year period.

(g) Provides that this section expires September 1, 2009.

SECTION 2. Amends Title 2, Agriculture Code, by adding Chapter 22, as follows:

CHAPTER 22. NUTRITION IN PUBLIC SCHOOLS

Sec. 22.001. GENERAL RESPONSIBILITIES. Sets forth requirements of DSHS for improving the nutrition in public schools.

Sec. 22.002. OPERATION OF BREAKFAST PROGRAMS IN CERTAIN DISTRICTS. (a) Requires the school district to consider seeking approval to act under the appropriate special assistance provision of the national free or reduced-price breakfast program established under 42 U.S.C. Section 1751 et seq. that allows districts specific options in choosing a breakfast plan, if at least 60 percent of the students enrolled in the school district are eligible to participate in the program.

(b) Authorizes a school district that does not have sufficient funds available to provide breakfast under Subsection (a) to apply to nonprofit foundations, governmental entities, or other sources for grants for that purpose.

Sec. 22.003. BREAKFAST FUND; GIFTS, GRANTS, AND DONATIONS. (a) Provides that the breakfast fund is an account established in the general revenue fund, composed of money appropriated to the fund and gifts, grants, and donations accepted for the fund under this section. Authorizes money in the breakfast fund to be appropriated only to DSHS to provide grants to school districts to operate breakfast programs under Section 22.002.

(b) Authorizes DSHS to seek and accept gifts, grants, and donations for the breakfast fund from appropriate nonprofit foundations, governmental entities, and other sources.

(c) Requires all gifts, grants, and donations of money accepted under this section to be deposited to the credit of the breakfast fund.

Sec. 22.004. SCHOOL NUTRITION POLICY. (a) Requires the commissioner of public health (commissioner), by rule, to establish a public school nutrition policy (policy) in accordance with this chapter.

(b) Authorizes the commissioner, in establishing the policy, to seek input from the commissioner of education and the commissioner of state health services.

(c) Authorizes the policy to be more stringent than any recommended or required federal guidelines.

(d) Prohibits the commissioner from changing the policy in a manner that would allow more foods of minimal nutritional value to be served at a public school than the amount allowed by the policy on January 1, 2005.

Sec. 22.005. ACCESS TO CERTAIN BEVERAGES RESTRICTED. Prohibits carbonated beverages from being sold on a public school campus in a container larger than 12 ounces. Provides that not more than 30 percent of beverages in vending machines on a public school campus may be sugared, carbonated drinks.

SECTION 3. Amends Section 38.013(a), Education Code, to require the program [health programs designed to prevent specific diseases], to provide for coordinating nutrition services, which may include nutrition education for elementary school children and their parents.

SECTION 4. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.017, as follows:

Sec. 38.017. MENTOR PROGRAM. Authorizes specific councils and groups to develop mentoring programs for middle school and high school students by training students to act as friends or mentors and offer peer support to other students on weight-loss programs approved by their physicians and parents or legal guardians, and to students coping with health problems related to obesity. Requires the school district and the school health advisory council to monitor mentors and students participating in a mentoring program.

SECTION 5. Amends Chapter 38, Education Code, by adding Subchapter C, as follows:

SUBCHAPTER C. RECOGNIZING EXTRAORDINARY ACHIEVEMENT IN CHILDREN'S HEALTH (REACH) PROGRAM

Sec. 38.101. DEFINITIONS. Defines "department" and "program."

Sec. 38.102. PROGRAM. (a) Requires the Texas Department of Agriculture (TDA), as the state agency responsible for administering the United States Department of Agriculture's child nutrition programs, to administer the Recognizing Extraordinary Achievement in Children's Health Program (program).

(b) Authorizes TDA to consult with the Texas Education Agency (TEA), regional education service centers, local school health advisory councils, and other appropriate entities in establishing and administering the program.

Sec. 38.103. ELIGIBILITY FOR PARTICIPATION. Provides that a school is eligible to participate in the program if the school participates in the national school lunch program established under 42 U.S.C. Section 1751 et seq. or the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773).

Sec. 38.104. MEASURING HEALTH PERFORMANCE. (a) Requires TDA to measure the health performance of each school that participates in the program by using specific criteria.

(b) Requires TDA, in consultation with school health experts, to determine the minimum health performance score a school must achieve under this section for the school to be eligible for a monetary program award under Section 38.105.

