

BILL ANALYSIS

Senate Research Center

H.B. 1033
By: Bosse (Madla)
Health Services
4/11/1999
Engrossed

DIGEST

In 1985, under the 69th Legislature, the Texas Cancer Council (council) was created to be the state's leader in coordinating partnerships between cancer prevention, detection, and treatment agencies and organizations. The council is responsible for developing, implementing, and promoting the Texas Cancer Plan, which is a comprehensive, statewide strategy for addressing the challenge of cancer control, and also grants funds to public or private entities that conduct cancer control efforts. The council is required to report to the legislature no later than January 31 of each odd-numbered year. However, since 1993, the council has submitted a cover letter, a strategic plan, and the most current agency brochure in place of a traditional biennial report. The council is subject to the Sunset Act (Chapter 325, Government Code) and will be abolished on September 1, 1999, unless continued by the legislature. H.B. 1033 continues the council for 12 years and establishes certain standards.

PURPOSE

As proposed, H.B. 1033 continues the Texas Cancer Council.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 102.002-102.004, and 102.0041, Health and Safety Code, as follows:

Sec. 102.002. TEXAS CANCER COUNCIL. Requires the Texas Cancer Council (council) to work to implement the Texas Cancer Plan.

Sec. 102.003. SUNSET PROVISION. Provides that the council is abolished and this chapter expires September 1, 2011, rather than 1999.

Sec. 102.004. COMPOSITION OF COUNCIL. Provides that the council is composed of the chairman of the Texas Board of Health, or a representative appointed by the chairman, who serves as an ex officio nonvoting member; a representative of a licensed health care facility; or one licensed health care professional active in the treatment or control of cancer, other than a physician, appointed by the governor; one licensed health care professional active in the treatment or control of cancer, other than a physician, appointed by the lieutenant governor; and one licensed health care professional active in the treatment or control of cancer, other than a physician, appointed by the speaker of the house of representatives. Requires the governor, lieutenant governor, and speaker of the house of representative to attempt to include cancer survivors and family members of cancer patients, if possible, in making appointments to the council. Deletes text regarding the composition of the council. Makes conforming and substantive changes.

Sec. 102.0041. New heading: QUALIFICATIONS OF COUNCIL MEMBERS AND EMPLOYEES. Defines "Texas trade association." Prohibits a person from being a public member of the council, if the person or the person's spouse is employed by or participated in the management of a business entity or other organization receiving money from the council; owns or controls, directly or indirectly money, rather than funds, from the council. Prohibits a person from being a member of the council and from being a council employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposed of established an exemption to the overtime provision of the Federal Fair Labor Standards Act of

1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if certain conditions exist. Prohibits a person from being a member of the council or act as the general counsel to the council or the council's staff, if the person is required to register as a lobbyist. Sets forth provisions for removal from the council. Provides that the validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists. Requires the executive director to notify the presiding officer of the council of the potential ground, if the executive director has knowledge that a potential ground for removal exists. Requires the presiding officer to then notify the appointing authority and the attorney general that a potential ground for removal exists. Requires the executive director to notify the next highest ranking officer of the council, who shall then notify the appointing authority and the attorney general that a potential ground for removal exists, if the potential ground for removal involves the presiding officer. Deletes text regarding certain qualifications of members of the council. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 102.005(a), Health and Safety Code, to provide that council members serve for staggered six-year terms, with the terms of five, rather than four, members expiring February 1 of each even-numbered year, except for the ex-officio member of the council. Deletes text regarding the legislature or a representative of a state agency.

SECTION 3. Amends Sections 102.006 and 102.008, Health and Safety Code, as follows:

Sec. 102.006. OFFICERS. Requires the governor to designate a member of the council, other than the ex officio member, as the presiding officer of the council to serve in that capacity at the pleasure of the governor, rather than chairman.

Sec. 102.008. MEETINGS. Requires the council to meet at the call of the presiding officer. Requires the council to develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

SECTION 4. Amends Sections 102.009(a) and (b), Health and Safety Code, to delete text regarding a report to the legislature, no later than January 31 of each odd-numbered year, and the secretary.

SECTION 5. Amends Chapter 102, Health and Safety Code, by adding Sections 102.011 and 102.013-102.016, as follows:

Sec. 102.011. STANDARDS OF CONDUCT. Requires the executive director or executive director's designee to provide to members of the council and council employees, as often as necessary, information regarding the requirements for office or employment under this chapter.

Sec. 102.013. TRAINING. Prohibits a person who is appointed to and qualifies for office as a member of the council from voting, deliberating, or being counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section. Requires the training program to provide the person with certain information. Entitles a person appointed to the council to reimbursement, as provided by the General Appropriations Act, for travel expenses incurred in attending the training program regardless of whether attendance at the program occurs before or after the person qualifies for office.

Sec. 102.014. SEPARATION OF RESPONSIBILITIES. Requires the council to develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the executive director and the staff of the council.

Sec. 102.015. COMPLAINTS. Requires the council to maintain a file on each written complaint filed with the council. Requires the file to include certain requirements. Requires the council to provide to the person filing the complaints and to each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution. Requires the council, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 102.016. EQUAL EMPLOYMENT OPPORTUNITY. Requires the executive director or

the executive director's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made with regard to race, color, disability, sex, religion, age, or national origin. Requires the policy statement to include certain provisions. Requires the policy statement to be updated, be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1) and to be filed with the governor's office.

SECTION 6. Provides that on the effective date of this Act, the membership positions of certain persons on the council are abolished and those persons cease to be members. Provides that as soon as possible on or after the effective date of this Act, certain requirements must be met. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.