

1-1 By: Shapleigh S.B. No. 342
1-2 (In the Senate - Filed February 3, 2003; February 11, 2003,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 3, 2003, reported adversely, with favorable Committee
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 342 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to health care for certain Texans.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. SHORT TITLE AND PURPOSE

1-13 SECTION 1.01. SHORT TITLE. This Act may be known as the
1-14 Texas Health Improvement Act.

1-15 SECTION 1.02. PURPOSE. All residents of this state are
1-16 entitled to equal treatment and access to services by the
1-17 government of this state. However, because many of this state's
1-18 Hispanic residents live in economically disadvantaged areas, the
1-19 health and well-being of this population is compromised. All but
1-20 two of the 43 border counties, including every county on the Rio
1-21 Grande, are federally designated health profession shortage areas.
1-22 To remedy disparities of this nature, it is necessary to increase
1-23 and improve resources directed to people of Hispanic origin to help
1-24 achieve equality among all residents of this state and to
1-25 facilitate the quality of life that all Texans deserve. The purpose
1-26 of this Act is to promote development of the health infrastructure
1-27 that serves the citizens of Texas and improve the health of Hispanic
1-28 Texans, who are an integral part of this state.

1-29 ARTICLE 2. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS
1-30 COVERAGE FOR EMPLOYEES

1-31 SECTION 2.01. SCHOOL DISTRICT CONTRACT CONSIDERATIONS.
1-32 Subsection (b), Section 44.031, Education Code, is amended to read
1-33 as follows:

1-34 (b) Except as provided by this subchapter, in determining to
1-35 whom to award a contract, the district may consider:

1-36 (1) the purchase price;

1-37 (2) the reputation of the vendor and of the vendor's
1-38 goods or services;

1-39 (3) the quality of the vendor's goods or services;

1-40 (4) the extent to which the goods or services meet the
1-41 district's needs;

1-42 (5) the vendor's past relationship with the district;

1-43 (6) the impact on the ability of the district to comply
1-44 with laws and rules relating to historically underutilized
1-45 businesses;

1-46 (7) the total long-term cost to the district to
1-47 acquire the vendor's goods or services; ~~and~~

1-48 (8) whether the vendor provides health benefits
1-49 coverage to employees; and

1-50 (9) any other relevant factor specifically listed in
1-51 the request for bids or proposals.

1-52 SECTION 2.02. SCHOOL DISTRICT PREFERENCE. Subchapter B,
1-53 Chapter 44, Education Code, is amended by adding Section 44.0421 to
1-54 read as follows:

1-55 Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
1-56 BENEFITS COVERAGE. A district procuring goods or services shall
1-57 give preference to goods or services of a vendor that demonstrates
1-58 that the vendor provides health benefits coverage to the vendor's
1-59 employees if:

1-60 (1) the goods or services meet district specifications
1-61 regarding quantity and quality; and

1-62 (2) the cost of the good or service does not exceed the
1-63 cost of other similar goods or services that are produced by a

2-1 vendor that does not demonstrate that the vendor provides health
 2-2 benefits coverage to the vendor's employees.

2-3 SECTION 2.03. BEST VALUE CONSIDERATION. Subsection (b),
 2-4 Section 2155.074, Government Code, is amended to read as follows:

2-5 (b) In determining the best value for the state, the
 2-6 purchase price and whether the goods or services meet
 2-7 specifications are the most important considerations. However, the
 2-8 commission or other state agency may, subject to Subsection (c) and
 2-9 Section 2155.075, consider other relevant factors, including:

2-10 (1) installation costs;
 2-11 (2) life cycle costs;
 2-12 (3) the quality and reliability of the goods and
 2-13 services;

2-14 (4) the delivery terms;
 2-15 (5) indicators of probable vendor performance under
 2-16 the contract such as past vendor performance, the vendor's
 2-17 financial resources and ability to perform, the vendor's experience
 2-18 or demonstrated capability and responsibility, and the vendor's
 2-19 ability to provide reliable maintenance agreements and support;

2-20 (6) the cost of any employee training associated with
 2-21 a purchase;

2-22 (7) the effect of a purchase on agency productivity;
 2-23 (8) the vendor's anticipated economic impact to the
 2-24 state or a subdivision of the state, including potential tax
 2-25 revenue and employment;

2-26 (9) whether the vendor provides health benefits
 2-27 coverage to employees; and

2-28 (10) ~~(9)~~ other factors relevant to determining the
 2-29 best value for the state in the context of a particular purchase.

