

**SUBJECT:** Continuing the Texas Veterans Commission

**COMMITTEE:** Defense Affairs and State-Federal Relations — committee substitute recommended

**VOTE:** 8 ayes — Corte, Escobar, Noriega, Garcia, Herrero, Hodge, Merritt, Raymond  
0 nays  
1 absent — Moreno

**WITNESSES:** For — Laureli Collier; Alfred R. Patterson; (*Registered, but did not testify*: Edward R. Baldwin, Jr.; and 11 others)  
  
Against —Morgan Little, Texas Center for Employer Support of the Guard & Reserve; William West, American Legion, Department of Texas; (*Registered, but did not testify*: Dan West, Texas Veterans of Foreign Wars)  
  
On —John Brieden, Charles Buerschinger and James E. Nier, Texas Veterans Commission; Jimmy DeFoor, Taylor County Veterans Service Office; Kelly Kennedy, Sunset Advisory Commission; John D. McKinny, VETS/U.S. Department of Labor; Gene Overstreet, Texas Veterans Coalition; (*Registered, but did not testify*: Tina Coronado, Jim Richman, and Bill Wilson, Texas Veterans Commission)

**BACKGROUND:** The Texas Veterans Commission (TVC) was created in 1927 and established as an independent agency in 1947. It assists veterans filing federal benefit claims and seeking employment, approves schools that can receive federal Montgomery GI funds, and trains county service officers (CSOs), who also assist veterans in filing benefit claims. State law requires that CSOs be veterans and that each county with a population of 200,000 or greater have at least one CSO appointed by the local county commissioners court.  
  
TVC recently added two functions previously conducted by the Texas Workforce Commission — in 2005, it took over responsibility for the Veterans Employment Services Program and assumed control as the State

Approving Agency for Veterans' Education a year later. The addition of these duties expanded the commission's budget from \$3.7 million to \$15.3 million and staff from 97 to 311 employees between fiscal years 2006 and 2007. These figures do not include the 257 CSOs, who operate in and are employed by 221 counties.

The governor appoints, upon advice and consent from the Senate, the commission's five voting members, who serve staggered six-year terms. At least three of the members must be honorably discharged from the U.S. military, and one must have a service-connected disability recognized by the U.S. Department of Veterans Affairs (VA). Commission members annually select a chair, vice-chair, and secretary.

TVC last underwent Sunset review in 1981 and was continued by the 67th Legislature. If not continued by the 80th Legislature, the commission will be abolished September 1, 2007.

**DIGEST:**

CSHB 3426 would continue TVC until September 1, 2013. It would require the commission to adopt claims assistance services procedures, create training materials and methods, and coordinate a statewide plan with CSOs and county commissioners courts for providing claims support.

The bill would add standard Sunset provisions governing gubernatorial designation of the presiding officer, grounds for removing a board member, training of board members, policy and rulemaking, use of technology, complaint documentation, unbiased appointments, separation of policymaking and staff functions, public testimony, and dispute resolution procedures. It would add an amended version of the standard Sunset provision on conflicts of interest, allowing a person to serve on the commission if:

- the person or the person's spouse was an officer, employee, or paid consultant of a statewide or national veterans service organization or Texas trade association; or
- the person or the person's spouse was employed by or participated in the management of a veterans service organization.

**Statewide plan.** TVC would be required to develop, by rule, coordination procedures with CSOs and county commissioners courts to create a statewide plan for providing claims assistance services. The plan would include or identify:

- shared objectives of the three entities;
- a recruiting plan for CSOs and a way to encourage these officers to obtain VA accreditation;
- a procedure for consulting with counties to determine the most effective locations for county service offices;
- TVC's oversight role for claims and appeals prepared by CSOs;
- a method for providing CSOs with technical assistance;
- a method for documenting CSO performance that would include on-site visit reports, and providing this information to county judges and others who supervise CSOs;
- a way to incorporate CSOs into VA appeals hearings to represent veterans or appear as witnesses, as needed, and explore ways to pay for CSO travel costs connected with these appearances; and
- procedures to regularly update CSOs on changes in VA policies and procedures and other information.

