

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3441
By: Pickett (Staples)
Finance
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Committee Report (Substituted)

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. C.S.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 13 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 (SPB) and income from the capitol gift shops, cafeteria, and visitors parking garage as authorized by this chapter 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 and income from the capitol gift shops, cafeteria, and visitors parking garage as authorized by this chapter 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. Requires the comptroller to manage and invest the account, rather than fund, on behalf of the SPB, and all interest, dividends, and other income of the account to be credited to the account.

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 2108.037(b), Government Code, to require the affected agency, except as otherwise provided by this subsection, to retain the amount of the actual or projected savings or increased revenues attributable to an implemented suggestion, to the extent that the savings comes from funds appropriated to the affected agency. Authorizes a portion of the savings or revenues to be transferred to the Texas Incentive and Productivity Commission (TIPC) as specified in the General Appropriations Act (GAA) for use by TIPC for operational expenses.

SECTION 9. Amends Section 2165.056(a), Government Code, to authorize TIPC, at the request of the Texas Department of Transportation or Texas Department of Criminal Justice, and requires TIPC, for all other agencies, to exercise the powers and duties given to TIPC by this subchapter and Subchapters A, D, E, and F, on or with respect to any property owned or leased by the state.

SECTION 10. Amends Subchapter B, Chapter 2165, Government Code, by adding Section 2165.057, as follows:

Sec. 2165.057. ANNUAL REPORT. Requires TIPC, not later than September 1 of each year, to perform certain acts.

SECTION 11. Amends Section 2165.104, Government Code, by amending Subsection (c) and

adding Subsection (c-1), as follows:

(c) Provides that this subsection does not apply to an agency site at which TIPC determines that it is not practical to apply this subsection because of the type of space or use of space at that site. Deletes text regarding critical public or client services and text regarding certain agencies requiring to allocate certain space to achieve a required ratio.

(c-1) Authorizes TIPC , for good cause and when critical to the public interest or client services, to grant to an agency a waiver of the requirements under Subsection (c).

SECTION 12. 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 13. 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 14. 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 15. (a) Requires the first report required under Section 2165.057, Government Code, as added by this Act, to be provided to the appropriate recipients specified under that section not

later than September 1, 2004.

(b) Provides that the change in law made by this Act to Chapter 2165, Government Code, applies only to a lease for usable office space entered into or renewed on or after September 1, 2003. Requires a lease entered into or renewed before September 1, 2003, to be reviewed by TBPC as the lease comes up for renewal to determine whether it would be cost-effective to bring the lease into compliance with Section 2165.104(c), Government Code, as amended by this Act.

(c) Authorizes TxDOT, notwithstanding any other law, including Subchapter A, Chapter 2254, and Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001, Transportation Code, to enter into one or more agreements with a private entity offering the best value to the state that includes certain factors.

(d) Provides that to the extent of any conflict between Chapter 2165, Government Code, as amended by this Act, and a change in law to that chapter by any other Act of the 78th Legislature, Regular Session, 2003, this Act prevails.

SECTION 16. (a) Provides that notwithstanding any statute of this state, each state agency that receives an appropriation under Article I of GAA 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.

(b) Prohibits an agency described by Subsection (a) of this section from increasing the amount of a fee or charge solely for a purpose described by this section unless the agency provides written notice of the increase to the Legislative Budget Board before the 60th day preceding the date the increase is to take effect.

SECTION 17. Repealer: Sections 251.032 (Forms), 254.036(j) (Form of Report; Affidavit; Mailing of Forms), and 258.005 (Forms), Election Code; Chapter 461 (Commission on Human Rights), Government Code; Sections 572.030(b) and (c) (Preparation and Mailing of Forms), Government Code; Sections 21.002(2) and (3) (Definitions: "Commission" and "Commissioner"), Labor Code; and Sections 301.003(3) (Definitions: "Commission"), 301.061 (Commission on Human Rights), and 301.064 (Delegation of Authority), Property Code.

SECTION 18. Effective date: upon passage or September 1, 2003, except as provided by Subsection (b) of this section.

(b) Provides that Sections 6 and 7 of this Act take effect September 1, 2003.