2-30 SECTION 2.04. STATE AGENCY PREFERENCE. Subchapter H,
 2-31 Chapter 2155, Government Code, is amended by adding Section
 2-32 2155.451 to read as follows:

2-33 Sec. 2155.451. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH
 2-34 BENEFITS COVERAGE. The commission and all state agencies procuring
 2-35 goods or services shall give preference to goods or services of a
 2-36 vendor that demonstrates that the vendor provides health benefits
 2-37 coverage to the vendor's employees if:

2-38 (1) the goods or services meet state specifications
 2-39 regarding quantity and quality; and

2-40 (2) the cost of the good or service does not exceed the
 2-41 cost of other similar goods or services that are produced by a
 2-42 vendor that does not demonstrate that the vendor provides health
 2-43 benefits coverage to the vendor's employees.

2-44 ARTICLE 3. BORDER HEALTH FOUNDATION

2-45 SECTION 3.01. BORDER HEALTH FOUNDATION. Subtitle E, Title
 2-46 2, Health and Safety Code, is amended by adding Chapter 112 to read
 2-47 as follows:

2-48 CHAPTER 112. BORDER HEALTH FOUNDATION

2-49 Sec. 112.001. DEFINITIONS. In this chapter:

2-50 (1) "Board of directors" means the board of directors
 2-51 of the Border Health Foundation.

2-52 (2) "Foundation" means the Border Health Foundation.

2-53 Sec. 112.002. CREATION OF FOUNDATION. (a) The department
 2-54 shall establish the Border Health Foundation as a nonprofit
 2-55 corporation that complies with the Texas Non-Profit Corporation Act
 2-56 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except
 2-57 as otherwise provided by this chapter, and qualifies as an
 2-58 organization exempt from federal income tax under Section
 2-59 501(c)(3), Internal Revenue Code of 1986, as amended.

2-60 (b) The department shall ensure that the foundation
 2-61 operates independently of any state agency or political subdivision
 2-62 of this state.

2-63 Sec. 112.003. POWERS AND DUTIES. (a) The foundation shall
 2-64 raise money from other foundations, governmental entities, and
 2-65 other sources to finance health programs in this state in areas
 2-66 adjacent to the border with the United Mexican States.

2-67 (b) The foundation shall:

2-68 (1) identify and seek potential partners in the
 2-69 private sector that will afford this state the opportunity to

3-1 maintain or increase the existing levels of financing of health
 3-2 programs and activities;

3-3 (2) engage in outreach efforts to make the existence
 3-4 of the office known to potential partners throughout this state;
 3-5 and

3-6 (3) perform any other function necessary to carry out
 3-7 the purposes of this section.

3-8 (c) The department shall review programs from all agencies
 3-9 under its control to determine which projects should be available
 3-10 to receive money under Subsection (a).

3-11 (d) The foundation has the powers necessary and convenient
 3-12 to carry out its duties.

3-13 Sec. 112.004. ADMINISTRATION. (a) The foundation is
 3-14 governed by a board of five directors appointed by the Texas Board
 3-15 of Health from individuals recommended by the commissioner.

3-16 (b) Members of the board of directors serve for staggered
 3-17 terms of six years, with as near as possible to one-third of the
 3-18 members' terms expiring every two years.

3-19 (c) Appointments to the board of directors shall be made
 3-20 without regard to the race, color, disability, sex, religion, age,
 3-21 or national origin of the appointees.

3-22 (d) The board of directors shall ensure that the foundation
 3-23 remains eligible for an exemption from federal income tax under
 3-24 Section 501(a), Internal Revenue Code of 1986, as amended, by being
 3-25 listed as an exempt organization under Section 501(c)(3) of that
 3-26 code, as amended.

3-27 Sec. 112.005. RESTRICTIONS ON BOARD APPOINTMENT,
 3-28 MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade
 3-29 association" means a cooperative and voluntarily joined
 3-30 association of business or professional competitors in this state
 3-31 designed to assist its members and its industry or profession in
 3-32 dealing with mutual business or professional problems and in
 3-33 promoting their common interest.

3-34 (b) A person may not be a member of the board of directors
 3-35 and may not be a foundation employee employed in a "bona fide
 3-36 executive, administrative, or professional capacity," as that
 3-37 phrase is used for purposes of establishing an exemption to the
 3-38 overtime provisions of the federal Fair Labor Standards Act of 1938
 3-39 (29 U.S.C. Section 201 et seq.), as amended, if:

3-40 (1) the person is an officer, employee, or paid
 3-41 consultant of a Texas trade association in the field of health care;
 3-42 or

3-43 (2) the person's spouse is an officer, manager, or paid
 3-44 consultant of a Texas trade association in the field of health care.

