

## **BILL ANALYSIS**

Senate Research Center  
78R3934 JTS-D

S.B. 342  
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### **DIGEST AND PURPOSE**

Currently, certain statistics and figures indicate that the health infrastructure in the border region is weak in comparison to other regions in Texas and the United States.

As proposed, S.B. 342 enacts a number of changes to existing laws with the aim of building the health infrastructure in that region of the state. The bill requires Texas Building and Procurement Commission and all state agencies to consider whether a company offers health insurance to the company's employees when awarding contracts. The bill expands a program to educate physicians on immunization programs, and changes the immunization registry program to an opt-out system. It expands on current vaccination programs by including vaccine providers outside of the Vaccines for Children Program, pending sufficient funding, and provides coverage by state regulated health plans for certain recommended vaccines.

In addition, S.B. 342 creates a number of new entities. First, the bill establishes the Border Health Foundation within the Texas Department of Health to raise money from private sources to finance health programs on the border. It creates a Border Health Corps from what is currently the Texas Health Service Corps in order to provide loan repayment assistance for doctors and nurses who choose to practice in the border region, while preserving the Physicians Education Loan Repayment Program for other Health Profession Shortage Areas in the state.

Finally, the bill enacts a number of changes aimed towards expanding the effectiveness of a program that uses community health workers who serve as bilingual liaisons between health care providers and their patients.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Department of Health is modified in SECTION 2.02 (Section 161.007, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of public health, in consultation with the commissioner of insurance, in SECTION 2.05 (Section 3, Article 21.53F, Insurance Code) and to the Texas Higher Education Coordinating Board in SECTION 6.01 (Section 61.552, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. SHORT TITLE AND PURPOSE

SECTION 1.01. SHORT TITLE. Provides that this Act may be known as the Texas Health Improvement Act.

SECTION 1.02. PURPOSE. Provides that the purpose of this Act is to promote development of the health infrastructure that serves the citizens of Texas and to improve the health of Hispanic Texans.

#### ARTICLE 2. IMMUNIZATIONS

SECTION 2.01. UNIVERSAL VACCINE PURCHASE PROGRAM. Requires the comptroller of public accounts (comptroller) to study the feasibility of implementing a universal vaccine purchase program in this state, and sets forth specific determinations to be made by the comptroller. Requires the comptroller to consult with certain federal, state, and local agencies, as well as private entities involved in the administration of vaccines, while performing the study.

SECTION 2.02. IMMUNIZATION REGISTRY. Amends Chapter 161A, Health and Safety Code, by amending Section 161.007 and adding Sections 161.0071, 161.0072, 161.0073, and 161.0074, as follows:

Sec. 161.007. IMMUNIZATION REGISTRY; REPORTS TO DEPARTMENT. (a) Modifies the rulemaking authority previously granted to the Texas Department of Health (TDH) to require TDH to protect the confidentiality of registrants in accordance with state and federal law rather than in accordance with Section 159.002, Occupations Code. Requires the guidelines to permit the written consent of a parent, managing conservator, or guardian of a registrant to choose in writing to have the registrant excluded from the registry, rather than to require the written consent of such a person before information is included in the registry. Deletes language permitting a parent, managing conservator, or guardian to withdraw consent for the patient to be included in the registry. Makes conforming changes.

(b) Provides that the childhood immunization registry must contain certain information except as provided by Section 161.0071. Makes conforming changes.

(c) Requires that an immunization history report submitted to TDH contain the elements prescribed by TDH. Authorizes the report to be submitted in writing or by electronic means. Makes conforming changes

(d) Requires the report to contain the elements, rather than be in a format, prescribed by TDH. Authorizes the submission of the report to be in writing or by electronic means and deletes the option by voice. Makes conforming changes.

(e) Requires notices from TDH, regarding overdue immunizations, to contain instructions for the parent, managing conservator, or guardian to request the child's immunization record to be removed from the registry and any other registry-related record identifying the child and to request that no future notices be sent. Requires notices to describe the procedure for reporting violations if a child is included in the registry after a written request for exclusion.

(f) Deletes reference to section and replaces with subchapter.

(g) Includes an insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for immunization in the list of entities not liable under certain conditions for any civil damages. Makes conforming changes.

