

By: Chavez

H.B. No. 2450

A BILL TO BE ENTITLED

AN ACT

1
2 relating to creating a foundation to finance health programs in the
3 border counties of the state.

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

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

7 Chapter 112. Border Foundation

8 Sec. 112.001. CREATION OF FOUNDATION. (a) The Office of
9 Border Health under the Texas Department of Health shall establish
10 the Border Foundation as a nonprofit corporation that complies with
11 the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,
12 Vernon's Texas Civil Statutes), except as otherwise provided by
13 this chapter, and qualifies as an organization exempt from federal
14 income tax under Section 501(c)(3), Internal Revenue Code of 1986,
15 as amended.

16 (b) The Office of Border Health shall ensure that the Border
17 Foundation operates independently of any state agency or political
18 subdivision of the state.

19 Sec. 112.002. POWERS AND DUTIES. (a) The Border Foundation
20 shall raise money from foundations, governmental entities, and
21 other sources to finance health programs in the Texas counties that
22 make-up the Texas-Mexico Border.

23 (b) The Border Foundation shall have the powers that are
24 necessary and convenient to carry out its duties.

1 (c) The Border Foundation shall develop and implement
2 policies and procedures that clearly separate the responsibilities
3 and activities of the foundation from the Office of Border Health.

4 (d) The Border Foundation shall cooperate with the Rural
5 Foundation to coordinate projects in counties that are both rural
6 and on the Texas-Mexico Border.

7 Sec. 112.003. BOARD OF DIRECTORS. (a) The Border
8 Foundation is governed by a board of five directors appointed by the
9 executive committee of the Office of Border Health from individuals
10 recommended by the executive director of the Office of Border
11 Health.

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

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

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

25 Sec. 112.004. RESTRICTIONS ON BOARD APPOINTMENT,
26 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade
27 association" means a cooperative and voluntarily joined

1 association of business or professional competitors in this state
2 designed to assist its members and its industry or profession in
3 dealing with mutual business or professional problems and in
4 promoting their own interest.

5 (b) A person may not be a member of the board of directors of
6 the Border Foundation and may not be a foundation employee employed
7 in a "bona fide executive, administrative, or professional
8 capacity," as that phrase is used for purposes of establishing an
9 exemption to the overtime provisions of the federal Fair Labor
10 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended,
11 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 of
18 the Border Foundation or act as the general counsel to the board of
19 directors or the foundation if the person is required to register as
20 a lobbyist under Chapter 305, Government Code, because of the
21 person's activities for compensation on behalf of a profession
22 related to the operation of the foundation.

23 Sec. 112.005. REMOVAL OF A BOARD MEMBER. (a) It is a ground
24 for removal from the board of directors of the Border Foundation
25 that a member:

26 (1) is ineligible for membership under Section
27 112.004;

1 (2) cannot, because of illness or disability,
2 discharge the member's duties for a substantial part of the member's
3 term; or

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

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

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

21 Sec. 112.006. VACANCY. A vacancy on the board of directors
22 of the Border Foundation shall be filled for the remainder of the
23 unexpired term in the same manner as the original appointment.

24 Sec. 112.007. OFFICERS. The board of directors of the
25 Border Foundation shall elect from among its members a presiding
26 officer, an assistant presiding officer, and other officers the
27 board considers necessary. The presiding officer and assistant

1 presiding officer serve for a period of one year and may be
2 reelected.

3 Sec. 112.008. MEETINGS. The board of directors of the
4 Border Foundation may meet as often as necessary, but shall meet at
5 least twice a year.

6 Sec. 112.009. TAX EXEMPTION. All income, property, and
7 other assets of the Border Foundation are exempt from taxation by
8 the state and political subdivisions of the state.

9 Sec. 112.010. MEMORANDUM OF UNDERSTANDING. The Border
10 Foundation and the Office of Border Health shall enter into a
11 memorandum of understanding that:

12 (1) requires the board of directors and staff of the
13 foundation to report to the executive director and executive
14 committee of the Office of Border Health;

15 (2) allows the Office of Border Health to provide
16 staff functions to the foundation;

17 (3) allows the Office Of Border Health to expend funds
18 on the foundation; and

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

21 Sec. 112.011. RECORDS.

22 (a) The Border Foundation shall maintain financial records
23 and reports independently from those of the Office of Border
24 Health.

25 (b) The Border Foundation shall comply with all filing
26 requirements of the secretary of state and the Internal Revenue
27 Service.

1 Sec. 112.012. REPORT TO OFFICE OF BORDER Health. Not later
2 than the 60th day after the last day of the fiscal year, the Border
3 Foundation shall submit to the Office of Border Health a report
4 itemizing all income and expenditures and describing all activities
5 of the foundation during the preceding fiscal year.

6 SECTION 2.

7 (a) The Office of Border Health shall create the Border
8 Foundation not later than June 1, 2004.

9 (b) In making the initial appointments to the board of
10 directors of the Border Foundation, the executive committee of the
11 Office of Border Health shall designate two members for terms
12 expiring February 1, 2005, two members for terms expiring February
13 1, 2007, and one member for a term expiring February 1, 2009.

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