3-45 (c) A person may not be a member of the board of directors or
 3-46 act as the general counsel to the board of directors or the
 3-47 foundation if the person is required to register as a lobbyist under
 3-48 Chapter 305, Government Code, because of the person's activities
 3-49 for compensation on behalf of a profession related to the operation
 3-50 of the foundation.

3-51 Sec. 112.006. REMOVAL OF BOARD MEMBER. (a) It is a ground
 3-52 for removal from the board of directors that a member:

3-53 (1) is ineligible for membership under Section
 3-54 112.005;

3-55 (2) cannot, because of illness or disability,
 3-56 discharge the member's duties for a substantial part of the member's
 3-57 term; or

3-58 (3) is absent from more than half of the regularly
 3-59 scheduled board meetings that the member is eligible to attend
 3-60 during a calendar year without an excuse approved by a majority vote
 3-61 of the board of directors.

3-62 (b) The validity of an action of the board of directors is
 3-63 not affected by the fact that it is taken when a ground for removal
 3-64 of a board member exists.

3-65 (c) The foundation in its articles or bylaws shall establish
 3-66 the manner in which a board member may be removed under this section
 3-67 and may establish other grounds for removal of a member.

3-68 Sec. 112.007. VACANCY. A vacancy on the board of directors
 3-69 shall be filled for the remainder of the unexpired term in the same

4-1 manner as provided in Section 112.004(a).

4-2 Sec. 112.008. OFFICERS. The board of directors shall elect
 4-3 from among its members a presiding officer, an assistant presiding
 4-4 officer, and other necessary officers. The presiding officer and
 4-5 assistant presiding officer serve for a period of one year and may
 4-6 be reelected.

4-7 Sec. 112.009. MEETINGS. The board of directors may meet as
 4-8 often as necessary, but shall meet at least twice a year.

4-9 Sec. 112.010. TAX EXEMPTION. All income, property, and
 4-10 other assets of the foundation are exempt from taxation by this
 4-11 state and political subdivisions of this state.

4-12 Sec. 112.011. MEMORANDUM OF UNDERSTANDING. The foundation
 4-13 and the department shall enter into a memorandum of understanding
 4-14 that:

4-15 (1) requires the board of directors and staff of the
 4-16 foundation to report to the commissioner and department;

4-17 (2) allows the department to provide staff functions
 4-18 to the foundation; and

4-19 (3) outlines the financial contributions to be made to
 4-20 the foundation from funds obtained from grants and other sources.

4-21 Sec. 112.012. FUNDING. (a) The department, another agency
 4-22 of this state, including an institution of higher education as
 4-23 defined by Section 61.003, Education Code, or a political
 4-24 subdivision of this state may contract with the foundation to
 4-25 finance, on behalf of the department, agency, or political
 4-26 subdivision, health programs described by Section 112.003.

4-27 (b) The foundation may apply for and accept funds from the
 4-28 federal government or any other public or private entity. The
 4-29 foundation or any member of the foundation may also solicit and
 4-30 accept pledges, gifts, and endowments from private sources on the
 4-31 foundation's behalf. The foundation may only accept a pledge,
 4-32 gift, or endowment solicited under this section that is consistent
 4-33 with the purposes of the foundation.

4-34 (c) The board of directors of the foundation shall manage
 4-35 and approve disbursements of funds, pledges, gifts, and endowments
 4-36 that are the property of the foundation.

4-37 (d) The board of directors of the foundation shall manage
 4-38 any capital improvements constructed, owned, or leased by the
 4-39 foundation and any real property acquired by the foundation.

4-40 Sec. 112.013. RECORDS. (a) The foundation shall maintain
 4-41 financial records and reports independently from those of the
 4-42 department.

4-43 (b) The foundation shall comply with all filing
 4-44 requirements of the secretary of state and the Internal Revenue
 4-45 Service.

4-46 Sec. 112.014. REPORT TO DEPARTMENT. Not later than the 60th
 4-47 day after the last day of the fiscal year, the foundation shall
 4-48 submit to the department a report itemizing all income and
 4-49 expenditures and describing all activities of the foundation during
 4-50 the preceding fiscal year.

4-51 SECTION 3.02. TRANSITION. The Texas Department of Health
 4-52 shall create the Border Health Foundation as required by this Act
 4-53 not later than June 1, 2004.

