

**SUBJECT:** Codification of Article 9 provisions concerning state employees

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 21 ayes — Junell, West, Coleman, Cuellar, Farrar, Flores, Gallego, Giddings, Glaze, Heflin, Hochberg, Janek, Luna, McReynolds, Mowery, Pickett, Pitts, Puente, Staples, Tillery, Van de Putte

0 nays

6 absent — Delisi, Eiland, Gutierrez, Hartnett, P. Moreno, S. Turner

**SENATE VOTE:** On final passage, March 11 — voice vote

**WITNESSES:** None

**BACKGROUND:** The general appropriations act traditionally has contained an article that includes provisions that direct or limit travel, purchasing, contracting, and employment-related activities of most, if not all, state agencies and institutions. In the proposed budget for fiscal 2000-01, as in budgets since 1995, these provisions have been placed in Article 9. These provisions generally direct state agencies in their use and management of budgeted dollars on:

- ! employee salaries and benefits;
- ! building construction;
- ! computer support and Y2K activities;
- ! rulemaking and board per diem;
- ! use of telecommunications;
- ! financing of property or other purchases;
- ! publications;
- ! contracting with historically underutilized businesses;
- ! transportation; and
- ! workers' compensation payments.

Article 9 also includes general provisions on state employee conduct standards; work holidays and vacation leave; equal opportunity employment; use of federal funds, special funds, reimbursements, and revenues from the

sale of surplus property and other goods and services; the transfer of funding between budget strategies; and budget performance and accounting requirements. For fiscal 1998-99, Article 9 provisions also contained contingency riders that set aside funds for unanticipated caseload growth and other situations that could require additional spending.

Many of the provisions in Article 9 have been reenacted with each budget bill with little change.

Sometimes provisions added to this article have been challenged as violating the constitutional prohibition, in Art. 3, sec. 35, against using the appropriations bill to make or change general law. House Rule 8, sec. 4 also includes this prohibition. In the fiscal 1998-99 budget, two Article 9 provisions were challenged on this basis and found unconstitutional: sec. 174, commonly called the "rap rider," prohibiting state investments in companies that produce recordings with objectionable song lyrics, and sec. 142, relating to Human Rights Commission training activities. Also, Article 9, sec. 24 of the fiscal 1998-99 budget, relating to state employees as expert witnesses, was found to be an unconstitutional intrusion on free speech.

SB 174, 175, 176 and 177 by Ratliff would place in statute many of the provisions now found in Article 9, thereby focusing future budget bills on spending issues relevant to the budget itself and avoiding future violations of constitutional prohibitions.

DIGEST:

CSSB 174 would codify the following sections of Article 9:

- ! General policies for promotions, demotions for legislative branch employees;
- ! Definition for state agency;
- ! Policies for transfer within state agency from exempt to classified positions;
- ! Reclassification of state agency positions under a new title;
- ! Scheduling timetables for position reclassification;
- ! Reclassification of positions and pay schedules for reclassified positions;
- ! Merit salary increases and one-time merit criteria;
- ! Guidelines for state employee promotions;
- ! Guidelines for state employee demotions;
- ! Guidelines salary reductions for disciplinary reasons;

- ! Force reduction for agency reorganization;
- ! State employee step rate maximum;
- ! Restrictions on temporary assignments of state employees;
- ! Part-time workers to fill full-time state positions;
- ! Calculation of pay for part-time state employees;
- ! Calculation of pay for hourly employees;
- ! Salary supplementation for state employees;
- ! Exemptions from appropriated money for positions by the governor;
- ! Salary cap for certain for merit salary increases;
- ! Salary for administrative head of agency;
- ! Salary for classified position of temporarily designated administrative head of agency;
- ! Salary cap based on percentage determinations;
- ! Personnel and payroll reporting procedures;
- ! Twice-a-month payment for certain state employees;
- ! Once-a-month salary payments for state employees;
- ! Determination of monthly or hourly pay;
- ! Non-deduction of salary for state employee jury duty;
- ! State employee witness service restrictions;
- ! Overtime compensation subject to Fair Labor Standards Act;
- ! Overtime compensation not subject to Fair Labor Standards;
- ! Overtime compensation regulations for all state employees;
- ! Accrual of state compensatory time;
- ! Overtime compensation for legislative employees;
- ! Federal withholding requirements of state employee salary;
- ! Adjustment to payrolls by State Comptroller's office;
- ! State agency open during noon hour;
- ! Staggered working hours;
- ! Conduct of business at state employees' place of business;
- ! Regular employee status for work of over 20 hours;
- ! Skeleton crews for higher education institutions;
- ! Compensatory time for state employees who work on holiday;
- ! Payment of holiday for transferred employee;
- ! Entitlement to sick leave;
- ! Employee leave time for voting;
- ! List of state holidays with no holidays for voting days;
- ! Work schedule adjustments for National Guard and Reserve;
- ! State employee vacation time;
- ! State employment entitlement for accrued vacation time;

- ! Procedures for claiming sick time;
- ! Higher education faculty sick time claim;
- ! Emergency leave for state employees;
- ! Emergency leave for higher education employees;
- ! Accrual of paid leave for higher education employees;
- ! National guard emergency;
- ! National emergency for armed forces leave provisions;
- ! Leave of absence for volunteer firefighters;
- ! Leave of absence for foster parents;
- ! Leave of absence for disaster relief worker;
- ! Credit for unused leave time upon state employment transfer;
- ! Credit for unused sick time upon state employment transfer;
- ! Payment for accumulated sick leave time;
- ! Leave records and time and attendance records;
- ! State auditor uniform interpretation;
- ! Payment for accrued vacation time for legislative workers;
- ! Vacation time for legislative employees;
- ! Sick leave provisions for legislative employees;
- ! Applicability of leave provisions for legislative employees;
- ! Restoration of sick leave for returning state employees;
- ! Leave without payment provisions;
- ! Leave provisions for the disabled;
- ! Administrative leave for state employees;
- ! Family and Medical Leave Act;
- ! Parental leave for certain employees;
- ! Multiple state employment;
- ! Separate work records for multiple state employment;
- ! Transfer of leave balances;
- ! Accrual of state service credit;
- ! Group insurance contributions;
- ! Overtime compensation provisions;
- ! Notice to employer for multiple state employment;
- ! Special provisions for legislative workers; and
- ! Special provisions for university systems.

The bill would take effect September 1, 1999.

**NOTES:** The Senate version of SB 174 generally was based on Article 9 sections in the general appropriations act for fiscal 1999-99. The House committee substitute generally reflects the version of Article 9 in the House-passed version of HB 1 by Junell, the proposed general appropriations act for fiscal 2000-01.