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H.B. No. 1876

A BILL TO BE ENTITLED

AN ACT

relating to creating the health care access fund to recruit health care providers in health professional shortage areas and to support federally-qualified health centers and to using for those purposes revenue from a tax imposed on certain tobacco products.

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

SECTION 1. Subchapter G, Chapter 403, Government Code, is amended by adding Section 403.1056 to read as follows:

Sec. 403.1056. HEALTH CARE ACCESS FUND. (a) The health care access fund is a special fund in the state treasury outside the general revenue fund.

(b) The fund is composed of:

(1) gifts and grants contributed to the fund;

(2) earnings on the principal of the fund; and

(3) other amounts deposited to the credit of the fund,

including:

(A) legislative appropriations; and

(B) money deposited under Section 155.2415, Tax

Code.

(c) Except as provided by Subsections (d) and (e), money in the fund may not be appropriated for any purpose and shall be used only to:

(1) recruit and retain health care providers in health professional shortage areas as described by Subsection (d)(1); and

1 (2) support federally-qualified health centers as
2 described by Subsection (d)(2).

3 (d) In each state fiscal biennium, money in the fund shall
4 be allocated as follows:

5 (1) 75 percent of the total amount available in the
6 fund shall be appropriated to the Texas Higher Education
7 Coordinating Board to enable the repayment of health care provider
8 education loans under Subchapter FF, Chapter 61, Education Code;
9 and

10 (2) 25 percent of the total amount available in the
11 fund shall be appropriated to the Department of State Health
12 Services to fund the operational costs of federally-qualified
13 health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B),
14 through the primary health care services program established by the
15 department under Section 31.003, Health and Safety Code.

16 (e) A gift or grant to the fund may be appropriated in the
17 same manner as money in the fund derived from other sources, subject
18 to any limitation or requirement placed on the gift or grant by the
19 donor or granting entity.

20 (f) Sections 403.095 and 404.071 do not apply to the fund.

21 SECTION 2. Chapter 61, Education Code, is amended by adding
22 Subchapter FF to read as follows:

23 SUBCHAPTER FF. REPAYMENT OF CERTAIN HEALTH CARE

24 PROVIDER EDUCATION LOANS

25 Sec. 61.9781. DEFINITIONS. In this subchapter:

26 (1) "Department" means the Department of State Health
27 Services.

1 (2) "Health care provider" means:

2 (A) a physician licensed under Subtitle B, Title
3 3, Occupations Code;

4 (B) a dentist licensed under Subtitle D, Title 3,
5 Occupations Code;

6 (C) a physician assistant licensed under Chapter
7 204, Occupations Code;

8 (D) an advanced practice nurse licensed under
9 Chapter 301, Occupations Code;

10 (E) a dental hygienist licensed under Chapter
11 256, Occupations Code;

12 (F) a psychologist licensed under Chapter 501,
13 Occupations Code;

14 (G) a licensed master social worker, as defined
15 by Section 505.002, Occupations Code;

16 (H) a licensed professional counselor, as
17 defined by Section 503.002, Occupations Code; and

18 (I) a licensed marriage and family therapist, as
19 defined by Section 502.002, Occupations Code.

20 Sec. 61.9782. REPAYMENT ASSISTANCE AUTHORIZED. (a) The
21 board may provide, in accordance with this subchapter and the rules
22 of the board and the department, assistance in the repayment of
23 education loans for health care providers who apply and qualify for
24 the assistance.

25 (b) The provision of financial assistance in the repayment
26 of education loans under this subchapter promotes a public purpose.

27 Sec. 61.9783. ELIGIBILITY. (a) To be eligible to receive

1 repayment assistance, a health care provider must:

2 (1) apply to the board;

3 (2) be licensed in this state in the appropriate field
4 of practice;

5 (3) subject to Subsections (b) and (d), have completed
6 one, two, three, or four consecutive years of practice in a health
7 professional shortage area designated by the department; and

8 (4) provide health care services to:

9 (A) recipients under the medical assistance
10 program authorized by Chapter 32, Human Resources Code; or

11 (B) enrollees under the child health plan program
12 authorized by Chapter 62, Health and Safety Code.

