

BILL ANALYSIS

Senate Research Center

H.B. 3441
By: Pickett (Staples)
Finance
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Engrossed

DIGEST AND PURPOSE

Due to the current budget shortfall, state agencies and institutions of higher education were asked to prioritize spending based on core functions and essential services. Legislators looked to these priorities in preparation of the budget; however, certain statutory changes are also needed to conform with appropriations levels in the 2004-05 General Appropriations Act. H.B. 3441 authorizes several statutory changes for the general government agencies listed under Article I of the 2004-05 General Appropriations Act.

RULEMAKING AUTHORITY

Provides that a rule, form, order, or procedure adopted by the Commission on Human Rights is a rule, form, order, or procedure of the attorney general's civil rights division and remains in effect until changed by the attorney general in SECTION 17 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 21, Labor Code, by adding Section 21.0015, as follows:

Sec. 21.0015. ATTORNEY GENERAL'S CIVIL RIGHTS DIVISION. Provides that the powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the attorney general's civil rights division. Provides that a reference in this chapter to the "commission" means the attorney general's civil rights division.

SECTION 2. Amends Subchapter A, Chapter 301, Property Code, by adding Section 301.0015, as follows:

Sec. 301.0015. ATTORNEY GENERAL'S CIVIL RIGHTS DIVISION. Provides that the powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the attorney general's civil rights division. Provides that a reference in this chapter to the "commission" means the attorney general's civil rights division.

SECTION 3. Amends Chapter 402, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. CIVIL RIGHTS DIVISION

Sec. 402.101. DEFINITIONS. Defines "commission," "director," and "division."

Sec. 402.102. GENERAL PROVISIONS. (a) Provides that the division is an independent division in the attorney general's office. Requires the division to be responsible for administering Chapter 21, Labor Code, and Chapter 301, Property Code, including exercising the powers and duties formerly exercised by the former Commission on Human Rights under those laws.

(b) Provides that a reference in Chapter 21, Labor Code, Chapter 301, Property Code, or any other law to the former Commission on Human Rights means the division.

Sec. 402.103. COMMISSION. (a) Provides that the division is governed by a commission consisting of seven certain members.

(b) Requires the members of the commission established under this section to be appointed by the governor. Provides that in making appointments to the commission, the governor must strive to achieve representation on the commission that is diverse with respect to disability, religion, age, economic status, sex, race, and ethnicity.

(c) Requires the governor to appoint the public members of the commission from a list of names of individuals suggested by civil rights organizations and groups.

(d) Provides that the term of office of each commissioner is six years. Requires the governor to designate one commissioner to serve as presiding officer.

(e) Provides that a commissioner is entitled to reimbursement of actual and necessary expenses incurred in the performance of official duties.

(f) Requires the commission to establish policies for the division and supervise the director in administering the activities of the division.

(g) Provides that the commission is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to perform certain tasks.

Sec. 402.104. DIRECTOR. (a) Requires the director to be appointed by the commission to administer the powers and duties of the division.

(b) Requires the director, to be eligible for appointment, to have relevant experience in the area of civil rights, specifically in working to prevent the types of discrimination the division is charged with preventing. Requires the director to demonstrate a commitment to equal opportunity for minorities, women, and the disabled. Provides that the director should also have relevant experience with housing and employment discrimination claims.

Sec. 402.105. INVESTIGATOR TRAINING PROGRAM; PROCEDURES MANUAL.

(a) Prohibits a person who is employed under this chapter by the division as an investigator from conducting an investigation until the person completes a comprehensive training and education program for investigators that complies with this section.

(b) Requires the training program to provide the person with certain information.

(c) Requires each investigator to annually complete a continuing education program designed to provide investigators with the most recent information available regarding the issues described by Subsection (b), including legislative and judicial changes in the law.

(d) Requires the director to develop and biennially update an investigation procedures manual. Requires the manual to include investigation procedures and information and authorizes it to include information regarding the Equal Employment Opportunity Commission and the United States Department of Housing and Urban Development.

Sec. 402.106. ANALYSIS OF DISCRIMINATION COMPLAINTS; REPORT. (a) Requires the division to collect and report statewide information relating to employment and housing discrimination complaints as required by this section.

(b) Requires the division, each state fiscal year, to collect and analyze information regarding employment and housing discrimination complaints filed

with the division, the Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and local commissions in this state. Requires the information to include certain data.

