

CHAPTER 150

S.B. No. 526

An Act relating to the creation, administration, funding, and review of and assistance to certain programs administered by the state or by nonprofit organizations for the relief of hunger or inadequate diet; amending Chapter 33 of the Human Resources Code by adding: Subsections (d), (e), and (f), Section 33.002; Sections 33.0021; 33.013; 33.014; 33.022; and 33.023; and amending the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) by amending Section 9.03 and Subsections (b), (d), (e), (f), and (g), Section 9.04 and adding Subdivision (7) to Section 9.01; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The Omnibus Hunger Act of 1985 is enacted to read as follows:

"TITLE I. SCOPE OF ACT

"Section 1. SHORT TITLE. This Act shall be known and may be cited as the Omnibus Hunger Act of 1985.

"Section 2. PURPOSE. The intent of the legislature is to address the widespread and growing problem of hunger in Texas, particularly as it affects the nutritional and health status of elderly persons, pregnant women, infants, and children and those families and individuals who, through no fault of their own, do not get enough to eat on a regular or intermittent basis. It is the further intent of this Act to decrease long-term health care and institutionalization costs by addressing the issues of disease prevention and health promotion and assuring an adequate diet to those citizens in this state legitimately in need of assistance. Pursuant to the Final Report of the Senate Interim Committee on Hunger and Nutrition, it is the further intent of the legislature that this Act be broadly construed in order that no needy Texan goes hungry and that all persons in need of and eligible for emergency food assistance receive help through the cooperative efforts of both the public and private sectors.

"TITLE II. PROGRAMS FOR PREGNANT WOMEN, INFANTS, AND CHILDREN

"Section 1. PURPOSE. It is the intent of the legislature to ensure that all children in Texas are provided an adequate and nourishing diet to safeguard their health and allow them to grow and develop to their full potential.

"Section 2. LEGISLATIVE FINDINGS. The legislature finds that:

"(1) The Special Supplemental Food Program for Women, Infants, and Children, popularly known as WIC, provides food vouchers, health screening, and nutrition education to pregnant women, new mothers, infants, and young children who cannot afford an adequate and nutritious diet and are at nutritional risk and is fully funded by the federal government.

"(2) In Texas there are an estimated 817,177 women, infants, and children eligible for the WIC program due to factors such as low income and identified health and nutritional problems.

"(3) Of those eligible, 634,213 currently go unserved due to lack of adequate funding from the federal government, thereby increasing the risk of serious health consequences, such as stunted growth and mental retardation.

"(4) In fiscal year 1984, 91 Texas counties did not have a WIC program.

"(5) The WIC program has been shown to be cost-effective, improving the health and nutritional status of women, infants, and children and saving costly medical care dollars.

"(6) The WIC program is 100 percent federally funded. Funds are made available in a grant to each state and are capped at the federal level. The Texas WIC grant was \$83.5 million in fiscal year 1984.

"(7) Federal funds that go unused by some states are reallocated based on need to those states that make full use of their federal grant.

"(8) Responses to a statewide survey among WIC program participants conducted in 1984 indicated that 55 percent of the mothers and 35 percent of the children were skipping meals due to a lack of money to buy an adequate supply of food.

"Section 3. The Texas Department of Health is authorized to spend the sum of \$12 million from the state General Revenue Fund to expand the Special Supplemental Food Program for Women, Infants, and Children (WIC) in the following two categories:

"(1) to establish projects in counties that are unserved by the WIC program;

“(2) to increase the number of program participants in those project areas where the percent of eligible persons served is less than the statewide average.

“Section 4. The Texas Board of Health is authorized to transfer to the Special Supplemental Food Program for Women, Infants, and Children (WIC) an amount of general revenue funds not to exceed one percent of the federal WIC food distribution grant, to be used for the same purpose as the federal grant funds. The state funds are intended to assure full expenditure of these federal funds.

“TITLE III. FOOD ASSISTANCE FOR ELDERLY PERSONS

“Section 1. *PURPOSE.* It is the intent of the legislature that no elderly person in Texas go hungry and that every effort be made to provide meals to every disabled and homebound elderly person who needs such help in order to promote his or her health and well-being while minimizing the long-term costs of medical care and institutionalization.

“Section 2. *LEGISLATIVE FINDINGS.* The legislature finds that:

“(1) The elderly constitute one of the fastest growing segments of the Texas population and are at great risk of serious health consequences due to inadequate dietary intake.

