

**SUBJECT:** Abolishing the State Anatomical Board and transferring duties to TSFC

**COMMITTEE:** Public Health — committee substitute recommended

**VOTE:** 8 ayes — Klick, Campos, Jetton, J. Jones, V. Jones, Oliverson, Price, Tinderholt

0 nays

3 absent — Collier, A. Johnson, Smith

**SENATE VOTE:** On final passage (April 24) — 30 - 0

**WITNESSES:** None

**BACKGROUND:** The Anatomical Board of the State of Texas (SAB), created in 1907, oversees the distribution of donated or unclaimed cadavers and anatomical specimens to board-approved medical and forensic science institutions for use in education and research. SAB performs the following duties:

- inspects and approves certain facilities that request donated cadavers or specimens to ensure compliance with board standards;
- sets standards for willed body programs, which are operated by some universities and colleges to allow adults living in Texas to donate their bodies to a university or college for medical education or research; and
- facilitates coordination between willed body programs to maintain an adequate supply of cadavers for universities and colleges.

SAB currently oversees 13 willed body programs, which can transfer donated bodies to facilities inspected and approved by SAB. These facilities may include research organizations, medical training facilities, medical device companies, search and rescue organizations, and other higher educational institutions not operating their own willed body programs.

**Governing structure.** SAB is comprised of one representative each from 16 Texas colleges and universities. Board members are professors of surgery or anatomical science appointed by the chief executive officer of each school or college of chiropractic, dentistry, medicine, or osteopathy in the state. Members serve two-year terms with no term limits. SAB meets at least annually and elects a chair, vice chair, and secretary-treasurer who serve two-year terms.

**Funding.** SAB does not receive state appropriations and is funded by registration and transfer fees for bodies donated to willed body programs. In 2021, SAB collected \$79,456 from registration and transfer fees and spent \$14,893 on its website, record storage, and travel reimbursement. SAB is authorized to manage its funds through a local bank, and excess revenue accrues year to year. SAB's ending fund balance was \$441,793 in 2021.

**Staffing.** SAB has no staff. Board members conduct all board activity with some assistance from willed body program university staff.

**Sunset date.** SAB would be abolished on September 1, 2023, unless continued in statute.

SAB last underwent sunset review in 2021, but its sunset bill did not pass in the 87th Legislature. The Legislature placed SAB under full sunset review for the 2022-23 biennium.

DIGEST:

SB 2040 would abolish the Anatomical Board of the State of Texas (SAB) and transfer its authority to the Texas Funeral Service Commission (TFSC). The bill also would add provisions related to non-transplant anatomical donation organizations and anatomical facilities.

**Definitions.** The bill would define "willed body program" as a program operated at a higher education institution that allowed a living individual to donate the individual's body or anatomical specimen for educational or research purposes.

“Non-transplant anatomical donation organization” (NADO) would mean a person accredited to engage in the recovery, receipt, screening, testing, processing, storage, or distribution of tissue or human remains for any purpose other than transplantation into a living individual.

“Anatomical facility” would mean a facility inspected and approved by TFSC that did not operate as a willed body program or NADO.

**State anatomical advisory committee.** SB 2040 would remove provisions establishing SAB. Instead, the bill would establish the State Anatomical Advisory Committee to advise and provide expertise to TFSC on matters related to the regulation and operation of willed body programs, NADOs, and anatomical facilities in the state.

The advisory committee would be composed of two members each from higher education institutions that operate willed body programs, NADOs, and anatomical facilities as well as one public member. Advisory committee members would serve two-year terms and could be reappointed. Certain provisions for SAB regarding the composition of the board and reimbursement of members’ expenses would not apply to the State Anatomical Advisory Committee.

**Transfer of authority.** Duties that previously applied to SAB would become the duties of TFSC, including distributing bodies and anatomical specimens to willed body programs, administering procedures related to unclaimed bodies, and adopting applicable rules, among others.

**Donating bodies.** The bill would allow an adult living in the state who was of sound mind to donate their body to TFSC, a willed body program, a NADO, or another donee authorized by TFSC. The donor would be required to provide informed consent by signing a will or other instrument, which would have to clearly convey the donor’s acknowledgment that the donor was informed of certain consequences, uses, and conditions of return of the donation. TFSC would design and adopt a form for this purpose that complied with the bill.

**Use of bodies.** To further medical or forensic science, a willed body program, NADO, anatomical facility, or other person designated by TFSC could use, dissect, operate on, examine, and experiment on a body or anatomical specimen distributed under state law. The entity would have to keep a permanent record of each body or anatomical specimen received from TFSC, which would have to track the body or anatomical specimen from intake to final disposition and could be inspected by TFSC.

