

BILL ANALYSIS

Senate Research Center
76R550 JRD-D

H.B. 81
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Finance
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Engrossed

DIGEST

Currently, the governor appoints the three-member State Conservatorship Board to oversee state agencies and public junior colleges that have demonstrated fiscal mismanagement. The board may be assigned to one or more agencies, and board members do not receive a salary. This bill would authorize the governor to appoint a conservator, rather than a board, for specific agencies; would entitle a conservator to receive a salary; and would provide that the governor recommend a state agency or public junior college to enter into a rehabilitation plan in lieu of a conservatorship.

PURPOSE

As proposed, H.B. 81 establishes procedures for the proclamation of conservatorship of state agencies and public junior colleges as a result of fiscal mismanagement.

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 Chapter 2104, Government Code, as follows:

CHAPTER 2104. CONSERVATORSHIP AS A RESULT OF FISCAL MISMANAGEMENT SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2104.001. DEFINITIONS. Defines “conservator.”

SUBCHAPTER B. New heading: CONSERVATORS

Sec. 2104.011. New heading: APPOINTMENT OF CONSERVATOR; TERMS. Provides that a conservator is appointed by the governor, rather than the State Conservator Board (board) is composed of appointed three members. Provides that a conservator’s term expires on the earlier of the date the conservatorship is dissolved or the second anniversary of the conservator’s appointment and authorizes a conservator to be reappointed after the expiration of the term. Deletes text regarding terms of office for members.

Sec. 2104.012. New heading: COMPENSATION OF CONSERVATOR. Entitles a conservator of a state agency or public junior college to receive a salary that is equal to the salary of the chief administrative officer of the state agency or public junior college. Requires the state agency or public junior college to pay the salary from money appropriated or available to the agency or junior college, unless the money to pay the salary is specifically appropriated through the budget execution process. Deletes a provision regarding the appointment of a presiding officer. Deletes a provision establishing meeting times of the board.

Sec. 2104.013. New heading: EXPENSES OF CONSERVATOR. Provides that a limit provided by appropriation on the amount of reimbursement that state officers are authorized to receive does not apply to reimbursement of the expenses incurred by a conservator, rather than members of the board, in the course of performing duties under this chapter. Requires the expenses of the conservator to be paid from the funds appropriated to an agency or public junior college, except that to the extent that money to pay those expenses is specifically appropriated or made available through the budget execution process for that purpose. Deletes a provision prohibiting a board

member from receiving compensation.

Sec. 2104.014. RULES. Authorizes a conservator to adopt and enforce rules necessary to administer a conservatorship. Authorizes a conservator to adopt initial rules on an emergency basis for the period described 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 the governor appoint a conservator for the 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. Authorizes the governor to appoint a conservator over an agency after receiving such notice.

Sec. 2104.0215. REHABILITATION PLAN IN LIEU OF CONSERVATORSHIP. Requires a state agency that agrees to enter into a rehabilitation plan to engage the services of an independent management consulting team (team), authorized to include the state auditor, appropriate state agencies, and private consultants, with the approval of certain office holders. Requires the state agency to pay the costs of the team. Requires the team to assist the state agency to develop a rehabilitation plan. The rehabilitation plan is required to include specific performance goals, a deadline of completion, and must receive approval from the governor, the governing body of the agency, and the legislative audit committee. Authorizes the governor to appoint a conservator over the agency if the agency does not adopt the rehabilitation plan within a reasonable time or if the state auditor determines and informs the governor that progress is not being made in implementing the rehabilitation program.

Sec. 2104.022. ASSUMPTION OF POLICY FUNCTIONS. Requires the appointed conservator to assume all powers and duties of the officers responsible for policy direction of the state agency that is subject to the proclamation, rather than order. Makes a conforming change.

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

Sec. 2104.024. REPORT. Makes conforming changes.

Sec. 2104.025. DURATION OF CONSERVATORSHIP. Sets forth the duration of a conservatorship of a state agency.

SUBCHAPTER D. CONSERVATORSHIP OF PUBLIC JUNIOR COLLEGES

Sec. 2104.031. MISMANAGEMENT FINDING; CONSERVATORSHIP ORDER. Authorizes the governor, by proclamation, to appoint a conservator for a public junior college, rather than order a board to act as conservator of the college. Makes conforming changes.

Sec. 2104.032. REPORTS. Makes a conforming change.

Sec. 2104.033. DURATION OF CONSERVATORSHIP. Sets forth the duration of a conservatorship of a public junior college.

SECTION 2. Provides that the State Conservatorship Board 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. Makes application of this act prospective.

SECTION 3. Emergency clause.
Effective date: upon passage.