“(2) Close to one million elderly Texans live at or near the poverty level, and a lack of disposable income is cited in a statewide survey conducted by the Senate Interim Committee on Hunger and Nutrition as the major cause of hunger among elderly persons.

“(3) Results from a statewide survey in 1984 indicated there are at least 22,000 additional elderly Texans in need of home-delivered meals.

“(4) Many existing programs at the local level presently report waiting lists for such assistance.

“(5) Sixty-three percent of those elderly persons receiving home-delivered meals who responded to a 1984 survey conducted by the Senate Interim Committee on Hunger and Nutrition stated that they would go hungry if they did not receive this assistance.

“(6) Home-delivered meals recipients generally need short-term assistance to help them through convalescence or periods of acute problems.

“(7) The federal government, through the Agricultural Commodities Cash-in-Lieu program, currently provides 58¢ for every meal provided. This represents approximately 25 percent of the average meal cost.

“(8) The nutrition services, including home-delivered meals, are provided under the Older Americans Act and are funded 85 percent by the federal government, 10 percent by local matching funds, and five percent by the state General Revenue Fund.

“(9) New Medicare cost-containment measures are increasing the number of homebound elderly in need of meals and nutrition maintenance due to earlier release from the hospital when they are not yet able to prepare nutritionally adequate meals at home.

“(10) The Texas Department of Health documented 513 deaths, 88 percent of which were elderly persons, due to malnutrition in a recent three-year period.

“Section 3. The Texas Department on Aging shall be authorized to spend the sum of \$3.5 million from the state General Revenue Fund to create the Texas Senior Nutrition Maintenance and Home-Delivered Meals Program to more adequately meet the need for home-delivered meals among elderly persons. State funds expended for this program shall be used for meal-associated costs only and shall not be utilized for any administrative costs which may be incurred. There shall be a 15 percent statewide matching requirement for funds from the local level. The local matching requirement may be met by in-kind or cash resources. The Area Agencies on Aging shall require local reassessment of the caseload every six months to assure the most appropriate use of funds to meet the need. The department shall allocate funds to Area Agencies on Aging to be used for the following purposes only:

“(1) to increase the number of elderly persons participating in the home-delivered meals program, particularly those low-income elderly persons in need of this nutrition maintenance;

“(2) to reduce the number of elderly persons on waiting lists to receive home-delivered meals; and

“(3) to provide meal assistance to elderly persons recently released from hospital stays and in need of home-delivered meals.

“TITLE IV. EMERGENCY FOOD ASSISTANCE TO FAMILIES AND INDIVIDUALS

“Section 1. *PURPOSE.* It is the intent of the legislature that every Texan legitimately in need of emergency food assistance receive help as rapidly as possible through the cooperative efforts of both the public and private sectors.

“Section 2. *LEGISLATIVE FINDINGS.* The legislature finds that:

“(1) Emergency assistance programs around the state report receiving 1,874,672 requests for food in 1983, more than double the number of Texans requesting such assistance in 1980. Seventy-five percent of the 1983 requests came from families facing emergency situations.

“(2) Emergency assistance programs report receiving 70,000 requests for food per month in 1984, 20,000 of which must be turned away due to a lack of resources to meet the need.

“(3) While the incidence of requests for emergency food assistance reported by private sector providers has more than doubled, the issuance of food stamp benefits in emergency situations, known as expedited issuance, by the Texas Department of Human Resources has declined 44.4 percent in the last year, partly due to a tightening of federal regulations.

“(4) Repeated testimony before the Senate Interim Committee on Hunger and Nutrition identified a serious problem with the identification, processing, certification, and expedited issuance of food stamp benefits in emergency situations.

“(5) This apparent lack of expedited issuance of food stamp benefits places households in need of emergency food under significant hardship.

“(6) Delays in the certification of applications have been reported statewide through testimony at hearings conducted by the Senate Interim Committee on Hunger and Nutrition.

“(7) Private sector emergency food providers report that 18 percent of those they help are waiting for food stamp benefits to arrive. The Texas Department of Human Resources reports a shortage of staff to handle the applicant and client caseload in a timely and appropriate fashion; this lack has resulted in a situation where needy individuals and families are turned away or denied assistance.

“(8) Of those who do apply for food stamp benefits, many need help completing the application process, which can require extensive verification of information and be costly to applicants who are likely to have limited resources and income.