(h) Deletes existing text regarding the confidential nature of and disclosure of information obtained by TDH. Redesignates existing Subsection (i) as Subsection (h). Makes conforming changes.

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (a) Requires TDH to send a written notification to the child's parent, managing conservator, or guardian disclosing certain information the first time TDH receives registry data for a child.

(b) Requires TDH to delete a child's immunization records from the registry and any

other registry-related department record that individually identifies the child not later than 30 days after TDH receives a written request to exclude the child from the registry by the child's parent, managing conservator, or guardian. Requires TDH to maintain only those records necessary to ensure continued exclusion of the child from the registry and prohibits the release of an identity of a child excluded from the registry.

(c) Requires TDH to send to a parent, managing conservator, or guardian making a written request under Subsection (b) a written confirmation of the receipt of the request for exclusion and the exclusion of the child's records from the registry.

(d) Provides that TDH commits a violation if TDH fails to exclude a child from the registry within the required period.

(e) Requires TDH to accept a written statement from a parent, managing conservator, or guardian communicating to TDH that a child should be excluded from the registry, including a statement on the child's birth certificate, as a request for exclusion.

Sec. 161.0072. **REGISTRY CONFIDENTIALITY.** (a) Provides that the information that individually identifies a child for the immunization registry is confidential and may be used by TDH for registry purposes only.

(b) Prohibits TDH from releasing registry information without consent, unless specifically authorized under this subchapter.

(c) Prohibits a person required to report information to TDH for registry purposes or authorized to receive information from the registry from disclosing the individually identifiable information to any other person without the proper consent.

(d) Provides that registry information is not subject to any means of legal compulsion for release to any person or entity except as provided by this subchapter and is not admissible in any civil, administrative, or criminal proceeding.

Sec. 161.0073. **REPORT TO LEGISLATURE.** (a) Requires TDH to report to certain persons and entities not later than September 30th of each even-numbered year.

(b) Requires TDH to use the report to develop ways to increase immunization rates using state and federal resources.

(c) Requires the report to include certain information and follow particular guidelines.

Sec. 161.0074. **IMMUNITY FROM LIABILITY.** Provides that certain persons are not civilly or criminally liable for furnishing the required information under this subchapter when acting in compliance with certain requirements.

**SECTION 2.03. IMMUNIZATION REGISTRY; RELEASE OF INFORMATION.** Amends Section 161.008, Health and Safety Code, by amending Subsections (c) and (d) and adding Subsections (e)-(g), as follows:

(c) Deletes language regarding the requirement that TDH obtain consent of a child's parent, managing conservator, or guardian in order to obtain certain data. Includes an insurance company, a health maintenance organization, or any other organization that pays or reimburses a claim for immunization, or any health care provider licensed or otherwise authorized to administer vaccines in the list of entities that TDH may obtain data from regarding an immunization record for a child.

(d) Requires TDH to enter the child into the registry and release data constituting an immunization record for the child to certain entities after the 30th day after the date notice was sent by TDH to the child's parent, managing conservator, or guardian if TDH has not received a written request to exclude the child from the registry.

(e) Redesignated from existing Subsection (d).

(f) Authorizes TDH to release nonidentifying summary statistics related to the registry that do not individually identify a child.

(g) Prohibits TDH from releasing certain individually identifiable information to an entity outside this state.

**SECTION 2.04. IMMUNIZATION REGISTRY; OFFENSE.** Amends Section 161.009(a), Health and Safety Code, to include Sections 161.0071 and 161.0072 in the list of sections under which a person commits an offense by negligent release or disclosure of immunization registry information.

**SECTION 2.05. REQUIRED BENEFITS FOR IMMUNIZATIONS.** Amends Section 3, Article 21.53F, Insurance Code, as follows:

(a) Creates this subsection from existing text. Increases the age to which a child will be provided coverage for immunization against certain diseases from six years of age to eighteen years of age. Includes in the list of covered immunizations, any other immunization recommended as of January 1, 2003, by the federal Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(b) Authorizes the commissioner of public health, in consultation with the commissioner of insurance, to require, by rule, coverage for an immunization recommended after January 1, 2003, or remove the requirement of coverage for an immunization no longer recommended by the federal Advisory Committee on Immunization Practices or its successor committee.