13 (b) Notwithstanding any other law, a health care provider
14 who, after receiving one or more grants of repayment assistance
15 under this subchapter, fails to complete a second, third, or fourth
16 consecutive year of practice as required by Subsection (a)(3)
17 becomes ineligible to receive any additional grants of education
18 loan repayment assistance under this subchapter or any other
19 education loan repayment assistance program offered by the state.

20 (c) A health care provider is ineligible to receive
21 repayment assistance under this subchapter based on service that
22 concurrently fulfills a service agreement entered into under
23 another education loan repayment assistance program or contractual
24 arrangement, such as a service agreement described by Section
25 61.9792.

26 (d) The board may excuse an otherwise eligible health care
27 provider from the requirement imposed by Subsection (a)(3) that

1 health care services be provided in consecutive years if the break
2 in services results from a hardship or other good cause, including
3 the performance of active duty military service.

4 Sec. 61.9784. CONDITIONAL APPROVAL. The board may grant
5 prior conditional approval to a person who applies to the board
6 before completing the eligibility requirements under Sections
7 61.9783(a)(2), (3), and (4) and may withhold approved repayment
8 assistance if the remaining requirements are not completed.

9 Sec. 61.9785. MAXIMUM AMOUNT OF REPAYMENT ASSISTANCE. (a)
10 A health care provider may receive repayment assistance under this
11 subchapter in the amount determined by board rule, not to exceed the
12 following amounts for each year for which the provider establishes
13 eligibility for the assistance:

- 14 (1) for the first year, \$25,000;
- 15 (2) for the second year, \$35,000;
- 16 (3) for the third year, \$45,000; and
- 17 (4) for the fourth year, \$55,000.

18 (b) A health care provider may not receive repayment
19 assistance under this subchapter for more than four consecutive
20 years.

21 (c) The board shall ensure that:

22 (1) the total amount of repayment assistance available
23 to a health care provider under this subchapter is divided into four
24 separate payments, each of which must be awarded in the same
25 calendar year in which the qualifying year of service was
26 completed; and

27 (2) the amount of repayment assistance granted to a

1 health care provider is increased for each year the provider
2 receives the assistance.

3 (d) The total amount of repayment assistance received by a
4 health care provider may not exceed the total amount of principal
5 and interest due on the health care provider's education loans.

6 (e) Notwithstanding Subsection (a), the board may increase
7 at any time on or after September 1, 2013, the maximum amounts
8 described by Subsection (a), as applicable, based on:

9 (1) data available from the Association of American
10 Medical Colleges regarding the average physician educational loan
11 debt; or

12 (2) equivalent data for dentists or other health care
13 providers.

14 Sec. 61.9786. ELIGIBLE LOANS. (a) Except as provided by
15 Subsection (b), the board may provide repayment assistance for the
16 repayment of any education loan received by the health care
17 provider through any lender, other than a private individual, for:

18 (1) graduate, postgraduate, or professional
19 education:

20 (A) at an institution of higher education or an
21 accredited private or independent institution of higher education;
22 and

23 (B) that satisfies an initial requirement for
24 licensure in the provider's field of practice; and

25 (2) undergraduate education at an institution of
26 higher education or an accredited private or independent
27 institution of higher education.

1 (b) The board may not provide repayment assistance for an
2 education loan that is in default at the time of the health care
3 provider's application for the assistance, except that a loan in
4 default may become an eligible loan for the purposes of this section
5 if the loan is rehabilitated to the satisfaction of the lender or
6 any other holder of the loan, as applicable.

7 (c) Each state fiscal biennium, the board shall attempt to
8 allocate for the purposes of this subchapter all money available to
9 the board under Section 61.9789.

10 Sec. 61.9787. REPAYMENT. (a) The board shall deliver any
11 repayment assistance under this subchapter:

12 (1) in accordance with applicable federal law and
13 regulations; and

14 (2) in a lump sum payable on behalf of the health care
15 provider to the lender or other holder of the affected loan.

