

BILL ANALYSIS

Senate Research Center

H.B. 2520
By: Gallego (Ellis)
Jurisprudence
5-17-97
Engrossed

DIGEST

The Joint General Investigating Committee (GIC) studied the conservatorship process while working to help the Texas Commission on Alcohol and Drug Abuse (TCADA) improve its administration and functions. TCADA has been the only state agency ever placed in conservatorship. GIC found the experience helpful in finding ways to improve the conservatorship process. This bill would change the current structure and function of the State Conservatorship Board.

PURPOSE

As proposed, H.B. 2520 changes the current structure and function of the State Conservatorship Board.

RULEMAKING AUTHORITY

Rulemaking authority is granted to a conservator appointed by the governor to act as the conservator of a state agency or public junior college in accordance with Chapter 2104, Government Code, Conservatorship as a Result of Fiscal Mismanagement, in SECTION 1 (Section 2104.014, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2104, Government Code, as follows:

CHAPTER 2104. CONSERVATORSHIP AS A RESULT OF FISCAL MISMANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2104.001. DEFINITIONS. Deletes the definition of "board." Defines "conservator."

SUBCHAPTER B. New heading: CONSERVATORS

Sec. 2104.011. New heading: APPOINTMENT OF CONSERVATOR; TERMS. Provides that a conservator, rather than the State Conservatorship Board (board), is appointed by the governor with the advice and consent of the senate. Deletes text providing that the board is composed of three members. Provides that a conservator's term expires on the earlier of the date the conservatorship for which the conservator is appointed dissolves or the second anniversary of the date of the conservator's appointment. Authorizes a conservator whose term expires before the conservatorship is dissolved to be reappointed to continue the conservatorship. Deletes existing Subsection (d). Makes conforming changes.

Sec. 2104.012. New heading: COMPENSATION OF CONSERVATOR. Provides that a conservator appointed to act as the conservator of a state agency or public junior college under this chapter is entitled to receive a salary for performing those duties that is equal to the salary of the chief administrative officer of the state agency or public junior college under conservatorship. Deletes existing Subsection (a). Requires the state agency or public junior college under conservatorship to pay the salary of the conservator from money appropriated or otherwise available to the state agency or public junior college, except to the extent that

money to pay the salary is specifically appropriated or made available through the budget execution process for that purpose. Deletes existing Subsection (d).

Sec. 2104.013. New heading: EXPENSES OF CONSERVATOR. Deletes text in regard to board members. Provides that a limit provided by appropriation on the amount of reimbursement that state officers or members of state boards and commissions may generally receive does not apply to reimbursement of the reasonable and necessary expenses incurred by a conservator in the course of performing duties under this chapter. Requires the reasonable and necessary expenses incurred by a conservator in the course of performing duties under this chapter to be paid from funds appropriated or otherwise available to the agency or public junior college under conservatorship, except to the extent that money to pay those expenses is specifically appropriated or made available through the budget execution process for that purpose. Deletes text in regard to expenses of the board.

Sec. 2104.014. RULES. Authorizes a conservator to adopt and enforce rules necessary to administer the conservatorship for which the conservator is appointed under this chapter. Authorizes a conservator to adopt initial rules on an emergency basis for the period prescribed by Section 2001.034 if the conservator determines that rules with immediate effect are necessary to ameliorate the effect of the gross fiscal mismanagement. Makes a conforming change.

Sec. 2104.015. ADMINISTRATIVE SERVICES. Makes a conforming change.

SUBCHAPTER C. CONSERVATORSHIP OF STATE AGENCIES

Sec. 2104.021. New heading: MISMANAGEMENT FINDING; RECOMMENDATION; CONSERVATORSHIP ORDER. Authorizes the legislative audit committee, on finding that a condition of gross fiscal mismanagement exists in a state agency, to notify the governor of the finding and recommend that the governor appoint a conservator for that agency; or recommend to the agency that it agree within a specified time to enter into a rehabilitation plan in accordance with Section 2104.0215. Deletes language requiring the legislative audit committee to notify the governor of certain findings of the committee. Authorizes the governor, after receipt of a notice under Subsection (a), by proclamation, to appoint a conservator, in accordance with the recommendation, to act as conservator of the agency. Makes a conforming change.

Sec. 2104.0215. REHABILITATION PLAN IN LIEU OF CONSERVATORSHIP. (a) Requires a state agency that agrees to enter into a rehabilitation plan to engage the services of an independent management consulting team approved by the governor and by the presiding officer and assistant presiding officer of the legislative audit committee. Authorizes the independent management consulting team to include the state auditor, one or more appropriate state agencies, and private consultants.

(b) Requires a state agency entering into the rehabilitation plan to pay the costs of the independent management consulting team's services from money appropriated or otherwise available to the agency, except that money to pay the costs is specifically appropriated or made available through the budget execution process for that purpose.

(c) Requires the independent management consulting team to assist the state agency in developing its rehabilitation plan. Requires the rehabilitation plan to include specific performance goals and the period in which the goals must be achieved. Requires the plan to be approved by the governing body of the agency and by the governor and the legislative audit committee.

(d) Authorizes the governor, if the state agency does not adopt the rehabilitation plan within a reasonable time or if the state auditor determines and informs the governor that the state agency is not making sufficient progress in implementing its rehabilitation plan, to appoint a conservator for the agency under Section 2104.021.

Sec. 2104.022. ASSUMPTION OF POLICY FUNCTIONS. Makes conforming changes.

Sec. 2104.023. New heading: CONSERVATORSHIP POWERS AND DUTIES. Makes conforming changes.

Sec. 2104.024. REPORT. Makes conforming changes.

Sec. 2104.025. DURATION OF CONSERVATORSHIP. Makes no changes.

SUBCHAPTER D. CONSERVATORSHIP OF PUBLIC JUNIOR COLLEGES

Sec. 2104.031. MISMANAGEMENT FINDING; CONSERVATORSHIP ORDER. Makes conforming changes.

Sec. 2104.032. REPORTS. Makes a conforming change.

Sec. 2104.033. DURATION OF CONSERVATORSHIP. Makes no changes.

SECTION 2. (a) Provides that the board as constituted on the effective date of this Act is abolished on the effective date of this Act unless on that date a state agency or public junior college is under the conservatorship of the board. Provides that if on the effective date of this Act a state agency or public junior college is under the conservatorship of the board, the board continues in existence under the law in effect immediately before the effective date of this Act, and the prior law is continued in effect for that purpose. Provides that the board is abolished on the date the conservatorship is dissolved.

(b) Makes application of this Act prospective.

SECTION 3. Emergency clause.

Effective date: upon passage.