**SECTION 2.06. TRANSITION.** (a) Requires the comptroller to submit by January 15, 2005, a report detailing the findings of the universal vaccine purchase program study required by this Act to the lieutenant governor and the speaker of the house of representatives.

(b) Provides that Section 2.01 of this Act expires September 1, 2005.

(c) Requires the Texas Board of Health to adopt certain rules and make available a form for requesting exclusion from the immunization registry as soon as possible and no later than August 1, 2004.

(d) Prohibits the report required under this Act and the data obtained or released under Section 161.008, Health and Safety Code, from being released until TDH has adopted the rules and prescribed the forms required by this Act.

(e) Makes the changes made by this Act to Section 3, Article 21.53F, Insurance Code prospective.

### ARTICLE 3. PROMOTORAS

**SECTION 3.01. COMPENSATION.** Amends Section 48.003(c), Health and Safety Code, to require the Health and Human Services Commission to require health and human services agencies to compensate certified promotoras to assist with certain programs for recipients of medical assistance.

**SECTION 3.02. TRANSITION.** Requires the classification officer to ensure that a classification

system, including a supervisory and salary structure, is provided for promotoras as appropriate under the state's position classification plan under Chapter 654, Government Code, as soon as practicable.

#### ARTICLE 4. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE FOR EMPLOYEES

SECTION 4.01. BEST VALUE CONSIDERATION. Amends Section 2155.074(b), Government Code, to add to the list of relevant factors in determining the best value for the state in preference for vendors whether the vendor provides health benefits coverage to employees. Redesignates existing Subsection (9) as Subsection (10).

SECTION 4.02. STATE AGENCY PREFERENCE. Amends Chapter 2155H, Government Code, by adding Section 2155.451, as follows:

Sec. 2155.451. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. Requires the Texas Building and Procurement Commission and all state agencies procuring goods or services to give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage to the vendor's employees if the goods or services meet certain state specifications and the cost of the good or service does not exceed that of vendors not demonstrating that they provide health benefits coverage.

#### ARTICLE 5. BORDER HEALTH FOUNDATION

SECTION 5.01. BORDER HEALTH FOUNDATION. Amends Title 2E, Health and Safety Code, by adding Chapter 112, as follows:

##### CHAPTER 112. BORDER HEALTH FOUNDATION

Sec. 112.001. DEFINITIONS. Defines "board of directors" and "foundation."

Sec. 112.002. CREATION OF FOUNDATION. (a) Requires TDH to establish the Border Health Foundation as a nonprofit corporation that complies with specific requirements.

(b) Requires TDH to ensure that the foundation operates independently of any state agency or political subdivision of this state.

Sec. 112.003. POWERS AND DUTIES. (a) Requires the foundation to raise money from other foundations, governmental entities, and other sources to finance health programs in this state in areas adjacent to the border with the United Mexican States.

(b) Requires the foundation to locate potential partners in the private sector to help the state maintain or increase existing levels of financing of health programs and activities, make the office known to potential partners, and perform any other function necessary to carry out the purposes of the foundation.

(c) Requires TDH to review programs from all agencies under its control to determine which projects should be available to receive money.

(d) Provides that the foundation has the powers necessary and convenient to carry out its duties.

Sec. 112.004. ADMINISTRATION. (a) Provides that the foundation is governed by a board of five directors appointed by the Texas Board of Health from individuals recommended by the commissioner of public health.

- (b) Sets forth the terms of members of the board of directors.
- (c) Requires appointments to the board of directors to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.
- (d) Requires the board of directors to ensure that the foundation remains listed as an exempt organization for purpose of federal income tax.

Sec. 112.005. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) Defines “Texas trade association.”

- (b) Provides the circumstances under which a person may not be a member of the board of directors or a particular foundation employee.
- (c) Prohibits a person that is required to register as a lobbyist on behalf of a profession related to the operation of the foundation from being a member of the board of directors or as general counsel to the board of directors.

Sec. 112.006. REMOVAL OF BOARD MEMBER. (a) Provides grounds for removal from the board of directors.