4-54 ARTICLE 4. EDUCATION AND RECRUITMENT OF
 4-55 HEALTH CARE PROFESSIONALS

4-56 SECTION 4.01. MEDICAL EDUCATION PREPARATION. Subchapter C,
 4-57 Chapter 61, Education Code, is amended by adding Sections 61.0902,
 4-58 61.0903, and 61.0904 to read as follows:

4-59 Sec. 61.0902. EXTENDED UNDERGRADUATE MEDICAL EDUCATION
 4-60 PREPARATION PROGRAM. The board shall examine the use of
 4-61 undergraduate programs that require more than four years of
 4-62 undergraduate course work to prepare students for graduate medical
 4-63 education to determine whether such a program would be feasible or
 4-64 effective in institutions of higher education in this state. Not
 4-65 later than December 1, 2004, the board shall report to the
 4-66 legislature the board's determination whether extended
 4-67 undergraduate medical education preparation programs may be
 4-68 effective in the education and training of physicians or other
 4-69 health care professionals in this state.

5-1 Sec. 61.0903. RECRUITING AND RETAINING UNDERREPRESENTED
5-2 STUDENTS. (a) The board, in coordination with institutions of
5-3 higher education, shall develop a strategy to coordinate
5-4 recruitment and retention of students from ethnic or racial
5-5 backgrounds that are underrepresented in institutions of higher
5-6 education in this state.

5-7 (b) In coordinating efforts under this section, the board
5-8 and institutions of higher education shall:

5-9 (1) identify best practices in recruitment and
5-10 retention efforts; and

5-11 (2) create regional joint programs to eliminate
5-12 duplicate or overlapping recruitment and retention programs.

5-13 Sec. 61.0904. MENTORING PILOT PROGRAM. (a) In this
5-14 section, "Texas-Mexico border region" has the meaning assigned by
5-15 Section 2056.002, Government Code.

5-16 (b) The board shall collaborate with the Texas Education
5-17 Agency to establish a pilot program to provide opportunities for
5-18 secondary school students in the Texas-Mexico border region who are
5-19 enrolled in health science technology and related courses to be
5-20 mentored by health care professionals or students enrolled in
5-21 undergraduate or graduate health science technology programs or
5-22 related programs. The pilot program should be designed to foster
5-23 student awareness of the health professions and encourage students
5-24 to pursue an education leading to a career in the health professions
5-25 and to enter into practice in the Texas-Mexico border region.

5-26 (c) The board shall provide mentoring opportunities at
5-27 three high schools in the pilot program's first year and add three
5-28 additional secondary schools in the second year. If the board
5-29 determines that the pilot program is successful, the board, to the
5-30 extent possible, shall expand the program throughout the
5-31 Texas-Mexico border region.

5-32 (d) Mentoring opportunities under the pilot program may be
5-33 provided by expanding existing mentoring programs.

5-34 (e) The entities participating in the pilot program shall
5-35 track, to the extent possible, students who are mentored to assess
5-36 the success of the mentoring efforts.

5-37 (f) The Texas Education Agency shall encourage school
5-38 districts to participate in the pilot program.

5-39 SECTION 4.02. PUBLIC SCHOOL PROGRAMS. Subchapter F,
5-40 Chapter 29, Education Code, is amended by adding Section 29.187 to
5-41 read as follows:

5-42 Sec. 29.187. SUMMER STUDY SCIENCE PROGRAMS FOR
5-43 UNDERREPRESENTED STUDENTS. The agency shall establish a statewide
5-44 network of summer study science instruction programs for students
5-45 from ethnic or racial groups that are underrepresented in the
5-46 fields of science and medicine.

5-47 SECTION 4.03. ASSESSMENT OF HEALTH SCIENCE TECHNOLOGY AND
5-48 COLLEGE PREPARATION PROGRAMS IN BORDER REGION. (a) In this
5-49 section, "Texas-Mexico border region" has the meaning assigned by
5-50 Section 2056.002, Government Code.

5-51 (b) Each school district in the Texas-Mexico border region
5-52 shall assess the adequacy of existing health science technology and
5-53 college preparatory courses and programs in the district's
5-54 secondary schools and the need to establish additional health
5-55 science technology and college preparatory courses and programs in
5-56 those schools. Each district shall submit the results of the
5-57 assessment to the Texas Education Agency. The Texas Education
5-58 Agency shall compile the assessments conducted under this
5-59 subsection and submit the compilation to the governor, the
5-60 lieutenant governor, and the speaker of the house of
5-61 representatives not later than September 1, 2004.

5-62 (c) This section expires January 1, 2005.

5-63 ARTICLE 5. EFFECTIVE DATE

5-64 SECTION 5.01. EFFECTIVE DATE. This Act takes effect
5-65 September 1, 2003.

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