

HEALTH & SAFETY CODE

CHAPTER 112. BORDER HEALTH FOUNDATION

Sec. 112.001. DEFINITIONS. In this chapter:

(1) "Board of directors" means the board of directors of the Border Health Foundation.

(2) "Foundation" means the Border Health Foundation.
Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

(b) The foundation shall:

(1) identify and seek potential partners in the private sector that will afford this state the opportunity to maintain or increase the existing levels of financing of health programs and activities;

(2) engage in outreach efforts to make the existence of the office known to potential partners throughout this area; and

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

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1215, Sec. 6, eff. Sept. 1, 2005.

Sec. 112.004. ADMINISTRATION. (a) The foundation is governed by a board of five directors. Vacancies shall be filled by a vote of the board of directors of the foundation from individuals recommended by the department.

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

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1215, Sec. 7, eff. Sept. 1, 2005.

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

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

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

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

(1) is ineligible for membership under Section 112.005;

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

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

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

Sec. 112.007. VACANCY. A vacancy on the board of directors shall be filled for the remainder of the unexpired term in the same manner as provided in Section 112.004(a).

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

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

(2) allows the department to provide staff functions to the foundation; and

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

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

(c) The board of directors of the foundation shall manage

and approve disbursements of funds, pledges, gifts, and endowments that are the property of the foundation.

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.

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

Added by Acts 2003, 78th Leg., ch. 198, Sec. 2.54(a), eff. Sept. 1, 2003.