

## **BILL ANALYSIS**

Senate Research Center  
77R14790 YDB-D

C.S.H.B. 1691  
By: Maxey (Madla)  
Health & Human Services  
5/8/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The Texas Council on Purchasing from People with Disabilities (council) administers the State Use Program (program) to further the state's policy of encouraging and assisting persons with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities. After the program's central nonprofit agency, the Texas Industries for the Blind and Handicapped (TIBH), filed suit against the council and brought attention to the disputes between TIBH and the council and other problems, the House Committee on General Investigating reviewed the program. The committee found that the dysfunctional relationship between the council and TIBH is largely the result of ambiguous statutory language. C.S.H.B. 1691 grants the council additional authority to effectively administer the program as recommended by the committee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Council on Purchasing from People with Disabilities in SECTION 6 (Section 122.013, Human Resources Code) and in SECTION 9 (Section 122.0215, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 122.003(a), Human Resources Code, to add language to provide that the Texas Council on Purchasing from People with Disabilities (council) is composed of certain members, including persons with disabilities. Adds language to require the governor to select at least one member from each category prescribed by Subsection (a), and to the extent possible, attempt to ensure each category is proportionately represented on the council.

SECTION 2. Amends Chapter 122, Human Resources Code, by adding Section 122.0055, as follows:

Sec. 122.0055. COUNCIL STAFF. (a) Authorizes the council to employ staff as necessary to carry out the council's duties.

(b) Requires the staff to provide management oversight for the administration of this chapter and policy guidance and administrative support to the council.

SECTION 3. Amends Chapter 122, Human Resources Code, by adding Section 122.0057, as follows:

Sec. 122.0057. ADVISORY COMMITTEE. (a) Authorizes the council to establish an advisory committee if the council considers the committee necessary. Provides that the membership of the committee is determined by the council.

(b) Requires the council to specify the purpose and duties of the advisory committee, which must include certain duties.

(c) Provides that members of an advisory committee serve at the will of the council. Authorizes the council to dissolve an advisory committee when appropriate.

(d) Requires the council to make reasonable attempts to have balanced representation on all advisory committees, including attempting to seek representation from certain entities.

SECTION 4. Amends Chapter 122, Human Resources Code, by adding Section 122.0095, as follows:

Sec. 122.0095. AGENCY COMPLIANCE; NONPROGRAM PURCHASING REPORT.

(a) Requires each state agency that purchases products or services through a program under this chapter to carry out certain duties.

(b) Authorizes a report under this section to be based on a sampling of purchases by the agency in an audit conducted after the purchases.

(c) Requires information in the report under this section to be included with the exception reports provided under Section 122.016.

(d) Requires the General Services Commission (commission) to post the reports required by Subsection (a)(2) on the commission's website.

SECTION 5. Amends Section 122.012, Human Resources Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the commission to provide legal and other necessary support to the council in accordance with legislative appropriation. Requires the commission to assign an upper-level management employee to ensure that the commission meets the requirements of this chapter.

(d) Requires the commission to include the programs administered under this chapter in the commission's procurement policy manuals.

SECTION 6. Amends Section 122.013, Human Resources Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the council, rather than authorizes the council, to adopt certain rules.

(c) Requires the council to adopt certain rules.

SECTION 7. Amends Section 122.019, Human Resources Code, by amending Subsections (a), (d), (e), and (f) and adding Subsections (g), (h), and (i), as follows:

(a) Authorizes the council to select and contract with one or more central nonprofit agencies through a request for proposals for a period not to exceed five years. Requires the council, once the selection process is completed, to contract with a central nonprofit agency to carry out certain duties.

(d) Changes language to authorize, rather than require, the council, as least once during each five-year, rather than two-year period, to review and renegotiate the contract with a central nonprofit agency.

(e) Adds language to require the management fee rate to be reviewed on an annual basis.

(f) Adds language to include the direct and reasonable costs incurred by the council and the

council staff to be included in those costs to for which the general revenue fund is reimbursed and makes a conforming change.

(g) Authorizes the council to terminate a contract with a central nonprofit agency under certain conditions.

(h) Authorizes the council to request an audit by the state auditor of certain fees and conditions.

(i) Prohibits a person from operating a community rehabilitation program and at the same time contract with the council as a central nonprofit agency.

SECTION 8. Amends Chapter 122, Human Resources Code, by adding Section 122.0205, as follows:

Sec. 122.0205. ALTERNATIVE DISPUTE RESOLUTION. (a) Requires a dispute between the council and a central nonprofit agency or a community rehabilitation program to be first submitted to alternative dispute resolution.

(b) Provides that this section does not constitute authorization to sue and does not modify the remedies available under other law.

(c) Provides that this section does not limit the council's ability to request opinions from the attorney general.

SECTION 9. Amends Chapter 122, Human Resources Code, by adding Section 122.0215, as follows:

Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS. (a) Authorizes the council and the council's staff to access financial or other information from a central nonprofit agency or a community rehabilitation program if the council determines the information and records are necessary for the effective administration of this chapter and rules adopted under this chapter.

(b) Requires information and records to be obtained under Subsection (a) in recognition of the privacy interest of persons employed by central nonprofit agencies or community rehabilitation programs. Prohibits the information and records from being released or made public on subpoena or otherwise, except under certain conditions.

(c) Requires the council to adopt rules establishing procedures to ensure that the information and records maintained by the council under this chapter are kept confidential and protected from release to unauthorized persons.

SECTION 10. Amends Section 122.022(b), Human Resources Code, to add language relating to certain information required to be included in the report submitted under this section.

SECTION 11. Effective date: September 1, 2001.

SECTION 12. Makes application of this Act prospective.