**Claims assistance services.** The bill would require TVC to adopt procedures to administer claims assistance services, including:

- criteria for determining whether an initial claim was substantially complete and met basic federal eligibility requirements;
- a process for expediting a claim based on hardship, including whether the veteran was in immediate need, was terminally ill, had a verifiable financial hardship, or had a disability that presented an undue burden;
- a procedure to counsel veterans on the pros and cons of pursuing a claim;
- a process to ensure adequate documentation and development of a claim or appeal;
- criteria for deciding whether to appeal a decision of the VA;
- a requirement for a claims counselor to report to the VA if the counselor had direct knowledge that a claim contained false or deceptive information;
- a procedure for prioritizing a claim; and
- a procedure for providing alternatives for claims assistance services when prioritizing a claim is not appropriate.

TVC would be required to consult with the VA in developing these procedures to:

- ensure TVC's services were not unnecessarily duplicative of those provided by the VA;
- ensure that the procedures would provide for dispute resolution at the lowest level of the VA's benefit decision process; and
- ensure that TVC employees would not be improperly involved in the adjudicated claims.

TVC also would be required to consult with the VA to coordinate and streamline services between the two entities, including:

- identifying processes to update changes to veterans' cases and power of attorney designation;
- cooperating to expedite hardship cases and appeals; and
- identifying opportunities for the VA to provide the commission with data needed to track claim progress and outcomes.

**Training.** CSHB 3426 would remove requirements for CSOs to maintain certification through attendance of an annual training conference and instead would require the officer to complete continuing training required by the commission. TVC would be required to develop and implement procedures for training officers and establish rules to carry out these goals. These training methods could include Internet-based seminars, video conferences, and VA training. TVC would be required to develop and approve course materials, training curriculum, and examinations that would be used for CSO certification and VA accreditation.

TVC would be required to update these materials after consulting with the VA — to ensure the materials were accurate and met applicable federal standards; and accredited CSOs — to ensure the materials included issues developing at the county level.

TVC would be required to develop a training handbook with instruction and case studies covering:

- general assistance techniques, such as how to provide information regarding state and federal benefits and referrals for other services to other agencies;
- counseling techniques for dealing with veterans, their family members, and other eligible dependents filing benefits claims;
- basic information on VA procedures and processes, including how to accurately complete and support claims and appeals forms;

- methods of collecting required documentation to develop claims and appeals and keep track of their status;
- methods of documenting progress of a case and updating the person who filed the claim; and
- methods of aiding those eligible to appeal decisions.

**Rules.** The commission would be required to adopt procedures for receiving input and recommendations from interested parties regarding its development of rules and policies.

**Effective date.** This bill would take effect September 1, 2007. The board member training requirements and eligibility would affect only TVC members whose term began on or after that date. Changes governing complaint procedures would apply only to complaints received on or after that date.

The commission would be required to comply with provisions covering complaint documentation, claims assistance, separation of policymaking and management responsibilities, rules development, public participation, training, use of technology, and development of a statewide plan by March 1, 2008.

TVC would be required to comply with and implement any non-statutory recommendations adopted by the Sunset Advisory Commission and report back to the commission on this implementation by November 1, 2008.

**SUPPORTERS  
SAY:**

CSHB 3426 appropriately would continue the Texas Veterans Commission, which was found by the Sunset Advisory Commission to provide a vital service to veterans who have risked their lives and suffered significant health impacts from serving their country. Even though the commission has not undergone Sunset review in more than 25 years, it was found to be serving its clients very well, and this bill would revise and update its governing policies to ensure the continuation of these services as the veterans' population increases with the return of troops from Iraq and Afghanistan.

**Sunset date.** To allow more time for TVC to adjust its procedures to take into account its two new functions, the bill would extend by two years a Sunset commission recommendation to reevaluate TVC in 2011. Both of the new TVC functions are scrutinized by federal agencies, which would ensure they were being conducted properly. Additionally, with the number

of veterans likely to be returning from Iraq and Afghanistan, delaying the next review until 2013 would provide for any new demands this influx would place on the commission's duties. Any pressing concerns that arise in the interim could be addressed by a subsequent Legislature.