(c) Requires the results of an analysis required under this section to be included in the attorney general's annual report to the governor and legislature.

SECTION 4. Amends Section 412.016(b), Government Code, to authorize the attorney general, if the legislature does not appropriate money to the crime victims' institute, to determine whether the institute must perform the duties prescribed by this chapter.

SECTION 5. Amends the heading for Section 443.0101, Government Code, to read as follows:

Sec. 443.0101. CAPITOL TRUST FUND; CAPITOL ACCOUNT.

SECTION 6. Amends Section 443.0101(a), Government Code, to require money and securities donated to the State Preservation Board to be held in the Capitol trust fund outside the treasury to be held by the comptroller as trustee on behalf of the people of the state. Requires funds other than donated funds to be deposited in the general revenue fund in an account, rather than a special fund, to be known as the Capitol account, rather than fund. Makes a conforming change.

SECTION 7. Amends Section 443.0103, Government Code, as follows:

Sec. 443.0103. New heading: CAPITAL RENEWAL ACCOUNT. (a) Provides that the capital renewal account, rather than trust fund, is created as a dedicated account in the general revenue fund. Authorizes money in the account to be used only to maintain and preserve the Capitol, the General Land Office Building, their contents, and their grounds. Replaces "fund" with "account." Makes conforming changes.

(c) and (d) Makes conforming changes.

Deletes Subsection (b), authorizing money in the fund to be used only for the purpose of maintaining and preserving the Capitol, the General Land Office Building, their contents, and their grounds.

SECTION 8. Amends Section 445.012, Government Code, as follows:

Sec. 445.012. New heading: MUSEUM ACCOUNT. (a) Requires money and securities received by the museum to be deposited in the general revenue fund, rather than held in trust outside the treasury by the comptroller, in an account, rather than a special fund, to be known as the Bob Bullock Texas State History Museum account, rather than fund. Authorizes the museum to spend money received by the museum for any purpose connected with the museum.

(b), (c), (e), and (f) Makes conforming changes.

(d) Authorizes, rather than requires, the state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, to review the annual report on the account.

SECTION 9. Amends Section 1551.003, Insurance Code, as effective June 1, 2003, by amending Subdivisions (3), (9), and (11) to redefine "basic coverage," "full-time employee," "part-time employee," and adding Subdivision (15) to define "waiting period."

SECTION 10. Amends Section 1551.101, Insurance Code, as effective June 1, 2003, by amending Subsections (a), (b), and (e) and by adding Subsection (f), as follows:

(a) Provides that an elected or appointed officer or employee who performs service, other than as an independent contractor, for this state, including an institution of higher

education, and who is described by this section is eligible to participate in the group benefits program as an employee on the first day of the calendar month that follows the waiting period of the employee or officer.

(b) Provides that on the first day of the calendar month that follows an individual's waiting period, the individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual receives compensation for service performed for this state pursuant to a payroll certified by a state agency, other than an institution of higher education, or by an elected or appointed officer of this state, including certain payments.

(e) Makes conforming changes.

(f) Provides that the waiting period described by Subsections (a), (b), and (e) applies only in determining the eligibility of an employee or officer to participate in health benefits coverage under the group benefits program. Provides that the waiting period does not apply in determining the eligibility of an officer or employee to participate in optional and voluntary insurance coverages under the group benefits program.

SECTION 11. Amends Sections 1551.102(a), (b), (c), (d), (f), and (g), Insurance Code, as effective June 1, 2003, to conform to Section 27, Chapter 1231, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Provides that an individual who has at least 10 years of service credit, as determined by the board of trustees, for which the individual was eligible to participate in the group benefits program under Section 1551.101, or who has at least five years of membership and five years of military service credited in the Employees Retirement System of Texas, and who retires in a manner described by this section is eligible to participate as an annuitant in the group benefits program. Provides that an individual who does not retire at the end of the last month in which the individual is on the payroll of a state agency is eligible to enroll in the group benefits program as an annuitant on the first day of the calendar month that follows a period of time equal to the number of days in a waiting period after the date the individual retires.

(b) Provides that an individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retires under the jurisdiction of the Employees Retirement System of Texas and receives or is eligible to receive an annuity under certain statutes.

(c) Provides that an individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual retires under the jurisdiction of the Teacher Retirement System of Texas, has at least 10 years of eligible service credit, meets other requirements.

(d) Provides that an individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual meets certain requirements.