(c) Requires TDA, in determining a school's health performance score under Subsection (b), as provided by TDA rule, to award additional points to a school that has a high percentage of educationally disadvantaged students.

(d) Authorizes a school that achieves the minimum health performance score under Subsection (b) to receive a monetary program award only if sufficient funds are available under Section 38.106.

Sec. 38.105. PROGRAM AWARDS. (a) Authorizes TDA, subject to the availability of funding for the program, to provide a school that participates in the program and achieve the minimum health performance score under Section 38.104(b) with a monetary program award.

(b) Requires TDA, by rule, to establish the criteria for determining the amount of money awarded to a school. Requires the criteria to include consideration of the average daily attendance and the grade levels provided by the applicant schools.

(c) Authorizes TDA to provide a nonmonetary award to a school as determined by TDA.

Sec. 38.106. FUNDING. (a) Authorizes TDA to solicit and accept gifts and grants for the benefit of the program.

(b) Requires TDA to administer the program using gifts and grants received under Subsection (a) and funds appropriated to TDA for program purposes.

(c) Authorizes a school to use the monetary program award as determined by the school, but provides that it should use a portion of the money to pay for implementing the program or administering new or existing health improvement programs at school.

Sec. 38.107. APPLICATIONS. (a) Authorizes an eligible school to apply to TDA to participate in the program. Requires the school, in applying, to provide TDA with specific information.

(b) Requires the school to present the application for verification and approval to the superintendent of the school district, the superintendent's designee, or any other official determined by TDA, before submitting the application.

Sec. 38.108. AGREEMENT. Requires TDA to enter into an agreement, with specific guidelines, with each school that participates in the program before the school receives a monetary program award from TDA.

Sec. 38.109. RULES. Authorizes TDA to adopt rules as necessary to administer this subchapter.

SECTION 6. Amends Subchapter D, Chapter 262, Occupations Code, by adding Section 262.153, as follows:

Sec. 262.153. DUTY TO PROVIDE NUTRITIONAL EDUCATION INFORMATION. Requires a dental hygienist to provide nutrition information related to oral health with dental hygiene services performed in schools, Head Start centers, and day-care facilities to help establish good nutritional and oral care habits at the earliest age possible, in accordance with recognized guidelines for oral health.

SECTION 7. (a) Requires DSHS to analyze and evaluate whether a statewide wellness council would assist DSHS in promoting consumer health and educating Texans on the importance of proper nutrition and physical activity in preventing obesity-related health concerns, in order to promote and advance a health community through workplace activities in the public and private sectors. Requires DSHS, in analyzing and evaluating the statewide wellness council, to consider whether the council could achieve objectives related to health care cost containment, reduced absenteeism, improved employee health status, and improved morale. Requires DSHS, not later than September 1, 2006, to submit a report regarding recommendations for the creation of a statewide wellness council to specific government officials.

(b) Requires TDI to analyze and evaluate the changes in law needed to require health insurers and other health benefit plan issuers to provide coverage for the treatment and prevention of obesity, including coverage for counseling of overweight and obese

individuals. Requires TDI, not later than September 1, 2006, to submit a report regarding recommendations for required changes in law, to specific government officials.

SECTION 8. (a) Requires DSHS, not later than October 1, 2005, to begin the analysis required by Section 161.904, Health and Safety Code, as added by this Act.

(b) Requires DSHS, not later than December 31 of each even-numbered year through December 2010, to submit a report regarding findings and analysis under Section 161.904, Health and Safety Code, as added by this Act, to specific government officials.

(c) Requires the commissioner of agriculture, as soon as practicable after September 1, 2005, to adopt any rules necessary to implement Chapter 22, Agriculture Code, as added by this Act.

(d) Requires the state or governmental entity to request the waiver or authorization and authorizes such entity to delay implementing that provision until the waiver is granted, upon determining that a waiver or authorization from a federal agency is necessary to implement a provision of Chapter 22, Agriculture Code, as added by this Act.

(e) Makes application of Section 22.005, Agriculture Code, as added by this Act, prospective.

(f) Makes application of Subchapter C, Chapter 38, Education Code, as added by this Act, prospective to the 2005-2006 school year.

SECTION 9. Effective date: September 1, 2005.