- (b) Provides that the validity of an action of the board of directors is not affected by the fact that it is taken when a ground for removal of a board member exists.
- (c) Requires the foundation, in its articles or bylaws, to establish the manner in which a board member may be removed.

Sec. 112.007. VACANCY. Provides the manner in which a vacancy on the board of directors shall be filled.

Sec. 112.008. OFFICERS. Requires the board of directors to elect necessary officers. Provides that the presiding officer and assistant presiding officer serve for one year and may be reelected.

Sec. 112.009. MEETINGS. Requires a minimum number of annual meetings.

Sec. 112.010. TAX EXEMPTION. Provides that all income, property, and other assets of the foundation are exempt from taxation by this state and its political subdivisions.

Sec. 112.011. MEMORANDUM OF UNDERSTANDING. Requires the foundation and TDH to enter into a memorandum of understanding relating to reporting, staff functions, and financial contributions.

Sec. 112.012. FUNDING. (a) Authorizes TDH and certain other entities to contract with the foundation to finance certain health programs.

- (b) Authorizes the foundation to apply for and accept funds and to solicit funds from private sources. Provides that the foundation may only accept solicited funds that are consistent with the purposes of the foundation.
- (c) Requires the board of directors of the foundation to manage and approve disbursements of any kind that are the property of the foundation.
- (d) Requires the board of directors of the foundation to manage any capital improvements constructed, owned, or leased by the foundation and any real property

acquired.

Sec. 112.013. RECORDS. (a) Requires the foundation to maintain financial records and reports independently from those of TDH.

(b) Requires the foundation to comply with all filing requirements of the secretary of state and the Internal Revenue Service.

Sec. 112.014. REPORT TO DEPARTMENT. Requires the foundation to submit a yearly report detailing all activities of the foundation during the preceding fiscal year by a certain time.

SECTION 5.02. TRANSITION. Requires TDH to create the Border Health Foundation as required by this Act by June 1, 2004.

## ARTICLE 6. EDUCATION AND RECRUITMENT OF HEALTH CARE PROFESSIONALS

SECTION 6.01. BORDER HEALTH CORPS. Amends Chapter 61, Education Code, by adding Subchapter J-1, as follows:

### SUBCHAPTER J-1. BORDER HEALTH CORPS

Sec. 61.551. DEFINITIONS. Defines “health professional shortage area” and “Texas-Mexico border region.”

Sec. 61.552. BORDER HEALTH CORPS. (a) Requires The Texas Higher Education Coordinating Board (THECB) to establish a program to encourage the training, recruitment, and retention of health care professionals and practitioners in health professional shortage areas in the Texas-Mexico border region. Provides that individuals participating in the program may be referred to as the Border Health Corps. Requires the THECB to adopt rules as necessary to administer the program.

(b) Specifies the practitioners eligible to participate in the program. Authorizes THECB to include other health care professions in the program as needed.

(c) Requires THECB, in granting loan repayment assistance or other benefits to individuals in the program, to give priority to certain professional areas and individuals.

Sec. 61.553. EDUCATION LOAN REPAYMENT ASSISTANCE. (a) Requires THECB to provide assistance in the repayment of education loans to individuals in the program, to the extent that funding is available. Provides the requirements an individual must agree to, to receive loan payment assistance.

(b) Prohibits an individual from receiving more than \$10,000 in assistance in any year. Prohibits the amount of assistance an individual receives from exceeding a certain amount.

(c) Requires THECB to follow certain guidelines in relation to paying the loan repayment assistance. Requires THECB to take necessary actions to recover any amount for which the promised practice is not performed, subject to certain conditions.

(d) Requires THECB to make loan repayment assistance awards to allow individuals in the program to qualify for matching federal loan repayment assistance, to the extent consistent with the purposes of the program.

Sec. 61.554. FUNDING. (a) Provides that the program is funded by appropriations, gifts,

grants, and other money available for purposes of the program. Authorizes THECB to solicit and accept gifts and grants from any public or private source for the program.

(b) Requires THECB to take any action necessary to permit federal funds available for loan repayment assistance to be available to individuals in the program who are in private practice.

