HOUSE RESEARCH ORGANIZATION bill analysis — 5/2/2003

HB 1318
Swinford
(CSHB 1318 by Swinford)

SUBJECT: State workforce initiatives and management-to-staff ratios

COMMITTEE: Government Reform — committee substitute recommended

VOTE: 4 ayes — Swinford, Callegari, Casteel, R. Cook

0 nays

3 absent — Gallego, Allen, T. Smith

WITNESSES: For — Chris Bowles, Experio Solutions

Against — None

On — Susan Biles, Comptroller's Office; Glenna Rhea Bowman, Office of Court Administration; Andrew Homer, Texas Public Employees Association; Kelli Vito, State Auditor's Office; Cathy Williams, Texas Department of Transportation

BACKGROUND: All state employment positions are included in a classification system that determines required qualifications, salary ranges, and other factors relating to a job with the state. Some state employees are exempt from classification, including elected officials, some appointees, an agency's chief executive, teachers, and positions exempted by the governor or Legislature. The Legislature caps the total number of state employees an agency may employ through the general appropriations act.

Government Code, sec. 651.004 requires state agencies to develop procedures for use in achieving a management-to-staff ratio of 1:11. Sec. 659.255 authorizes state agencies to grant merit salary increases, including one-time merit payments, to employees whose job performance and productivity consistently exceed normal expectations or requirements. Also, Art. 9, sec. 3.07 of the current general appropriations act by allows agencies to offer a retention bonus of up to $3,000 to certain employees.

Government Code, sec. 2056.002-2056.0021 requires state agencies to develop strategic plans for their operations. The plan must include the

agency's mission and goals, outcome measures, populations served, and other information about the agency. In 2001, the 77th Legislature newly required agencies to submit a workforce plan as part of the strategic plan. The workforce plan must address staffing and training needs. Agencies submitted their first workforce plans in June 2002.

DIGEST:

CSHB 1318 would create a bonus structure for state employees, establish mandatory management-to-staff ratios, amend requirements for agency workforce plans, and require performance agreements for agency upper management.

A state agency could offer a recruitment bonus of up to $5,000 for a new hire in a classified position. If the employee left the agency within three months, the employee would have to return the bonus in full. If the employee left after three months but before a year, the employee would have to return a pro-rata portion of the bonus, based on length of employment.

State agencies could offer employees in certain essential classified positions, identified by the agency's chief executive, a deferred compensation contract that would offer a one-time bonus of up to $5,000 at the end of 12 months' service. Eligibility would be restricted to employees who had completed at least 12 months' service at the time of the offer. The chief executive would have to consider the employee's importance to the agency and evidence of high turnover and shortage of qualified applicants. Before such a contract could be offered, the chief executive would have to inform the comptroller in writing of the reasons supporting the offer. The bonus would be exempt from other salary caps or increases under the Government Code.

CSHB 1318 would establish management-to-staff ratios for each state agency in the executive branch with more than 100 full-time employees. These ratios would be phased in, beginning with a 1:8 ratio from September 1, 2004, to September 1, 2005. Each year thereafter, the ratio would rise by one employee until the final ratio of 1:11, which would become mandatory after August 31, 2007. A state agency could appeal application of the management-to-staff ratio to the governor, whose decision would be final.

Agency workforce plans would have to include training and education rules and managerial training requirements. The state auditor would have to analyze

this information and identify agencies that could benefit from workforce planning assistance and offer evaluative and corrective information.

The governing body of a state agency would have to enter into performance agreements with employees in upper management positions, including the chief executive. The agreement would identify the agency's organizational goals, performance measures for programs under the manager's purview, and procedures to hold the upper management employee accountable for performance under the agreement. The bill would repeal the requirement that the governor approve all agency rules about training before the rule is effective and funds are expended.

The bill would take effect September 1, 2003.

SUPPORTERS SAY:

The initiatives in CSHB 1318 would improve the way Texas state government operates. It would save an estimated $17 million in general revenue in fiscal 2004-05 alone, while lifting the burden of top-heavy management structures at state agencies and rewarding valuable employees.

