

By: Davis of Harris

H.B. No. 1182

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the provision of a preference in certain governmental  
3 purchasing decisions for vendors or contractors that provide health  
4 care benefits to employees.

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

6 SECTION 1. Section 44.031(b), Education Code, is amended to  
7 read as follows:

8 (b) Except as provided by this subchapter, in determining to  
9 whom to award a contract, the district may consider:

10 (1) the purchase price;

11 (2) the reputation of the vendor and of the vendor's  
12 goods or services;

13 (3) the quality of the vendor's goods or services;

14 (4) the extent to which the goods or services meet the  
15 district's needs;

16 (5) the vendor's past relationship with the district;

17 (6) the impact on the ability of the district to comply  
18 with laws and rules relating to historically underutilized  
19 businesses;

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

22 (8) whether the vendor provides health care benefits  
23 to employees; and

24 (9) any other relevant factor specifically listed in

1 the request for bids or proposals.

2 SECTION 2. Subchapter B, Chapter 44, Education Code, is  
3 amended by adding Section 44.0421 to read as follows:

4 Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH  
5 CARE BENEFITS. (a) A school district procuring goods or services  
6 shall give preference to goods or services of a vendor that  
7 demonstrates that the vendor provides health care benefits to the  
8 vendor's employees if:

9 (1) the goods or services meet district specifications  
10 regarding quantity and quality; and

11 (2) the cost of the goods or services does not exceed  
12 the cost of similar goods or services produced by a vendor that does  
13 not demonstrate that the vendor provides health care benefits to  
14 the vendor's employees.

15 (b) A contract awarded to a vendor using the preference  
16 under this section must include terms that allow the district to  
17 terminate the contract if the vendor at any time during the life of  
18 the contract does not continue to provide health care benefits at a  
19 level comparable to the level the vendor claimed to provide in its  
20 demonstration under Subsection (a).

21 SECTION 3. Section 2155.074(b), Government Code, is amended  
22 to read as follows:

23 (b) In determining the best value for the state, the  
24 purchase price and whether the goods or services meet  
25 specifications are the most important considerations. However, the  
26 commission or other state agency may, subject to Subsection (c) and  
27 Section 2155.075, consider other relevant factors, including:

- 1 (1) installation costs;
- 2 (2) life cycle costs;
- 3 (3) the quality and reliability of the goods and  
4 services;
- 5 (4) the delivery terms;
- 6 (5) indicators of probable vendor performance under  
7 the contract such as past vendor performance, the vendor's  
8 financial resources and ability to perform, the vendor's experience  
9 or demonstrated capability and responsibility, and the vendor's  
10 ability to provide reliable maintenance agreements and support;
- 11 (6) the cost of any employee training associated with  
12 a purchase;
- 13 (7) the effect of a purchase on agency productivity;
- 14 (8) the vendor's anticipated economic impact to the  
15 state or a subdivision of the state, including potential tax  
16 revenue and employment;
- 17 (9) whether the vendor provides health care benefits  
18 to employees; and
- 19 (10) [~~9~~] other factors relevant to determining the  
20 best value for the state in the context of a particular purchase.

21 SECTION 4. Subchapter H, Chapter 2155, Government Code, is  
22 amended by adding Section 2155.452 to read as follows:

23 Sec. 2155.452. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH  
24 CARE BENEFITS. (a) The commission and all state agencies procuring  
25 goods or services shall give preference to goods or services of a  
26 vendor that demonstrates that the vendor provides health care  
27 benefits to the vendor's employees if:

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

3           (2) the cost of the goods or services does not exceed  
4 the cost of other similar goods or services produced by a vendor  
5 that does not demonstrate that the vendor provides health care  
6 benefits to the vendor's employees.

7           (b) A contract awarded to a vendor using the preference  
8 under this section must include terms that allow the commission or a  
9 state agency to terminate the contract if the vendor at any time  
10 during the life of the contract does not continue to provide health  
11 care benefits at a level comparable to the level the vendor claimed  
12 to provide in its demonstration under Subsection (a).

13           SECTION 5. Section 44.0421, Education Code, and Section  
14 2155.452, Government Code, as added by this Act, apply only to a  
15 contract for the procurement of goods and services for which the  
16 solicitation of bids or proposals, request for proposals, or  
17 similar request for offers to provide the goods or services is first  
18 published on or after September 1, 2007. A contract for the  
19 procurement of goods and services for which the solicitation of  
20 bids or proposals, request for proposals, or similar request for  
21 offers to provide the goods or services is first published before  
22 September 1, 2007, is governed by the law in effect at the time the  
23 solicitation or request is published, and that law is continued in  
24 effect for that purpose.

25           SECTION 6. This Act takes effect September 1, 2007.