

By: Chavez

H.B. No. 3297

Substitute the following for H.B. No. 3297:

By: Griggs

C.S.H.B. No. 3297

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the powers and duties of the Office of Rural and Border
3 Community Affairs and creating a foundation to finance border
4 health programs.

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

6 SECTION 1. The chapter heading for Chapter 487, Government
7 Code, is amended to read as follows:

8 CHAPTER 487. OFFICE OF RURAL AND BORDER COMMUNITY AFFAIRS

9 SECTION 2. Section 487.001, Government Code, is amended to
10 read as follows:

11 Sec. 487.001. DEFINITIONS. In this chapter:

12 (1) "Executive committee" means the executive
13 committee of the Office of Rural and Border Community Affairs.

14 (2) "Office" means the Office of Rural and Border
15 Community Affairs.

16 SECTION 3. Section 487.002, Government Code, is amended to
17 read as follows:

18 Sec. 487.002. SUNSET PROVISION. The Office of Rural and
19 Border Community Affairs is subject to Chapter 325 (Texas Sunset
20 Act). Unless continued in existence as provided by that chapter,
21 the office is abolished and this chapter expires September 1, 2007.

22 SECTION 4. Section 487.021(c), Government Code, is amended
23 to read as follows:

24 (c) The governor, the lieutenant governor, and the speaker

1 of the house of representatives shall each appoint at least two
2 members who possess a strong understanding of and commitment to
3 rural or border interests based on the individual's personal
4 history, including residency, occupation, and business or civic
5 activities.

6 SECTION 5. Section 487.022(b), Government Code, is amended
7 to read as follows:

8 (b) A person may not be a member of the executive committee
9 and may not be an office employee employed in a "bona fide
10 executive, administrative, or professional capacity," as that
11 phrase is used for purposes of establishing an exemption to the
12 overtime provisions of the federal Fair Labor Standards Act of 1938
13 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

14 (1) the person is an officer, employee, or paid
15 consultant of a Texas trade association in the field of rural or
16 border affairs; or

17 (2) the person's spouse is an officer, manager, or paid
18 consultant of a Texas trade association in the field of rural or
19 border affairs.

20 SECTION 6. Section 487.051, Government Code, is amended to
21 read as follows:

22 Sec. 487.051. POWERS AND DUTIES. The office shall:

23 (1) develop a rural and border policy for the state in
24 consultation with local leaders representing all facets of rural
25 and border community life, academic and industry experts, and
26 state elected and appointed officials with interests in rural and
27 border communities;

1 (2) work with other state agencies and officials to
2 improve the results and the cost-effectiveness of state programs
3 affecting rural and border communities through coordination of
4 efforts;

5 (3) develop programs to improve the leadership
6 capacity of rural and border community leaders;

7 (4) monitor developments that have a substantial
8 effect on rural and border Texas communities, especially actions
9 of state government, and compile an annual report describing and
10 evaluating the condition of rural communities;

11 (5) administer the federal community development
12 block grant nonentitlement program;

13 (6) administer programs supporting rural health care
14 as provided by Subchapters D-H;

15 (7) perform research to determine the most beneficial
16 and cost-effective ways to improve the welfare of rural and border
17 communities;

18 (8) ensure that the office qualifies as the state's
19 office of rural health for the purpose of receiving grants from the
20 Office of Rural Health Policy of the United States Department of
21 Health and Human Services under 42 U.S.C. Section 254r; and

22 (9) manage the state's Medicare rural hospital
23 flexibility program under 42 U.S.C. Section 1395i-4.

24 SECTION 7. The section heading for Section 487.054,
25 Government Code, is amended to read as follows:

26 Sec. 487.054. ANNUAL MEETING ON RURAL AND BORDER ISSUES.

27 SECTION 8. Section 487.054(a), Government Code, is amended

1 to read as follows:

2 (a) At least once each year, the following agency heads
3 shall meet to discuss rural and border issues:

4 (1) the commissioner of agriculture;

5 (2) the executive director of the Public Utility
6 Commission of Texas;

7 (3) the director of the Texas Agricultural Extension
8 Service;

9 (4) the presiding officer of the Telecommunications
10 Infrastructure Fund Board;

11 (5) the executive director of the Texas Department of
12 Housing and Community Affairs;

13 (6) the commissioner of health;

14 (7) the executive administrator of the Texas Water
15 Development Board;

16 (8) the executive director of the Parks and Wildlife
17 Department;

18 (9) the commissioner of human services;

19 (10) the commissioner of higher education;

20 (11) the comptroller; and

21 (12) the executive director of the Texas Department of
22 Transportation.

