

By: Chavez

H.B. No. 2450

Substitute the following for H.B. No. 2450:

By: Griggs

C.S.H.B. No. 2450

A BILL TO BE ENTITLED

AN ACT

relating to creating a foundation to finance health programs in the border counties of this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. BORDER FOUNDATION

Sec. 112.001. DEFINITIONS. In this chapter:

(1) "Board of directors" means the board of directors of the Border Foundation.

(2) "Foundation" means the Border Foundation.

Sec. 112.002. CREATION OF FOUNDATION. (a) The Office of Border Health within the department shall establish the Border Foundation as a nonprofit corporation that complies with the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except as otherwise provided by this chapter, and qualifies as an organization exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended.

(b) The Office of Border Health shall ensure that the foundation operates independently of any state agency or political subdivision of this state.

Sec. 112.003. POWERS AND DUTIES. (a) The foundation shall raise money from other foundations, governmental entities, and

1 other sources to finance health programs in this state in the
2 counties adjacent to the border with the United Mexican States.

3 (b) The foundation has the powers necessary and convenient
4 to carry out its duties.

5 (c) The foundation shall develop and implement policies and
6 procedures that clearly separate the responsibilities and
7 activities of the foundation from the Office of Border Health.

8 (d) The foundation shall cooperate with the Rural
9 Foundation to coordinate projects in counties that are rural and
10 adjacent to the border with the United Mexican States.

11 Sec. 112.004. BOARD OF DIRECTORS. (a) The foundation is
12 governed by a board of five directors appointed by the Texas Board
13 of Health from individuals recommended by the executive director of
14 the Office of Border Health.

15 (b) Members of the board of directors serve for staggered
16 terms of six years, with as near as possible to one-third of the
17 members' terms expiring February 1 of each odd-numbered year.

18 (c) Appointments to the board of directors shall be made
19 without regard to the race, color, disability, sex, religion, age,
20 or national origin of the appointees.

21 (d) The board of directors shall ensure that the foundation
22 remains eligible for an exemption from federal income tax under
23 Section 501(a), Internal Revenue Code of 1986, as amended, by being
24 listed as an exempt organization under Section 501(c)(3) of that
25 code, as amended.

26 Sec. 112.005. RESTRICTIONS ON BOARD APPOINTMENT,
27 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade

1 association" means a cooperative and voluntarily joined
2 association of business or professional competitors in this state
3 designed to assist its members and its industry or profession in
4 dealing with mutual business or professional problems and in
5 promoting their common interest.

6 (b) A person may not be a member of the board of directors
7 and may not be a foundation employee employed in a "bona fide
8 executive, administrative, or professional capacity," as that
9 phrase is used for purposes of establishing an exemption to the
10 overtime provisions of the federal Fair Labor Standards Act of 1938
11 (29 U.S.C. Section 201 et seq.), as amended, if:

12 (1) the person is an officer, employee, or paid
13 consultant of a Texas trade association in the field of health care;
14 or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association in the field of health care.

17 (c) A person may not be a member of the board of directors or
18 act as the general counsel to the board of directors or the
19 foundation if the person is required to register as a lobbyist under
20 Chapter 305, Government Code, because of the person's activities
21 for compensation on behalf of a profession related to the operation
22 of the foundation.

23 Sec. 112.006. REMOVAL OF BOARD MEMBER. (a) It is a ground
24 for removal from the board of directors that a member:

25 (1) is ineligible for membership under Section
26 112.005;

27 (2) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's
2 term; or

3 (3) is absent from more than half of the regularly
4 scheduled board meetings that the member is eligible to attend
5 during a calendar year without an excuse approved by a majority
6 vote of the board of directors.

7 (b) The validity of an action of the board of directors is
8 not affected by the fact that it is taken when a ground for removal
9 of a board member exists.

10 (c) If the executive director of the Office of Border Health
11 has knowledge that a potential ground for removal exists, the
12 executive director shall notify the presiding officer of the board
13 of directors of the potential ground. The presiding officer shall
14 then notify the governor and the attorney general that a potential
15 ground for removal exists. If the potential ground for removal
16 involves the presiding officer, the executive director shall notify
17 the next highest ranking officer of the board of directors, who
18 shall then notify the governor and the attorney general that a
19 potential ground for removal exists.

20 Sec. 112.007. VACANCY. A vacancy on the board of directors
21 shall be filled for the remainder of the unexpired term in the same
22 manner as the original appointment.

23 Sec. 112.008. OFFICERS. The board of directors shall elect
24 from among its members a presiding officer, an assistant presiding
25 officer, and other officers the board considers necessary. The
26 presiding officer and assistant presiding officer serve for a
27 period of one year and may be reelected.

1 Sec. 112.009. MEETINGS. The board of directors may meet as
2 often as necessary, but shall meet at least twice a year.

3 Sec. 112.010. TAX EXEMPTION. All income, property, and
4 other assets of the foundation are exempt from taxation by this
5 state and political subdivisions of this state.

6 Sec. 112.011. MEMORANDUM OF UNDERSTANDING. The foundation
7 and the Office of Border Health shall enter into a memorandum of
8 understanding that:

9 (1) requires the board of directors and staff of the
10 foundation to report to the executive director of the Office of
11 Border Health;

12 (2) allows the Office of Border Health to provide
13 staff functions to the foundation;

14 (3) allows the Office of Border Health to expend funds
15 on the foundation; and

16 (4) outlines the financial contributions to be made to
17 the foundation from funds obtained from grants and other sources.

18 Sec. 112.012. RECORDS. (a) The foundation shall maintain
19 financial records and reports independently from those of the
20 Office of Border Health.

21 (b) The foundation shall comply with all filing
22 requirements of the secretary of state and the Internal Revenue
23 Service.

24 Sec. 112.013. REPORT TO OFFICE OF BORDER HEALTH. Not later
25 than the 60th day after the last day of the fiscal year, the
26 foundation shall submit to the Office of Border Health a report
27 itemizing all income and expenditures and describing all activities

1 of the foundation during the preceding fiscal year.

2 SECTION 2. (a) The Office of Border Health within the Texas
3 Department of Health shall create the Border Foundation not later
4 than June 1, 2004.

5 (b) In making the initial appointments to the board of
6 directors of the Border Foundation as required by Section 112.004,
7 Health and Safety Code, as added by this Act, the Texas Board of
8 Health shall designate two members for terms expiring February 1,
9 2005, two members for terms expiring February 1, 2007, and one
10 member for a term expiring February 1, 2009.

11 SECTION 3. This Act takes effect September 1, 2003.