“(9) Elderly persons constitute a significant portion of those eligible persons left out of the Food Stamp Program. This is often due to their lack of knowledge that they may be eligible for food stamp benefits. Other factors inhibiting participation include isolation, pride, and lack of transportation.

“(10) In 1984, over 500,000 Texans in the civilian labor force were unemployed and not receiving unemployment insurance benefits. Many of these families and individuals report having difficulty getting an adequate supply of food and do not know where to turn for help. Still others do not qualify to receive food stamp benefits.

“(11) Due to limited funding and the widespread need to provide funds for inflexible bills, such as utilities, few of the funds for the state's Temporary Emergency Relief Program have gone for emergency food assistance.

“(12) Food banks in Texas report distributing over 30 million pounds of food in 1984, 65 percent of which went to emergency food programs.

“(13) Responses to a statewide survey conducted by the Senate Interim Committee on Hunger and Nutrition among food banks indicated that food banks face significant difficulty in obtaining a sufficient number of freezers, coolers, trucks, and other equipment to handle the increasing volume of food that they distribute throughout the state.

“(14) The number of Texans living below the poverty level is expected to approach three million in 1985; these individuals and families are at risk of suffering from hunger due to inadequate income and resources to purchase food.

“Section 3. The Texas Department of Human Resources shall establish the Emergency Nutrition Program. The Emergency Nutrition Program is authorized to spend the sum of \$2.5 million to meet the current unmet need for emergency food assistance. The funds shall be used as a grant to local communities to match local funds on a 50 percent state and 50 percent local ratio basis. The Emergency Nutrition Program shall be administered by the department in the same fashion and by the same rules and procedures as currently govern the administration of the Temporary Emergency Relief Program.”

SECTION 2. Chapter 33, Human Resources Code, as amended, is amended by adding Section 33.013 to read as follows:

“Section 33.013. **INFORMATION AND REFERRAL SERVICES.** (a) Each local food stamp office shall compile and maintain a current list of emergency food providers in the area served by the local food stamp office and refer individuals who need food to local programs that may be able to provide assistance.

“(b) The department shall establish regional or statewide toll-free telephone hotlines to provide emergency food information and to refer needy individuals to local programs that may be able to provide assistance. The department shall publish the telephone number for referrals in the emergency telephone numbers section of local telephone books. The department shall display this telephone number in all of its offices.

“(c) Where emergency food programs do not exist, the Texas Department of Human Resources office shall assist community groups in establishing emergency food assistance programs.

“(d) The department may establish other local, regional, or statewide programs to provide emergency food information and referral services where needed and where none presently exist.”

SECTION 3. Chapter 33, Human Resources Code, as amended, is amended by adding Section 33.014 to read as follows:

“Section 33.014. **INFORMATION PILOT PROGRAM.** (a) The Texas Department of Human Resources shall establish a pilot program to train volunteers and advocates to provide information to the elderly and to prescreen elderly applicants for services under this chapter.

“(b) The department shall seek assistance from each area agency on aging in the pilot area to conduct training workshops for aides, social workers, advocates, home-delivered meals volunteers, and other volunteers. The workshops shall train the volunteers to provide necessary information to each applicant, to prescreen elderly applicants to determine if an applicant may be eligible for services under this chapter, and to assist the applicants during the application procedure.

“(c) The department shall provide the necessary forms, worksheets, and informational materials.

“(d) Not later than December 31, 1986, the Texas Department of Human Resources shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives that describes and analyzes the pilot program.

“(e) This section expires September 1, 1987.”

SECTION 4. Section 33.002, Human Resources Code, as amended, is amended by adding Subsections (d), (e), and (f) to read as follows:

“(d) The department shall continually monitor the expedited issuance of food stamp benefits to ensure that each region in the state complies with federal regulations and that those households eligible for expedited issuance are identified, processed, and certified within the timeframes prescribed within the federal regulations. Once each year, the department shall also present a report to the governor, the legislature, and the department’s board members regarding its monitoring of expedited issuance and the degree of compliance with federal regulations on a region-by-region basis.

“(e) The Texas Department of Human Resources shall screen all applicants for expedited issuance on a priority basis within one working day. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive either a manual Authorization-to-Purchase card or the immediate issuance of food stamp coupons within one working day.

“(f) The department shall conspicuously post in each local food stamp office a notice of the availability of and procedure for applying for expedited issuance.”