16 (b) Repayment assistance received under this subchapter may
17 be applied to the principal amount of the loan and to interest that
18 accrues.

19 Sec. 61.9788. ASSISTANCE OF DEPARTMENT OF STATE HEALTH
20 SERVICES. (a) The board and the department shall enter into a
21 memorandum of understanding in which the department agrees to:

22 (1) identify and recruit persons who may be or could
23 become eligible for repayment assistance under this subchapter; and

24 (2) accept and review applications by those persons
25 for the assistance.

26 (b) A memorandum of understanding under Subsection (a) must
27 address the provision of resources for the staffing and technology

1 necessary for the department to perform the duties required by that
2 subsection.

3 (c) The department, in coordination with the board, shall
4 adopt, publish, and as necessary revise a set of standards
5 governing eligibility for repayment assistance under this
6 subchapter and providing priorities among types of health care
7 providers for grants of that assistance. Priority status shall be
8 given first to licensed dentists who plan to practice in health
9 professional shortage areas and to licensed physicians who plan to
10 practice as primary care providers in health professional shortage
11 areas and second to other health care providers based on which
12 fields of practice are most needed in the health professional
13 shortage area the providers propose to serve.

14 (d) Not later than December 31 of each year, the board and
15 the department shall publish the following information:

16 (1) the health professional shortage areas for which
17 the repayment assistance was paid;

18 (2) the types of health care providers receiving the
19 repayment assistance;

20 (3) the amount of repayment assistance paid to each
21 health care provider; and

22 (4) the period for which each health care provider
23 receiving repayment assistance has remained in the health
24 professional shortage area.

25 Sec. 61.9789. ACCEPTANCE OF FUNDS. For the purposes of this
26 subchapter, the board may solicit and accept gifts, grants, and
27 donations and may use any other available revenue, including money

1 appropriated from the health care access fund created under Section
2 403.1056, Government Code.

3 Sec. 61.9790. RULES. (a) The board and the department
4 shall adopt rules necessary for the administration of this
5 subchapter.

6 (b) The board shall distribute a copy of the rules adopted
7 by the board and the department under this section and a copy of
8 pertinent information in this subchapter to:

9 (1) each institution of higher education or accredited
10 private or independent institution of higher education;

11 (2) any appropriate state agency; and

12 (3) any appropriate professional association.

13 Sec. 61.9791. COSTS OF ADMINISTRATION. To cover the costs
14 of administering this subchapter, the board may use a reasonable
15 amount of the money available for the purposes of this subchapter,
16 not to exceed 1-1/2 percent of the total amount available.

17 SECTION 3. Section 61.540, Education Code, is transferred
18 to Subchapter FF, Chapter 61, Education Code, as added by this Act,
19 redesignated as Section 61.9792, Education Code, and amended to
20 read as follows:

21 Sec. 61.9792 [61.540]. SERVICE AGREEMENTS ENTERED INTO
22 UNDER FORMER LAW; SAVING PROVISION. (a) This section applies
23 only to a person who entered into a written agreement to perform
24 service as a physician in exchange for loan repayment assistance
25 under Subchapter J [~~this subchapter~~] before September 1, 2003.

26 (b) The agreement continues in effect and Subchapter J [~~this~~
27 subchapter], as it existed when the person entered into the

1 agreement, is continued in effect for purposes of that agreement
2 until the person satisfies all the conditions of the agreement or
3 repays all amounts due under the agreement if the person does not
4 satisfy the conditions of the agreement.

5 (c) A person to whom this section applies is not eligible to
6 receive repayment assistance under another provision of this
7 subchapter.