23 SECTION 9. Section 487.056, Government Code, is amended to
24 read as follows:

25 Sec. 487.056. REPORT TO LEGISLATURE. Not later than
26 January 1 of each odd-numbered year, the office shall submit a
27 biennial report to the legislature regarding the activities of the

1 office and any findings and recommendations relating to rural and
2 border issues.

3 SECTION 10. Subtitle E, Title 2, Health and Safety Code, is
4 amended by adding Chapter 112 to read as follows:

5 CHAPTER 112. BORDER FOUNDATION

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

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

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

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

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

26 (d) The Border Foundation shall cooperate with the Rural
27 Foundation to coordinate projects in counties that are both rural

1 and border Mexico.

2 Sec. 112.003. BOARD OF DIRECTORS. (a) The Border
3 Foundation is governed by a board of five directors appointed by the
4 board from individuals recommended by the director of the Office of
5 Border Health.

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

10 (c) Appointments to the board of directors of the Border
11 Foundation shall be made without regard to the race, color,
12 disability, sex, religion, age, or national origin of the
13 appointees.

14 (d) The board of directors of the Border Foundation shall
15 ensure that the foundation remains eligible for an exemption from
16 federal income tax under Section 501(a), Internal Revenue Code of
17 1986, as amended, by being listed as an exempt organization under
18 Section 501(c)(3) of that code, as amended.

19 Sec. 112.004. RESTRICTIONS ON BOARD APPOINTMENT,
20 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade
21 association" means a cooperative and voluntarily joined
22 association of business or professional competitors in this state
23 designed to assist its members and its industry or profession in
24 dealing with mutual business or professional problems and in
25 promoting their own interest.

26 (b) A person may not be a member of the board of directors of
27 the Border Foundation and may not be a foundation employee employed

1 in a "bona fide executive, administrative, or professional
2 capacity," as that phrase is used for purposes of establishing an
3 exemption to the overtime provisions of the federal Fair Labor
4 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended,
5 if:

6 (1) the person is an officer, employee, or paid
7 consultant of a Texas trade association in the field of health care;
8 or

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

11 (c) A person may not be a member of the board of directors of
12 the Border Foundation or act as the general counsel to the board of
13 directors or the foundation if the person is required to register as
14 a lobbyist under Chapter 305, Government Code, because of the
15 person's activities for compensation on behalf of a profession
16 related to the operation of the foundation.

17 Sec. 112.005. REMOVAL OF BOARD MEMBER. (a) It is a ground
18 for removal from the board of directors of the Border Foundation
19 that a member:

20 (1) is ineligible for membership under Section
21 112.004;

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

25 (3) is absent from more than half of the regularly
26 scheduled board meetings that the member is eligible to attend
27 during a calendar year without an excuse approved by a majority vote

1 of the board of directors.

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

5 (c) If the director of the Office of Border Health has
6 knowledge that a potential ground for removal exists, the director
7 shall notify the presiding officer of the board of directors of the
8 Border Foundation of the potential ground. The presiding officer
9 shall then notify the governor and the attorney general that a
10 potential ground for removal exists. If the potential ground for
11 removal involves the presiding officer, the director shall notify
12 the next highest ranking officer of the board of directors, who
13 shall then notify the governor and the attorney general that a
14 potential ground for removal exists.

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

18 Sec. 112.007. OFFICERS. The board of directors of the
19 Border Foundation shall elect from among its members a presiding
20 officer, an assistant presiding officer, and other officers the
21 board considers necessary. The presiding officer and assistant
22 presiding officer serve for a period of one year and may be
23 reelected.

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

27 Sec. 112.009. TAX EXEMPTION. All income, property, and

1 other assets of the Border Foundation are exempt from taxation by
2 the state and political subdivisions of the state.

3 Sec. 112.010. MEMORANDUM OF UNDERSTANDING. The Border
4 Foundation and the Office of Border Health shall enter into a
5 memorandum of understanding that:

6 (1) requires the board of directors and staff of the
7 foundation to report to the director of the Office of Border Health;

8 (2) allows the Office of Border Health to provide
9 staff functions to the foundation;

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

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

14 Sec. 112.011. RECORDS. (a) The Border Foundation shall
15 maintain financial records and reports independently from those of
16 the Office of Border Health.

