

By: Naishtat

H.B. No. 3259

A BILL TO BE ENTITLED

AN ACT

relating to contracting by health and human services agencies with private entities for eligibility determination and service delivery.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ELIGIBILITY DETERMINATION AND SERVICE DELIVERY OF HEALTH AND HUMAN SERVICES

Sec. 531.401. DEFINITION. In this subchapter, "advisory board" means the privatization advisory board established under Section 531.406.

Sec. 531.402. CONTRACTING FOR ELIGIBILITY DETERMINATION OR SERVICE DELIVERY. A health and human services agency may contract with a private entity to perform certain functions relating to eligibility determination or service delivery performed by the agency only if:

(1) the agency determines that contracting may advance the objectives of:

(A) achieving increased quality of and client access to services;

(B) achieving increased savings in the cost of providing administrative and other services and staff resulting from streamlining and eliminating duplication of services;

1 (C) improving fraud detection and prevention;

2 and

3 (D) reducing errors in eligibility and benefits

4 determinations;

5 (2) the private entity and the agency satisfy the
6 criteria adopted by the commission under Section 531.403; and

7 (3) the results of the cost-benefit analysis and
8 readiness review required by Sections 531.404 and 531.405,
9 respectively, indicate that the objectives specified in Section
10 531.404(a) can be achieved under the contract.

11 Sec. 531.403. CONTRACTING CRITERIA. The commission, in
12 consultation with the advisory board, by rule shall develop
13 criteria that identify the circumstances under which a health and
14 human services agency may contract with a private entity to provide
15 eligibility determination services or service delivery. The
16 criteria, at a minimum, must include:

17 (1) the circumstances under which a request for bids,
18 offers, proposals, or other expressions of interest relating to the
19 contract may occur;

20 (2) procurement standards and procedures;

21 (3) performance standards that must be met by a
22 private entity that contracts with a health and human services
23 agency under this subchapter, including:

24 (A) standards relating to employee compensation
25 and benefits; and

26 (B) standards relating to the minimum level of
27 savings to be realized under the contract; and

1 (4) measures for use in conducting a readiness review
2 under Section 531.405.

3 Sec. 531.404. COST-BENEFIT ANALYSIS. (a) Before a
4 contract is awarded under this subchapter, the commission shall
5 provide a detailed cost-benefit analysis to the governor, the
6 Legislative Budget Board, and the advisory board. The analysis
7 must indicate that the contract:

8 (1) will comply with the standards relating to the
9 minimum level of savings required to be realized under Section
10 531.403(3)(B);

11 (2) will include effective mechanisms for monitoring
12 performance under the contract; and

13 (3) will result in specific improvements in service
14 delivery and client access to services.

15 (b) The commission shall make the analysis available to the
16 public.

17 (c) A member of the advisory board may review and comment on
18 the analysis at the member's individual discretion.

19 Sec. 531.405. READINESS REVIEW. (a) Before a contract is
20 awarded under this subchapter, the private entity must undergo a
21 readiness review conducted by an independent entity to determine
22 whether the private entity is capable of performing its obligations
23 under the contract and to confirm the findings of the cost-benefit
24 analysis performed under Section 531.404.

25 (b) A soon as practicable after the date on which the
26 readiness review is completed, the commission shall make any report
27 relating to the readiness review available to the public and to the

1 advisory board.

2 (c) A member of the advisory board may review and comment on
3 a report received under Subsection (b) at the member's individual
4 discretion.

5 Sec. 531.406. PRIVATIZATION ADVISORY BOARD. (a) The
6 privatization advisory board is composed of:

7 (1) three members of the senate appointed by the
8 lieutenant governor;

9 (2) three members of the house of representatives
10 appointed by the speaker of the house of representatives;

11 (3) one representative from each of the appropriate
12 health and human services agencies, appointed by the executive
13 director or commissioner of each respective agency;

14 (4) one representative of consumer advocates,
15 appointed jointly by the lieutenant governor and the speaker of the
16 house of representatives;

17 (5) one representative of businesses, appointed
18 jointly by the lieutenant governor and the speaker of the house of
19 representatives; and

20 (6) one representative of eligibility and service
21 delivery personnel of affected health and human services agencies,
22 appointed jointly by the lieutenant governor and the speaker of the
23 house of representatives.

24 (b) The lieutenant governor and the speaker of the house of
25 representatives on an alternating basis shall appoint the presiding
26 officer of the board. The presiding officer shall serve a two-year
27 term expiring February 1 of each odd-numbered year.

1 (c) A member of the board serves at the pleasure of the
2 appointing official.

3 (d) Each member of the board is entitled to reimbursement
4 for actual and necessary expenses incurred in performing functions
5 as a member of the board. A legislative member is entitled to
6 reimbursement from the appropriate fund of the member's house.
7 Other members of the board are entitled to reimbursement from funds
8 appropriated or made available to the board.

9 (e) The board shall meet at the call of the presiding
10 officer of the board and as provided by the rules of the board.

11 (f) The board shall:

12 (1) provide input to the commission regarding the
13 criteria required to be developed under Section 531.403; and

14 (2) monitor state agency activities relating to the
15 procurement of a contract under this subchapter.

16 (g) The board is not subject to Chapter 2110, Government
17 Code.

18 Sec. 531.407. PUBLIC INPUT. (a) The commission shall hold
19 a public hearing and receive public comment regarding the criteria
20 adopted under Section 531.403. The hearing must be held not later
21 than the 10th day after the date on which the criteria are adopted.

22 (b) The commission may coordinate with a legislative
23 committee in holding a hearing required by this section.

24 Sec. 531.408. PROCUREMENT OF CONTRACT. The advisory board
25 may review and comment, at the discretion of each individual
26 member, on each request for bids, offers, proposals, or other
27 expressions of interest relating to a contract under this

1 subchapter.

2 Sec. 531.409. CONFLICT WITH OTHER LAW. To the extent of any
3 conflict between this subchapter and any other law, this subchapter
4 controls.

5 SECTION 2. If before implementing any provision of this Act
6 a state agency determines that a waiver or authorization from a
7 federal agency is necessary for implementation, the agency shall
8 request the waiver or authorization and may delay implementing that
9 provision until the waiver or authorization is granted.

10 SECTION 3. Not later than October 1, 2003, the lieutenant
11 governor, the speaker of the house of representatives, and the
12 executive director or commissioner of each respective health and
13 human services agency shall appoint members to the privatization
14 advisory board established under Section 531.406, Government Code,
15 as added by this Act.

16 SECTION 4. Not later than November 1, 2003, the Health and
17 Human Services Commission shall develop the criteria required by
18 Section 531.403, Government Code, as added by this Act.

19 SECTION 5. This Act takes effect September 1, 2003.