8 SECTION 4. Section 155.0211, Tax Code, is amended by
9 amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3),
10 (b-4), (c), (d), and (e) to read as follows:

11 (b) Except as provided by Subsection (c), the ~~[The]~~ tax rate
12 for each can or package of a tobacco product ~~[products]~~ other than
13 cigars is \$1.22 per ounce and a proportionate rate on all fractional
14 parts of an ounce ~~[40 percent of the manufacturer's list price,~~
15 ~~exclusive of any trade discount, special discount, or deal].~~

16 (b-1) Notwithstanding Subsection (b) and except as provided
17 by Subsection (c), for the state fiscal year beginning September 1,
18 2012, the tax rate for each can or package of a tobacco product
19 other than cigars is \$1.19 per ounce and a proportionate rate on all
20 fractional parts of an ounce. This subsection expires December 1,
21 2013.

22 (b-2) Notwithstanding Subsection (b) and except as provided
23 by Subsection (c), for the state fiscal year beginning September 1,
24 2011, the tax rate for each can or package of a tobacco product
25 other than cigars is \$1.16 per ounce and a proportionate rate on all
26 fractional parts of an ounce. This subsection expires December 1,
27 2012.

1 (b-3) Notwithstanding Subsection (b) and except as provided
2 by Subsection (c), for the state fiscal year beginning September 1,
3 2010, the tax rate for each can or package of a tobacco product
4 other than cigars is \$1.13 per ounce and a proportionate rate on all
5 fractional parts of an ounce. This subsection expires December 1,
6 2011.

7 (b-4) Notwithstanding Subsection (b) and except as provided
8 by Subsection (c), for the state fiscal year beginning September 1,
9 2009, the tax rate for each can or package of a tobacco product
10 other than cigars is \$1.10 per ounce and a proportionate rate on all
11 fractional parts of an ounce. This subsection expires December 1,
12 2010.

13 (c) The tax imposed on a can or package of a tobacco product
14 other than cigars that weighs less than 1.2 ounces is equal to the
15 amount of the tax imposed on a can or package of a tobacco product
16 that weighs 1.2 ounces.

17 (d) The computation of the tax under this section and the
18 applicability of Subsection (c) shall be based on the net weight as
19 listed by the manufacturer. The total tax to be imposed on a unit
20 that contains multiple individual cans or packages is the sum of the
21 taxes imposed by this section on each individual can or package
22 intended for sale or distribution at retail.

23 (e) A change in the tax rate in effect for a state fiscal
24 year that occurs in accordance with this section does not affect
25 taxes imposed before that fiscal year, and the rate in effect when
26 those taxes were imposed continues in effect for purposes of the
27 liability for and collection of those taxes. This subsection

1 expires December 1, 2013.

2 SECTION 5. Section 155.101, Tax Code, is amended to read as
3 follows:

4 Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each
5 distributor, wholesaler, bonded agent, and export warehouse shall
6 keep records at each place of business of all tobacco products
7 purchased or received. Each retailer shall keep records at a single
8 location, which the retailer shall designate as its principal place
9 of business in the state, of all tobacco products purchased and
10 received. These records must include the following, except that
11 Subdivision (7) applies to distributors only and Subdivision (8)
12 applies only to the purchase or receipt of tobacco products other
13 than cigars:

14 (1) the name and address of the shipper or carrier and
15 the mode of transportation;

16 (2) all shipping records or copies of records,
17 including invoices, bills of lading, waybills, freight bills, and
18 express receipts;

19 (3) the date and the name of the place of origin of the
20 tobacco product shipment;

21 (4) the date and the name of the place of arrival of
22 the tobacco product shipment;

23 (5) a statement of the number, kind, and price paid for
24 the tobacco products;

25 (6) the name, address, permit number, and tax
26 identification number of the seller;

27 (7) the manufacturer's list price for the tobacco

1 products; ~~and~~

2 (8) the net weight as listed by the manufacturer for
3 each unit; and

4 (9) any other information required by rules of the
5 comptroller.

6 SECTION 6. Section 155.102, Tax Code, is amended by adding
7 Subsection (c) to read as follows:

8 (c) In addition to the information required under
9 Subsection (b), the records for each sale, distribution, exchange,
10 or use of tobacco products other than cigars must show the net
11 weight as listed by the manufacturer for each unit.