**Regulation and registration.** TFSC would be required to regulate willed body programs, NADOs, and anatomical facilities. A willed body program or NADO would not be permitted to operate in the state unless it registered with TFSC. To be eligible for registration, a NADO would have to be accredited by the American Association of Tissue Banks. TFSC could issue a conditional registration to a NADO that was not yet accredited.

TFSC would be required to inspect and could approve willed body programs and anatomical facilities for the receipt and use of bodies and anatomical specimens. TFSC would establish a process to periodically verify a NADO's compliance with national standards for non-transplant anatomical donations. The process could authorize TFSC to inspect a NADO once every five years. The inspection could not be duplicative of the accreditation process.

TFSC also could investigate a willed body program, NADO, anatomical facility, or other person if TFSC had reason to believe that the entity had improperly used a body or anatomical specimen.

TFSC could suspend or revoke the registration of a willed body program, NADO, anatomical facility, or other authorized person if TFSC determined that the entity had improperly used a body or anatomical specimen. A NADO would be required to inform TFSC if it lost its accreditation with the American Association of Tissue Banks within a certain amount of time prescribed by TFSC rule.

A TFSC member or license holder could not hold an ownership interest

in a registered NADO.

**Fees.** TFSC by rule could set and collect reasonable and necessary fees for the cost of administering provisions related to body and anatomical specimen donations, including for conducting inspections of willed body programs and anatomical facilities and registering WBPs and NADOs. NADOs would be exempt from fees for receiving and distributing bodies and anatomical specimens.

**Violations.** For a violation of applicable statute or TFSC rules, TFSC could issue a reprimand, impose an administrative or other penalty, or revoke, suspend, or probate a registration or other authorization. Rules and enforcement for TFSC's distribution of donated bodies and anatomical specimens to authorized persons would not apply to a NADO.

**Repealing SAB statutes.** The bill would repeal certain provisions related to the SAB, including its sunset date and provisions related to board membership.

**Transition.** The SAB would continue in existence until September 1, 2024 for the sole purpose of transferring obligations, property, rights, powers, and duties to TFSC. All unexpended and unobligated funds under the management of the SAB would be transferred to the general revenue fund for the purpose of TFSC administrative duties related to donated bodies and anatomical specimens. All SAB rules would be continued in effect as TFSC rules until superseded by a new TFSC rule. Authorizations issued by the SAB would continue without a change in status.

For fiscal 2024, TFSC would be required to submit a quarterly report to the lieutenant governor, the speaker of the House, the Sunset Advisory Commission, and each standing committee with primary jurisdiction over TFSC on the progress of the transfer of powers and duties. By December 1, 2024, TFSC would submit legislative recommendations to the Sunset Advisory Commission and each applicable standing committee on improving TFSC's administration of its duties related to donated bodies and anatomical specimens. By the 60th day after the effective date, TFSC

would appoint members to the State Anatomical Advisory Committee. SAB members would continue to provide advice to TFSC until a majority of the members of the committee were appointed.

The bill would take effect September 1, 2023.

**SUPPORTERS  
SAY:**

CSSB 2040 would allow the state to more effectively oversee the distribution and use of donated bodies and anatomical specimens by abolishing the Anatomical Board of the State of Texas (SAB) and transferring its authority to the Texas Funeral Service Commission (TFSC). A lack of sufficient resources and funding, inadequate regulatory and enforcement authority, and an absence of staff has limited SAB's effectiveness. Transferring SAB's functions to TFSC would allow the state to more diligently continue its oversight of whole body donations while mitigating challenges caused by these structural issues. Additionally, the bill would address the risk of the appearance of potential conflicts of interest that can arise from SAB board members performing inspections of willed body programs connected to other institutions or facilities those board members represent.

CSSB 2040 also would more clearly establish statutory regulations for non-transplant anatomical donation organizations (NADOs), including private, for-profit companies operating across state lines, which are not currently provided for in code. By requiring NADOs to register with a national accreditation entity, the bill would provide greater oversight to such entities and prevent the emergence of bad actors within the state.

**CRITICS  
SAY:**

Rather than transferring SAB's authority to TFSC, SAB should be allowed to continue operating as a stand-alone agency. Lawmakers should provide for the funding, staffing, and other changes necessary for SAB to continue its duties and ensure that donated bodies are treated with dignity.

**OTHER  
CRITICS  
SAY:**

CSSB 2040 should establish formal rulemaking authority for subject matter experts within the State Anatomical Advisory Committee. Additionally, the structure of the advisory committee should be amended to more accurately reflect the larger proportion of willed body programs

compared to accredited NADOs that exists in the state.

**NOTES:**

According to the Legislative Budget Board, CSSB 2040 would have a negative impact of \$11,922 on general revenue related funds for fiscal 2024-25.