Texas needs to address turnover. According to the comptroller's e-Texas report, *Limited Government, Unlimited Opportunity*, the turnover rate for state agencies was almost 18 percent, far above the national average of 12 percent. Turnover costs the state some $254 million annually in recruitment, hiring, training costs, and lost productivity. The leading causes of turnover include lack of recognition and feedback, training, and information about goals and performance, as well as inadequate compensation. This bill would address those issues by expanding the bonus program and assisting agencies with their workforce plans.

The state needs to codify the employee bonus program and increase the bonus amount to attract and retain valuable employees. The bonuses authorized by the 77th Legislature through a rider in the general appropriations act were a start, but to have significant impact, the bonuses should be larger and set in statute. Also, the current program is limited to retaining employees, while the bonus program in CSHB 1318 would help with recruitment.

According to the e-Texas report, many state agencies are top-heavy and could reduce costs by reducing the number of managers to employees. Although the

average ratio for all state agencies is 1:13, that number is influenced heavily by the Texas Department of Criminal Justice, which has a ratio of 1:73. At least 36 agencies have ratios below the levels recommended by this bill, including the Texas Department of Health, 1:4; the Texas Education Agency, 1:6; the Texas Railroad Commission, 1:8; and even the Comptroller's Office, 1:9. Bringing all agencies up to the levels proposed by CSHB 1318 would result in 1,200 fewer state employees by 2008 and a net saving of $69 million over the next five years.

Agencies already have plans to achieve the ideal staffing ratio, but many have not implemented them. Current law requires agencies to develop procedures to achieve a management-to-staff ratio of 1:11. The Legislature should take the next step and require it.

The required change in staffing ratios would enable agencies to focus their resources on services and to streamline their organizations anew. Because management structure is built over time, it can become unruly and difficult to fix. Even if agency leaders might choose a different structure if they could start anew, reworking the infrastructure poses a significant challenge. This bill would offer agency leaders an opportunity to build the structure that suits the agency's current work.

The state should require the state auditor to offer evaluative and corrective information about the workforce plans. Agencies can seek help now, but most do not for fear of an audit. The office collects the plans now but lacks a formal way of offering agencies neutral help.

Texas should use performance contracts with agency executive management. Similar initiatives in Washington, D.C., and at the federal level have improved public perception of government and have helped identify the skills needed for a position and gauge progress in meeting agency priorities.

OPPONENTS SAY:

The savings promised by CSHB 1318 are unlikely to materialize. The fiscal note acknowledges that the assumptions used to calculate estimated savings exclude employee reductions already included in the savings expected to be generated by HB 7 by Heflin, the supplemental appropriation bill for fiscal 2003 that reflects the 7-percent reductions made this year. Because those positions already have been eliminated and the funding levels proposed by the

House and Senate for fiscal 2004-05 may require additional reductions, not enough management positions may be left to achieve the estimated savings.

The bill's recommendations are unlikely to reduce turnover. The state auditor's report, *Full-Time Classified State Employee Turnover for Fiscal Year 2001*, upon which the comptroller's e-Texas recommendation is based, tells a different story. The exit interview information that cited the leading reasons for leaving employment actually were culled from a survey of incumbent high-tech employees and high-tech employees who resigned within six months of their hire date. Turnover is high in Texas' state government, but the solutions should not be based on the experience of the high-tech industry. A measure that would solve that industry's problems might not help recruit or retain state employees.

The primary reason state employees leave their jobs is low pay and benefits. The 77th Legislature attempted to address this issue with a pay raise for all state employees and a targeted pay raise for certain groups with particularly high turnover, including correctional officers, mental health and mental retardation workers, and caseworkers at the Department of Protective and Regulatory Services. However, because part of the pay raise was contingent on additional funds, not all of the anticipated pay raise was implemented. To reduce turnover, the state must address pay and benefits first.

It would be futile to codify the bonus opportunity without funding. According to the comptroller, only $63,337 spread across 34 retention bonus contracts is slated for payment after September 1, 2002. The bonuses are funded through agency appropriations, which generally would be reduced under the House and Senate budget proposals for fiscal 2004-05. If agencies cannot afford to pay bonuses, codifying the program will not reduce turnover or entice new employees. Even if agencies could afford to pay bonuses to attract new employees or retain existing ones, it would be unfair to the other employees at the agency who are likely to see their benefits reduced because of the state's fiscal difficulties.