12 SECTION 7. Section 155.103, Tax Code, is amended by adding
13 Subsection (a-1) and amending Subsection (b) to read as follows:

14 (a-1) In addition to the information required under
15 Subsection (a), the records for each sale of tobacco products other
16 than cigars must show the net weight as listed by the manufacturer
17 for each unit.

18 (b) A manufacturer who sells tobacco products to a permit
19 holder in this state shall file with the comptroller, on or before
20 the last day of each month, a report showing the information
21 required to be listed by Subsections ~~[in Subsection]~~ (a) and (a-1),
22 if applicable, for the previous month.

23 SECTION 8. Section 155.105(b), Tax Code, is amended to read
24 as follows:

25 (b) The wholesaler or distributor shall file the report on
26 or before the 25th day of each month. The report must contain the
27 following information for the preceding calendar month's sales in

1 relation to each retailer:

2 (1) the name of the retailer and the address of the
3 retailer's outlet location to which the wholesaler or distributor
4 delivered cigars or tobacco products, including the city and zip
5 code;

6 (2) the taxpayer number assigned by the comptroller to
7 the retailer, if the wholesaler or distributor is in possession of
8 the number;

9 (3) the tobacco permit number of the outlet location
10 to which the wholesaler or distributor delivered cigars or tobacco
11 products; and

12 (4) the monthly net sales made to the retailer by the
13 wholesaler or distributor, including:

14 (A) the quantity and units of cigars and tobacco
15 products sold to the retailer; and

16 (B) for each unit of tobacco products other than
17 cigars, the net weight as listed by the manufacturer.

18 SECTION 9. Section 155.111, Tax Code, is amended by adding
19 Subsection (b-1) to read as follows:

20 (b-1) In addition to the information required under
21 Subsection (b), the report must show the net weight as listed by the
22 manufacturer for each unit of tobacco products other than cigars
23 that is purchased, received, or acquired.

24 SECTION 10. Section 155.2415, Tax Code, is amended to read
25 as follows:

26 Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY
27 TAX RELIEF FUND AND CERTAIN OTHER FUNDS. Notwithstanding Section

1 155.241, the [~~all~~] proceeds from the collection of taxes imposed by
2 Section 155.0211 shall be allocated as follows:

3 (1) the amount of the proceeds that is equal to the
4 amount that, if the taxes imposed by Section 155.0211 were imposed
5 at a rate of 40 percent of the manufacturer's list price, exclusive
6 of any trade discount, special discount, or deal, would be
7 attributable to the portion of that [~~the~~] tax rate in excess of
8 35.213 percent [~~of the manufacturer's list price, exclusive of any~~
9 ~~trade discount, special discount, or deal~~], shall be deposited to
10 the credit of the property tax relief fund under Section 403.109,
11 Government Code;

12 (2) the amount of the proceeds that is equal to the
13 amount that would be attributable to a tax rate of 35.213 percent of
14 the manufacturer's list price, exclusive of any trade discount,
15 special discount, or deal, if the taxes were imposed by Section
16 155.0211 at that rate, shall be deposited to the credit of the
17 general revenue fund; and

18 (3) the remaining proceeds shall be deposited to the
19 credit of the health care access fund under Section 403.1056,
20 Government Code.

21 SECTION 11. The following provisions are repealed:

- 22 (1) Subchapters V and AA, Chapter 61, Education Code;
23 (2) Sections 61.531, 61.532, 61.533, 61.534, 61.535,
24 61.536, 61.5361, 61.537, 61.538, and 61.539, Education Code; and
25 (3) Section 204.104, Occupations Code.

26 SECTION 12. The changes in law made by this Act in amending
27 Chapter 155, Tax Code, do not affect tax liability accruing before

1 the effective date of this Act. That liability continues in effect
2 as if this Act had not been enacted, and the former law is continued
3 in effect for the collection of taxes due and for civil and criminal
4 enforcement of the liability for those taxes.

5 SECTION 13. This Act takes effect September 1, 2009.