SECTION 5. Chapter 33, Human Resources Code, as amended, is amended by adding Section 33.0021 to read as follows:

“Section 33.0021. **APPLICATION INFORMATION.** (a) The department shall develop general informational materials that contain eligibility guidelines for benefits under this chapter and that clearly and simply explain the process for applying for benefits, as well as indicate the availability of expedited food stamps, the existence of toll-free telephone hotlines, and the existence of a procedure in each region to handle complaints. These informational materials shall be nonpromotional in nature.

“(b) The materials must contain a list of the specific items necessary to verify an application.

“(c) The department shall distribute the materials to community action agencies, legal services offices, and emergency food programs and other programs likely to have contact with potential applicants.”

SECTION 6. Chapter 33, Human Resources Code, as amended, is amended by adding Section 33.022 to read as follows:

“Section 33.022. **APPLICATION ASSISTANCE.** (a) On request of an applicant, the department shall assist the applicant in filling out forms and completing the application process.

“(b) The department shall inform each applicant of the availability of assistance.”

SECTION 7. Chapter 33, Human Resources Code, as amended, is amended by adding Section 33.023 to read as follows:

“Section 33.023. **INFORMATION VERIFICATION.** (a) The department shall develop and implement for expedited issuance a uniform procedure for verifying information required of an applicant.

“(b) In developing the uniform procedure, the department shall attempt to minimize the cost and complexity of the procedure to the applicant.

“(c) The department shall not require applicants for expedited service to verify more eligibility items than the minimum necessary to conform to the federal regulations and shall assist the applicant in obtaining materials needed to verify an application. The department shall not deny or delay determination of eligibility due to lack of verification of items that may be postponed if they cannot be verified within the timeframes prescribed by the federal regulations.

“(d) The department shall post a notice in each of its offices indicating to whom an applicant or client can talk to resolve problems or complaints. This notice should indicate persons available to handle problems in local, regional, and state offices. Notification of the existence of each office and complaint procedures shall be posted in each food stamp office and in materials made available to applicants regarding the application process.”

SECTION 8. Section 9.01, State Purchasing and General Services Act, as amended (Article 601b, Vernon’s Texas Civil Statutes), is amended by adding Subdivision (7) to read as follows:

“(7) ‘Food bank’ means a nonprofit organization that solicits, warehouses, and redistributes edible but unmarketable food to agencies that are feeding needy families and individuals.”

SECTION 9. Section 9.03, State Purchasing and General Services Act, as amended (Article 601b, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 9.03. MAILING LISTS OF FOOD BANKS AND POLITICAL SUBDIVISIONS. The commission shall maintain a mailing list, renewable annually, of food banks and political subdivision purchasing agents or other officers performing similar functions who have asked for information on surplus or salvage equipment or material the state may have available.”

SECTION 10. Subsections (b), (d), (e), (f), and (g), Section 9.04, State Purchasing and General Services Act, as amended (Article 601b, Vernon’s Texas Civil Statutes), are amended to read as follows:

“(b) When a state agency reports to the commission that it has surplus or salvage equipment or material, the commission shall inform other state agencies, ~~and~~ political subdivisions, and food banks of the existence, kind, number, location, and condition of the equipment or material.”

“(d) A food bank or political subdivision shall notify the commission within 30 days from the date of the notice if it desires to negotiate for surplus or salvage equipment or material.

“(e) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice, and if the commission determines that the equipment or material will not satisfy a state need, the commission may authorize the sale or transfer of surplus or salvage equipment or material to any food bank or political subdivision which has expressed a desire to negotiate.

“(f) The commission shall adopt rules and regulations to govern occasions when more than one food bank or political subdivision expresses a desire to negotiate for the same surplus or salvage equipment or material. The commission may adopt other necessary rules and regulations to govern the sale or transfer of surplus or salvage equipment and material to food banks or political subdivisions.

“(g) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice and no food bank or political subdivision has expressed a desire to negotiate, or if one or more food banks or political subdivisions has expressed a desire to negotiate but is unable to negotiate a sale or transfer of the equipment or material within 40 days from the date of the notice, the commission may offer the equipment or material to the organization known as the Texas Partners of the Alliance, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance office of the Agency for International Development. The equipment or material shall be offered at its fair market value as determined by mutual agreement between the commission and the Texas Partners of the Alliance.”

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 27, 1985, by the following vote: Yeas 26, Nays 3; passed the House on May 17, 1985, by a non-record vote.

Approved: May 24, 1985

Effective: August 26, 1985