

By: Chavez

H.B. No. 3297

A BILL TO BE ENTITLED

AN ACT

relating to the Office of Rural and Border Affairs

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

SECTION 1. The heading of Chapter 487, Government Code, is amended to read as follows:

CHAPTER 487. OFFICE OF RURAL AND BORDER COMMUNITY AFFAIRS

SECTION 2. Section 487.001 is amended to read as follows:

Sec. 487.001. Definitions.

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

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

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

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

SECTION 4. Section 487.021 (c) is amended to read as follows:

(c) The governor, the lieutenant governor, and the speaker of the house of representatives shall each appoint at least two members who possess a strong understanding of and commitment to rural or border interests based on the individual's personal

1 history, including residency, occupation, and business or civic
2 activities.

3 SECTION 5. Section 487.051, Government Code is amended to
4 read as follows:

5 487.051. Powers and Duties. The office shall:

6 (1) develop a rural and border policy for the state in
7 consultation with local leaders representing all facets of rural
8 and border community life, academic and industry experts, and state
9 elected and appointed officials with interests in rural and border
10 communities;

11 (2) work with other state agencies and officials to
12 improve the results and the cost-effectiveness of state programs
13 affecting rural and border communities through coordination of
14 efforts;

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

17 (4) monitor developments that have a substantial
18 effect on rural and border Texas communities, especially actions of
19 state government, and compile an annual report describing and
20 evaluating the condition of rural communities;

21 (5) administer the federal community development
22 block grant nonentitlement program;

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

25 (7) perform research to determine the most beneficial
26 and cost-effective ways to improve the welfare of rural and border
27 communities;

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

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

7 SECTION 6. Section 487.054, Government Code, is amended to
8 read as follows:

9 487.054. Annual Meeting on Rural and Border Issues (a) At
10 least once each year, the following agency heads shall meet to
11 discuss rural and border issues:

12 (1) the commissioner of agriculture;

13 (2) the executive director of the Public Utility
14 Commission of Texas;

15 (3) the director of the Texas Agricultural Extension
16 Service;

17 (4) the presiding officer of the Telecommunications
18 Infrastructure Fund Board;

19 (5) the executive director of the Texas Department of
20 Housing and Community Affairs;

21 (6) the commissioner of health;

22 (7) the executive administrator of the Texas Water
23 Development Board;

24 (8) the executive director of the Parks and Wildlife
25 Department;

26 (9) the commissioner of human services;

27 (10) the commissioner of higher education;

1 (11) the comptroller; and

2 (12) the executive director of the Texas Department of
3 Transportation.

4 (b) The executive committee shall call the annual meeting.
5 The executive committee shall set the time and date of the meeting
6 after consulting with the agency heads listed in Subsection (a).

7 SECTION 7. Section 487.056, Government Code, is amended to
8 read as follows:

9 487.056. Report to Legislature. Not later than January 1 of
10 each odd-numbered year, the office shall submit a biennial report
11 to the legislature regarding the activities of the office and any
12 findings and recommendations relating to rural and border issues.

13 SECTION 8. Subtitle E, Title 2, Health and Safety Code, is
14 amended by adding Chapter 112 to read as follows:

15 Chapter 112. Border Foundation

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

24 (b) The Office of Border Health shall ensure that the Border
25 Foundation operates independently of any state agency or political
26 subdivision of the state.

27 Sec. 112.002. POWERS AND DUTIES. (a) The Border Foundation

1 shall raise money from foundations, governmental entities, and
2 other sources to finance health programs in the Texas counties that
3 make-up the Texas-Mexico Border.

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

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

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

12 Sec. 112.003. BOARD OF DIRECTORS. (a) The Border
13 Foundation is governed by a board of five directors appointed by the
14 executive committee of the Office of Border Health from individuals
15 recommended by the executive director of the Office of Border
16 Health.

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

21 (c) Appointments to the board of directors of the Border
22 Foundation shall be made without regard to the race, color,
23 disability, sex, religion, age, or national origin of the
24 appointees.

25 (d) The board of directors of the Border Foundation shall
26 ensure that the foundation remains eligible for an exemption from
27 federal income tax under Section 501(a), Internal Revenue Code of

1 1986, as amended, by being listed as an exempt organization under
2 Section 501(c)(3) of that code, as amended.

3 Sec. 112.004. RESTRICTIONS ON BOARD APPOINTMENT,
4 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade
5 association" means a cooperative and voluntarily joined
6 association of business or professional competitors in this state
7 designed to assist its members and its industry or profession in
8 dealing with mutual business or professional problems and in
9 promoting their own interest.

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

17 (1) the person is an officer, employee, or paid
18 consultant of a Texas trade association in the field of health care;
19 or

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

22 (c) A person may not be a member of the board of directors of
23 the Border Foundation or act as the general counsel to the board of
24 directors or the foundation if the person is required to register as
25 a lobbyist under Chapter 305, Government Code, because of the
26 person's activities for compensation on behalf of a profession
27 related to the operation of the foundation.

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

4 (1) is ineligible for membership under Section
5 112.004;

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

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

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

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

26 Sec. 112.006. VACANCY. A vacancy on the board of directors
27 of the Border Foundation shall be filled for the remainder of the

1 unexpired term in the same manner as the original appointment.

2 Sec. 112.007. OFFICERS. The board of directors of the
3 Border Foundation shall elect from among its members a presiding
4 officer, an assistant presiding officer, and other officers the
5 board considers necessary. The presiding officer and assistant
6 presiding officer serve for a period of one year and may be
7 reelected.

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

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

14 Sec. 112.010. MEMORANDUM OF UNDERSTANDING. The Border
15 Foundation and the Office of Border Health shall enter into a
16 memorandum of understanding that:

17 (1) requires the board of directors and staff of the
18 foundation to report to the executive director and executive
19 committee of the Office of Border Health;

20 (2) allows the Office of Border Health to provide
21 staff functions to the foundation;

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

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

26 Sec. 112.011. RECORDS (a) The Border Foundation shall
27 maintain financial records and reports independently from those of

1 the Office of Border Health.

2 (b) The Border Foundation shall comply with all filing
3 requirements of the secretary of state and the Internal Revenue
4 Service.

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

10 SECTION 9. (a) The Office of Border Health shall create
11 the Border Foundation not later than June 1, 2004.

12 (b) In making the initial appointments to the board of
13 directors of the Border Foundation, the executive committee of the
14 Office of Border Health shall designate two members for terms
15 expiring February 1, 2005, two members for terms expiring February
16 1, 2007, and one member for a term expiring February 1, 2009.

17 SECTION 10. This Act takes effect September 1, 2003.