**Conflicts of interest.** Because of the commission's unique membership, this bill would amend a standard Sunset provision governing conflicts of interest. Most veterans are affiliated with outside groups, and those who are in leadership positions with these groups are just the sort of people who should be considered for a seat on the commission. This type of expertise would be an invaluable benefit for the commission, and it is highly unlikely that one veterans group would advocate an agenda that conflicted with that of another group.

**Statewide plan.** Because CSOs and TVC provide similar services, creating a mechanism for the commission to integrate these officers into a statewide plan would provide a better level of service to veterans across the state. TVC does not have authority over CSOs, but it does train and certify them. The bill would not create new bosses for CSOs. It simply would take advantage of the state's relationship with them and give TVC the task of finding better ways to coordinate their efforts.

**Claims assistance services.** The bill would require TVC to prioritize its claim procedures to better account for the urgency and validity of certain claims. The Sunset Commission found the current system for pursuing claims to be inadequate because it pursues all claims that come its way. Although the process allows veterans an opportunity to air their grievances, it takes staff and resources away from more legitimate claims requiring more immediate attention. This bill would create a formal way for the commission to prioritize and document cases and encourage TVC to use technology to more efficiently share case information and track claims progress.

**Training.** CSHB 3426 would eliminate a current mandate for CSOs to attend annual training conferences and instead provide continued training to the officers to maintain certification. The current procedure has slowed the process of training new CSOs and takes them away from their offices, where their time would be better spent helping veterans to submit claims. A comprehensive training library that would compile the best practices of the commission would better serve CSOs today and in the future.

OPPONENTS  
SAY:

Although no one disagrees with TVC's role and performance, this bill would go too far in some of its requirements, especially those that would require a state commission to oversee and involve itself with county business.

**Sunset date.** Because of the two functions recently added to the TVC, and its lack of a substantial record in handling these duties, the Sunset Advisory Commission recommended that the agency be reviewed during the legislative session in 2011. Prior to assuming these duties, TVC was a small, single-task agency, and it would make sense to review this transition sooner rather than later.

**Conflicts of interest.** The conflict of interest language should be amended to reflect the provisions included for most other state agencies. The conflict of interest provision recommended by the Sunset Commission would bar a veteran only from serving concurrently on the commission and in a leadership role with a veterans group at the state or national level. It would not affect those who simply were members of an outside organization, nor would it prevent someone who had once or was planning to serve in the leadership of an outside organization from being a TVC member. This recommended provision is not a response to any previous problems but would be a proactive measure designed to prevent any future problems if, for example, one veterans group stood in opposition to another on a major issue before TVC.

**Statewide plan.** Counties and CSOs have the best insight into their resources and how best to serve their veterans. CSHB 3426 erroneously would require TVC to insert itself into a decision-making process in which it is not fully qualified to participate. The commission should not tell counties where to locate their offices, nor should it be involved in assessing the work of CSOs, who report to county commissioners. TVC sees only a fraction of the work these officers do, and any assessment it made would be incomplete.

**Claims assistance services.** TVC should not require claims counselors to report to the VA any deceptive or false claims that have been filed. The commission does not have the investigative tools to determine the veracity of the claims, and at some level must trust the word of its counselors and veterans.

**Training.** Providing for additional training opportunities is a good idea, but it should not be done at the expense of the training conferences, which have been of great value and tailored to specific audiences and purposes.

NOTES:

According to the Legislative Budget Board, the bill would cost TVC an estimated \$616,000 in fiscal 2008-09 to implement provisions of this bill covering a computer-based case management system and an agency career ladder. It is assumed the bill's requirements could be met using available TVC resources.

HB 3426 as introduced would have required TVC to undergo Sunset review in 2011, included standard language on conflicts of interest, and required the commission to enter into a memorandum of understanding with the Veterans Land Board (VLB) to establish a joint communications center from which the agencies would coordinate publicity of benefits available to veterans.

HB 3140 by Flynn, the VLB Sunset bill, which contains provisions that would require the agency and TVC to establish the joint communications center, passed the House on March 25 and has been referred to the Senate Government Organization Committee.