There is no basis to suggest that a 1:11 ratio is ideal. The article cited by the comptroller's report as the source stating that 1:11 is a nationally recognized ratio for the public and private sector does not recommend such a ratio. The *Wall Street Journal* article of September 25, 1995, analyzed data from the

Equal Employment Opportunity Commission and concluded that the average was 1:11 but made no recommendation.

Holding all agencies to a single staffing ratio cap would be unreasonable because their functions vary widely. However, if agencies were exempted, the savings assumed by this bill would evaporate. Some agencies that outsource a significant portion of their work or that administer contracts may have more managers because they oversee work done by people who are not state employees. It would be inappropriate for those agencies to have to meet the recommended staffing ratios.

Agencies that could implement the 1:11 staffing ratio have done so since the enactment of the 1997 legislation that required them to establish procedures. The fact that some agencies have considered it and not implemented it clearly indicates that it is not right for those agencies. Those agencies would seek exemptions from the governor.

Firing managers or not filling management positions to meet an arbitrary staffing ratio likely would exacerbate the turnover of front-line employees. The state has had a "soft freeze" on hiring for some time, and many employees already are asked to do more than their jobs alone. As supervisory positions have remained empty, front-line workers have been asked to serve as "acting supervisors." The employees who remain also are asked to fill in for open positions at the same level. For example, correctional officers at the Texas Youth Commission often work both as a correctional officer and caseworker. These front-line employees cannot take on more work. If the state fires or fails to hire managers to meet an arbitrary staffing ratio, turnover will increase among direct-care and service employees.

Establishing a hard cap would encourage agencies to be evasive about what they do. The determination of "manager" is based, in part, on what the agency reports. If the agency will suffer negative consequences from reporting that information, staff classification likely will change to make the new system less of a burden. Instead of encouraging state agencies to be evasive, the staffing ratio of each agency should be evaluated as part of the overall picture presented by the agency, the State Auditor's Office, the Comptroller's Office, the Sunset Advisory Commission, and other governmental oversight bodies.

Under a review process, agencies are encouraged to discuss what they do and participate in the process of finding ways to work better.

Agencies do not need more help with workforce planning. They already must prepare strategic reports, and the State Auditor's Office website offers ample planning information. If agencies need additional help, they can call the State Auditor's Office and request it. The state should not waste resources requiring the state auditor to formulate suggestions for agency improvements. Rather, agencies should continue to seek help tailored to their specific needs.

Texas does not need performance contracts. The state already has problems with performance measures at the agency level, which are criticized as misleading and can impair agency flexibility. Adding more performance measures would not spur efficiency or effectiveness.

OTHER OPPONENTS SAY:

If the Legislature enacts the proposed changes to the workforce plan and performance contracting, it should give those initiatives teeth. The state auditor's report, *Addressing Operating Risk and Improving the Efficiency of State Government,* recommends that the workforce plan review and recommendation function reside with the governor, not with the State Auditor's Office as proposed by CSHB 1318. The reviews could be accompanied by recommendations on funding restrictions for the next appropriations process as an incentive for agencies to improve workforce efficiencies. The same report also recommended that Texas create a pay-for-performance program for agency chief executives through riders in the general appropriations act. This would improve performance much more rapidly than a performance contract alone.

NOTES:

The fiscal note for CSHB 1318 estimates that it would save $17.3 million in general revenue and $47.3 million in all funds for fiscal 2004-05. It assumes a reduction of 365 FTEs in fiscal 2004 and 173 more in fiscal 2005. HB 1 by Heflin, the general appropriations bill for fiscal 2004-05, includes a contingency rider that would reduce appropriations by $32 million in all funds if HB 1318 or similar legislation is enacted.

The committee substitute added the provision allowing agencies to appeal to the governor if they found the proposed management-to-staff ratio to be inappropriate.

The proposals in CSHB 1318 also appear in HB 2 by Swinford, a broader government reorganization proposal. The Government Reform Committee reported HB 2 favorably, as substituted , on May 1.