17 (b) The Border Foundation shall comply with all filing
18 requirements of the secretary of state and the Internal Revenue
19 Service.

20 Sec. 112.012. REPORT TO OFFICE OF BORDER HEALTH. Not later
21 than the 60th day after the last day of the fiscal year, the Border
22 Foundation shall submit to the Office of Border Health a report
23 itemizing all income and expenditures and describing all activities
24 of the foundation during the preceding fiscal year.

25 SECTION 11. Sections 51.918(a) and (c), Education Code, are
26 amended to read as follows:

27 (a) The Texas Higher Education Coordinating Board, the

1 Office of Rural and Border Community Affairs, medical schools,
2 nursing schools, and schools of allied health sciences shall
3 cooperate to improve and expand programs for rural areas.

4 (c) The Office of Rural and Border Community Affairs shall
5 develop relief service programs for rural physicians and allied
6 health personnel to facilitate ready access to continuing medical
7 education as well as to provide practice coverage for purposes
8 other than continuing medical education.

9 SECTION 12. Section 58.007, Education Code, is amended to
10 read as follows:

11 Sec. 58.007. ADVISORY COMMITTEE. (1) The Primary Care
12 Residency Advisory Committee is created and shall consist of 12
13 members as follows:

14 (A) seven members shall be licensed physicians,
15 one appointed by each of the following:

16 (i) the Texas Medical Association;

17 (ii) the Texas Osteopathic Medical
18 Association;

19 (iii) the Texas Academy of Family
20 Physicians;

21 (iv) the Texas Society of the American
22 College of Osteopathic Family Physicians;

23 (v) the Texas Society of Internal Medicine;

24 (vi) the Texas Pediatric Society; and

25 (vii) the Texas Association of
26 Obstetricians and Gynecologists;

27 (B) one member shall be appointed by the Office

1 of Rural and Border Community Affairs;

2 (C) one member shall be appointed by the Bureau
3 of Community Oriented Primary Care at the Texas Department of
4 Health; and

5 (D) three members shall be members of the public,
6 one appointed by each of the following:

7 (i) the governor;

8 (ii) the lieutenant governor; and

9 (iii) the speaker of the house of
10 representatives.

11 SECTION 13. Section 403.1065(c), Government Code, is
12 amended to read as follows:

13 (c) The available earnings of the fund may be appropriated
14 to the Office of Rural and Border Community Affairs for the purposes
15 of Subchapter H, Chapter 487.

16 SECTION 14. Section 2306.806, Government Code, is amended
17 to read as follows:

18 Sec. 2306.806. APPROVAL OF OFFICE OF RURAL AND BORDER
19 COMMUNITY AFFAIRS. The department must obtain the approval of the
20 executive director of the Office of Rural and Border Community
21 Affairs to guarantee loans as described by Section 2306.805(c).

22 SECTION 15. Section 86.011, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 86.011. BREAST CANCER SCREENING. (a) The Office of
25 Rural and Border Community Affairs may provide for breast cancer
26 screening in counties with a population of 50,000 or less.

27 (b) The Office of Rural and Border Community Affairs may

1 provide the breast cancer screening through contracts with public
2 or private entities to provide mobile units and on-site screening
3 services.

4 (c) The Office of Rural and Border Community Affairs shall
5 coordinate the breast cancer screening with programs administered
6 by the Texas Cancer Council.

7 SECTION 16. Sections 204.104(b) and (c), Occupations Code,
8 are amended to read as follows:

9 (b) The Office of Rural and Border Community Affairs shall
10 establish policies for and adopt rules to administer the loan
11 program.

12 (c) The physician assistant board shall authorize and the
13 medical board shall transfer annually the funds designated under
14 Subsection (a) to the Office of Rural and Border Community Affairs
15 to administer the loan program.

16 SECTION 17. (a) The Office of Border Health of the Texas
17 Department of Health shall create the Border Foundation not later
18 than June 1, 2004.

19 (b) In making the initial appointments to the board of
20 directors of the Border Foundation under Chapter 112, Health and
21 Safety Code, as added by this Act, the Texas Board of Health shall
22 designate two members for terms expiring February 1, 2005, two
23 members for terms expiring February 1, 2007, and one member for a
24 term expiring February 1, 2009.

25 SECTION 18. This Act takes effect September 1, 2003.