**SECTION 6.02. MEDICAL EDUCATION PREPARATION.** Amends Chapter 61C, Education Code, by adding Sections 61.0902 and 61.0903, as follows:

Sec. 61.0902. **EXTENDED UNDERGRADUATE MEDICAL EDUCATION PREPARATION PROGRAM.** Requires THECB to examine the use of certain undergraduate programs to determine the feasibility and effectiveness of the programs in the education and training of physicians or other health care professionals in this state and to work with higher education institutions to implement and conduct those programs.

Sec. 61.0903. **RECRUITING AND RETAINING UNDERREPRESENTED STUDENTS.**

(a) Requires THECB , in coordination with institutions of higher education, to develop a strategy coordinated to recruit and retain students from underrepresented ethnic or racial backgrounds.

(b) Requires THECB and institutions of higher education to follow certain guidelines in their coordinating efforts.

**SECTION 6.03. PUBLIC SCHOOL PROGRAMS.** Amends Chapter 29F, Education Code, by adding Sections 29.187 and 29.188, as follows:

Sec. 29.187. **HEALTH SCIENCE TECHNOLOGY AND COLLEGE PREPARATION PROGRAMS IN BORDER REGION.** (a) Defines “Texas-Mexico border region.”

(b) Requires the Texas Education Agency (TEA) to periodically assess the adequacy of existing health science technology and college preparatory courses and programs in secondary schools in the Texas-Mexico border region. Requires TEA to encourage and assist school districts to establish additional courses and programs and to improve the quality of existing courses and programs in schools in which TEA determines the need exists.

(c) Requires TEA to encourage and assist in the operation of mentoring programs between students and health care professionals in the Texas-Mexico border region. Requires TEA to assist in the administration of the mentoring programs to ensure the programs are effective in fostering student awareness of the health professions and encouraging the pursuit of careers in the health professions in the Texas-Mexico border region by these students. Requires TEA and participating school districts to track students participating in the mentoring program and monitor their success.

(d) Requires TEA to report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than September 1, 2004, on TEA’s activities. Requires the report to include the TEA’s recommendations on certain items. Provides that this subsection expires January 1, 2005.

Sec. 29.188. **SUMMER STUDY SCIENCE PROGRAMS FOR UNDERREPRESENTED STUDENTS.** Requires TEA to establish a statewide network of summer study science instruction programs for underrepresented students from ethnic or racial groups in the fields of science and medicine.



SECTION 6.04. REPEALER AND TRANSITION. (a) Repealer: Chapter 487, Government Code (Texas Health Service Corps Program for Medically Underserved Areas).

(b) Authorizes the Office of Rural Community Affairs to continue to administer the Texas Health Service Corps with respect to an award or stipend awarded before the repeal of Chapter 487G. Prohibits an award after the effective date of this Act.

(c) Provides that the legislature intends that the Border Health Corps established under Chapter 61J-1, Education Code, as added by this Act, be funded primarily from revenue that would have been appropriated to the Texas Health Service Corps. Requires all money and appropriations available or designated to the Texas Health Service Corps on the effective date of this Act to be reallocated or reappropriated to THECB to administer the Border Health Corps under Chapter 61J-1, as added by this Act. Provides an exception.

#### ARTICLE 7. OFFICE OF STATE-FEDERAL RELATIONS

SECTION 7.01. REPORT. Requires the Office of State-Federal Relations to report on its efforts and actions of the federal government to increase federal Medicaid funding to the border region and to increase matching funds for other health care programs in the border region, as part of its report under Section 751.022(c), Government Code. Provides that this section expires January 1, 2005.

SECTION 7.02. FEDERAL HEALTH CARE FUNDS AVAILABLE TO BORDER REGION. Amends Chapter 751B, Government Code, by adding Section 751.025, as follows:

Sec. 751.025. FEDERAL HEALTH CARE FUNDS TO BORDER REGION. (a) Defines "Texas-Mexico border region."

(b) Requires the Office of State-Federal Relations (office) to achieve equity in reimbursement rates between health care professionals in the Texas-Mexico border region and other health care professionals in the state. Requires the office to increase the Federal Medical Assistance Percentage for the Texas-Mexico border region.

#### ARTICLE 8. EFFECTIVE DATE

SECTION 8.01. EFFECTIVE DATE. Effective date: September 1, 2003.