

By: Davis of Harris

H.B. No. 1246

Substitute the following for H.B. No. 1246:

By: Solomons

C.S.H.B. No. 1246

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 or equivalent health savings 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 shall 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 pays at least 50 percent of the  
23 premium for the health care benefits of each participating employee  
24 or deposits in a health savings account for each participating

1 employee an amount equal to at least 50 percent of the health care  
2 benefit premium the vendor would pay for each participating  
3 employee if the vendor provided health care benefits; and

4 (9) any other relevant factor specifically listed in  
5 the request for bids or proposals.

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

8 Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH  
9 CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) A school  
10 district procuring goods or services shall give preference to goods  
11 or services of a vendor that demonstrates that the vendor pays at  
12 least 50 percent of the premium for the health care benefits of each  
13 participating employee, or deposits in a health savings account for  
14 each participating employee an amount equal to at least 50 percent  
15 of the health care benefit premium the vendor would pay for each  
16 participating employee if the vendor provided health care benefits,  
17 if:

18 (1) the goods or services meet district specifications  
19 regarding quantity and quality; and

20 (2) the cost of the goods or services does not exceed  
21 the cost of similar goods or services produced by a vendor that does  
22 not demonstrate that the vendor provides health care benefits or  
23 equivalent health savings benefits to the vendor's employees.

24 (b) A contract awarded to a vendor using the preference  
25 under this section must include terms that allow the district to  
26 terminate the contract if the vendor at any time during the life of  
27 the contract does not continue to provide health care benefits or

1 equivalent health savings benefits at a level comparable to the  
2 level the vendor claimed to provide in its demonstration under  
3 Subsection (a).

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

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

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

15 (4) the delivery terms;

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

21 (6) the cost of any employee training associated with  
22 a purchase;

23 (7) the effect of a purchase on agency productivity;

24 (8) the vendor's anticipated economic impact to the  
25 state or a subdivision of the state, including potential tax  
26 revenue and employment; ~~and~~

27 (9) whether the vendor pays at least 50 percent of the

1 premium for the health care benefits of each participating employee  
2 or deposits in a health savings account for each participating  
3 employee an amount equal to at least 50 percent of the health care  
4 benefit premium the vendor would pay for each participating  
5 employee if the vendor provided health care benefits; and

6 (10) other factors relevant to determining the best  
7 value for the state in the context of a particular purchase.

8 SECTION 4. Subchapter H, Chapter 2155, Government Code, is  
9 amended by adding Section 2155.454 to read as follows:

10 Sec. 2155.454. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH  
11 CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) The  
12 comptroller and all state agencies procuring goods or services  
13 shall give preference to goods or services of a vendor that  
14 demonstrates that the vendor pays at least 50 percent of the premium  
15 for the health care benefits of each participating employee, or  
16 deposits in a health savings account for each participating  
17 employee an amount equal to at least 50 percent of the health care  
18 benefit premium the vendor would pay for each participating  
19 employee if the vendor provided health care benefits, if:

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

22 (2) the cost of the goods or services does not exceed  
23 the cost of other similar goods or services produced by a vendor  
24 that does not demonstrate that the vendor provides health care  
25 benefits or equivalent health savings benefits to the vendor's  
26 employees.

27 (b) A contract awarded to a vendor using the preference

1 under this section must include terms that allow the comptroller or  
2 a state agency to terminate the contract if the vendor at any time  
3 during the life of the contract does not continue to provide health  
4 care benefits or equivalent health savings benefits at a level  
5 comparable to the level the vendor claimed to provide in its  
6 demonstration under Subsection (a).

7 SECTION 5. Section 44.0421, Education Code, and Section  
8 2155.454, Government Code, as added by this Act, apply only to a  
9 contract for the procurement of goods and services for which the  
10 solicitation of bids or proposals, request for proposals, or  
11 similar request for offers to provide the goods or services is first  
12 published on or after September 1, 2009. A contract for the  
13 procurement of goods and services for which the solicitation of  
14 bids or proposals, request for proposals, or similar request for  
15 offers to provide the goods or services is first published before  
16 September 1, 2009, is governed by the law in effect at the time the  
17 solicitation or request is published, and that law is continued in  
18 effect for that purpose.

19 SECTION 6. This Act takes effect September 1, 2009.