HOUSE RESEARCH ORGANIZATION bill analysis | 5/18/2021 | SB 707 (2nd reading) Paxton, et al. (Lambert)

SUBJECT: Continuing the Credit Union Department and Credit Union Commission

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 9 ayes — Anchia, Parker, Capriglione, Muñoz, Perez, Rogers, Slawson, Stephenson, Vo

0 nays

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

BACKGROUND: The Credit Union Department (CUD) was created by the Legislature in 1969 and is responsible for regulating credit unions in the state. In 2009, the Legislature gave the department self-directed semi-independent (SDSI) status, which authorizes state agencies to set their own fees, budgets, and performance measures outside of the legislative appropriations process. This Sunset review of the department is the first since CUD gained SDSI status.

Functions. CUD is responsible for overseeing the safety and soundness of state-chartered credit unions in Texas, and the department is charged with safeguarding the public interest, protecting the financial interests of credit union members, and promoting public confidence in the credit union industry. To achieve its mission the department approves new charters, charter conversions, mergers, and other structural or operational changes for state-chartered credit unions; examines state-chartered credit unions on a regular basis; takes certain enforcement actions when necessary; and assists the public by helping to resolve complaints against credit unions, among other activities.

Governing structure. CUD is governed by the nine-member Credit Union Commission (CUC). Commission members are appointed by the governor with the advice and consent of the Senate and serve six-year staggered terms. Five members are public members appointed on the basis of their recognized business ability, and four are credit union industry members who must have five or more years of experience as a director, officer, or committee member of a credit union with a principal office in Texas.

Funding. As an SDSI agency, CUD does not receive a legislative appropriation. Instead, the department funds itself through fees on Texas-chartered credit unions, which are charged annually and calculated based on the total assets of each credit union. CUD collected about $4.1 million in revenue in fiscal 2019, almost entirely from operating fees, and spent about $3.9 million.

Staffing. In fiscal year 2019, the department employed 29 full-time staff, including 10 administrative staff in Austin and 19 field examiners who work from home and travel across Texas to examine Texas-chartered credit unions.

The Credit Union Department would be discontinued on September 1, 2021, if not continued in statute.

DIGEST:

SB 707 would continue the Credit Union Department (CUD) and the Credit Union Commission (CUC) until September 1, 2033, and adopt certain Sunset Advisory Commission recommendations, including requiring the department to track more comprehensive complaint and enforcement data.

Guidance on federal laws. The bill would require CUD to promptly notify and issue guidance to all credit unions chartered in Texas on the adoption of a federal law or regulation that:

- affected a power or authority conferred to credit unions;
- took effect immediately; and
- conflicted with state law.

Complaint and enforcement processes. The bill would provide for a complaint tracking process to help identify and address regulatory issues and constraints. CUD would be required to track all phases of the complaint and enforcement processes, including the receipt, investigation, and disposition of complaints. The department would have to maintain the following information for each complaint:

- the basis for the complaint;
- the origin of the complaint, including whether the complaint came from another regulatory agency, a credit union member or employee, a member of the public, or a public or private entity;
- the number of days it took to resolve the complaint from the date the complaint was received; and
- the disposition of the complaint, including whether disciplinary action was taken, the reason for the lack of action or the type of disciplinary action taken, as applicable, and the amount of any administrative penalty or late fee.

If the complaint was dismissed or referred to another agency, the department would have to provide details regarding the dismissal or referral. If the complaint was ongoing, CUD would be required to track its current status.

The bill also would require CUD to annually compile a statistical analysis of the department's complaint and enforcement processes for the preceding fiscal year. The analysis would have to include:

- the total number of complaints filed with CUD against credit unions;
- the number of open investigations at the end of the fiscal year;
- the number of complaints that were resolved, disaggregated by the source of the complaint, the type of alleged violation, jurisdictional and nonjurisdictional complaints, regulatory and nonregulatory complaints, and the disposition and action taken, including any administrative penalty or late fee assessed; and
- the average number of days it took to resolve a complaint, including complaints that were resolved through an examination of

a credit union.

The department would be required to periodically notify the complaint parties of the status of a complaint until its final disposition unless the notice would jeopardize an investigation.

Training. The bill would require the commissioner to create a training manual and distribute it annually to each CUC member. Each member would have to sign and submit to the commissioner a statement acknowledging the member received and reviewed the training manual.

The training program established by the commissioner would have to provide the trainee with information on the law governing department operations, the scope of and limitations on the rulemaking authority of the commission, laws related to disclosing conflicts of interest, and other laws applicable to members of a state policy-making body in performing their duties.

The bill would provide for the transition to the new training requirements for commission members appointed before the bill's effective date.

Other provisions. The bill would repeal Finance Code, sec. 122.001(d), a provision requiring articles of incorporation of a credit union to be signed and sworn to.

Articles of incorporation filed before the bill's effective date would be governed by the law in effect on the date the articles were filed.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

SB 707 would continue the Credit Union Department (CUD) and Credit Union Commission so that the department could continue its essential functions of regulating state-chartered credit unions and protecting credit union members. Texas has almost 200 chartered credit unions, with hundreds of locations and more than $40 billion in total assets, and ensuring these credit unions operate in accordance with regulation is crucial for the state and its citizens. State regulation of Texas-chartered credit unions pays for itself and generates tax revenue. In addition, many Texas credit unions operate in rural or economically disadvantaged communities with limited options for financial services. Credit unions help fill this gap and offer many benefits to members, including providing smaller personal loans at more favorable rates than for-profit lenders.

SB 707 would improve complaint tracking and processing at CUD, ensuring that complaints were handled appropriately and referred to the appropriate agency when necessary. Improving complaint data collection and analysis at the department would ensure that CUD's performance was accurately understood and would strengthen the department's regulatory efforts. The bill also would provide for clearer communication from the department regarding complaint processing.

CRITICS SAY:

No concerns identified.

NOTES:

The House companion bill, HB 1840 by Lambert, was considered by the House Pensions, Investments and Financial Services Committee in a public hearing and reported favorably on March 31 and considered in the Calendars Committee on May 5.