(f) Provides that an individual is eligible to participate as an annuitant in the group benefits program if the individual is certified and qualified as disabled and receives or is eligible to receive an annuity under Section 814.202, 814.207, 834.201, or 839.201, Government Code.

(g) Provides that an individual is eligible to participate in the group benefits program as provided by Subsection (a) if the individual is at least 65 years of age and retires under a federal or state statutory retirement program not described by another provision of this section.

SECTION 12. Amends Section 1551.104, Insurance Code, as effective June 1, 2003, to make conforming changes and to add a new Subdivision (3) to proposed text. Deletes Subsection (b).

SECTION 13. Amends Section 1551.109(a), Insurance Code, as effective June 1, 2003, to provide that subject to Section 1551.351, on application to the board of trustees and arrangement for payment of contributions, an individual participating in the group benefits program on August 31, 2003, as a current or a former member of a governing body with administrative responsibility over a statutory state agency that has statewide jurisdiction and whose employees are covered by this chapter, or an individual participating in the group benefits program on August 31, 2003, as a current or former member of the State Board of Education or of the governing body of an institution of higher education remains eligible for participation in a health benefit plan offered under this chapter if a lapse in coverage has not occurred.

SECTION 14. Amends Section 1551.111(b), Insurance Code, as effective June 1, 2003, to provide that participation is limited to certain individuals.

SECTION 15. Amends Section 1551.112(a), Insurance Code, as effective June 1, 2003, to authorize an individual to participate in the group benefits program as an annuitant and to obtain coverage for the individual's dependents as any other participating annuitant if the individual retires or is eligible to retire with at least 10 years of service credit under the proportionate retirement program established by Chapter 803, Government Code, or under a public retirement system to which Chapter 803 applies and is at least 65 years of age.

SECTION 16. Amends Sections 2.014(c) and (d), Family Code, as follows:

(c) Authorizes, rather than requires, the premarital education handbook under Subsection (b)(1) to be distributed to each applicant for a marriage license as provided by Section 2.009(c)(5).

(d) Authorizes, rather than requires, the attorney general to appoint an advisory committee to assist in the development of the premarital education handbook. Requires the advisory committee, if appointed, to consist of nine members, including at least three members who are eligible under Section 2.013(d) to provide a premarital education course.

SECTION 17. Provides that on September 1, 2003:

(1) the Commission on Human Rights as it exists immediately before that date is abolished and the offices of the members of the commission serving on that date are abolished;

(2) all powers, duties, functions, and activities performed by the Commission on Human Rights immediately before that date are transferred to the attorney general's civil rights division;

(3) a rule, form, order, or procedure adopted by the Commission on Human Rights is a rule, form, order, or procedure of the attorney general's civil rights division and remains in effect until changed by the attorney general;

(4) a reference in law to the Commission on Human Rights means the attorney general's civil rights division;

(5) a complaint, investigation, or other proceeding pending before the Commission on Human Rights under Chapter 21, Labor Code, Chapter 301, Property Code, or any other law is transferred without change in status to the attorney general's civil rights division;

(6) all obligations, rights, and contracts of the Commission on Human Rights are transferred to the attorney general's civil rights division; and

(7) all property, including records and money, in the custody of the Commission on Human Rights and all funds appropriated by the legislature for the Commission on Human Rights, including federal funds, must be transferred to the attorney general's civil rights division.

SECTION 18. Requires the governor, not later than November 1, 2003, to appoint new members to the Commission on Human Rights established under Subchapter D, Chapter 402, Government Code, as added by this Act. Requires the governor, in appointing members under this section, to appoint certain members for specified terms.

SECTION 19. Provides that notwithstanding any statute of this state, each state agency that receives an appropriation under Article I of the General Appropriations Act is authorized to reduce or recover expenditures by adopting and collecting fees or charges to cover any cost the agency incurs in performing its lawful functions.

SECTION 20. Repealer:

- (1) Sections 251.032, 254.036(j), and 258.005, Election Code;
- (2) Chapter 461, Government Code;
- (3) Sections 572.030(b) and (c), Government Code;
- (4) Sections 1551.101(c) and (d), Insurance Code, as effective June 1, 2003;
- (5) Sections 21.002(2) and (3), Labor Code; and
- (6) Sections 301.003(3), 301.061, and 301.064, Property Code.

SECTION 21. Effective date: upon passage or September 1, 2003.