

BILL ANALYSIS

Senate Research Center
83R3270 VOO-F

S.B. 217
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Government Organization
3/27/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State Employee Charitable Campaign (SECC) is the state's voluntary workplace giving campaign that provides state employees the option to donate to eligible charities through the convenience of payroll deduction. SECC operates without state appropriations or dedicated staff, but the state must ensure SECC conducts activities fairly and equitably to protect the approximately 47,500 participating state employees.

SECC is subject to the Sunset Act and will be abolished on September 1, 2013, unless continued by the legislature. While the Sunset Advisory Commission concluded that SECC benefits state employees who choose to donate to charities through payroll deduction, its structure is outdated and no longer effective in meeting the changing needs of the campaign.

S.B. 217 continues SECC and clearly establishes the state policy committee's role in leading and overseeing the campaign; requires the comptroller of public accounts of the State of Texas to provide administrative support to the state policy committee; restructures the composition and terms of the state policy committee and the state advisory committee; removes the statutory exemption that allows charities that participated in SECC before 2003 to have administrative costs that exceed 25 percent; and removes SECC from future Sunset review and specifies any operational changes to the administration of future campaigns would apply only to a campaign conducted on or after January 1, 2014.

As proposed, S.B. 217 amends current law relating to the continuation and functions of the state employee charitable campaign.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 18 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 659.131(11), Government Code, to redefine "local campaign area."

SECTION 2. Amends Section 659.132(g), Government Code, to require that an authorization from a state employee direct the comptroller of public accounts of the State of Texas (comptroller) to distribute the deducted funds to a participating federation or fund or local charitable organization selected by the state employee charitable campaign policy committee (state policy committee) as prescribed by rule, rather than to a participating federation or fund and a local campaign manager as prescribed by rule.

SECTION 3. Amends Section 659.133(a), Government Code, to require the state campaign manager, rather than each campaign manager, any local employee committee or local campaign manager appointed by the state policy committee, each charitable organization, each state employee, and each state agency to inform state employees that deductions are voluntary.

SECTION 4. Amends Section 659.140, Government Code, by amending Subsections (a), (b), and (e) and adding Subsections (c-1) and (e-1), as follows:

(a) Requires the state policy committee to consist of nine members, rather than 13 members.

(b) Requires the governor, with the advice and consent of the senate, to appoint two members, rather than four members, who are state employees at the time of their appointment and one member, rather than three members, who is a retired state employee receiving benefits under Chapter 814 (Benefits). Requires, rather than authorizes, the lieutenant governor and the comptroller to appoint three members each. Requires an appointment to the state policy committee to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Requires the state policy committee to elect a chair biennially from its own membership. Makes conforming and nonsubstantive changes.

(c-1) Requires the governor, lieutenant governor, and comptroller to attempt to appoint members to the state policy committee from institutions of higher education and a range of small, medium, and large state agencies.

(e) Requires the state policy committee to:

(1) establish the organization and structure of the state employee charitable campaign at the state and local levels, including:

(A) establishing local campaign areas;

(B) appointing any local employee committees the state policy committee considers necessary to assist the state policy committee with evaluating applications from organizations that seek to participate in the state employee charitable campaign only in a local campaign area; and

(C) appointing any local campaign managers the state policy committee considers necessary to administer the state employee charitable campaign in a local campaign area;

(2) develop a strategic plan for the state employee charitable campaign and make changes to improve the campaign as necessary;

(3) in coordination with the state campaign manager, post on the state employee charitable campaign Internet website annual summary information regarding the state employee charitable campaign's performance, including information about:

(A) state employee participation;

(B) the amount of donations pledged and collected;

(C) the amount of donations pledged to and received by each charitable organization;

(D) the total cost to administer the state employee charitable campaign; and

(E) the balance of any surplus account maintained by the state policy committee;

(4) select as the state campaign manager:

(A) a federated community campaign organization; or

(B) a charitable organization determined by the state policy committee to have demonstrated the capacity to conduct a state campaign;

(5) enter into a contract with the state campaign manager selected under Subdivision (4) for the administration of the state employee charitable campaign;

(6) determine the eligibility of:

(A) a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign; and

(B) if the state policy committee does not appoint a local employee committee, a charitable organization for participation in the state employee charitable campaign in a local campaign area;

(7) develop in coordination with the state campaign manager, review, and approve:

(A) an annual campaign plan;

(B) an annual budget, including:

(i) costs related to contracting for the administration of the state employee charitable campaign at the state and local levels;

(ii) costs related to changes or improvements to the state employee charitable campaign; and

(iii) other costs determined and prioritized by the state policy committee; and

(C) generic materials to be used for the campaign;

(8) oversee the state employee charitable campaign to ensure that all:

(A) campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(B) donations are appropriately distributed by a federation or fund or a charitable organization that receives money from the state employee charitable campaign; and

(9) perform other duties prescribed by the comptroller's rules.

(e-1) Requires the comptroller to provide administrative support to the state policy committee, including assistance in:

(1) developing and overseeing contracts;

(2) developing the budget of the state employee charitable campaign; and

(3) any other administrative function the state policy committee determines is necessary.

Deletes existing text requiring the state policy committee to establish local campaign areas based on recommendations by the state employee charitable campaign advisory committee (advisory committee), and approve the recommended campaign plan budget and generic materials to be used by campaign managers. Makes conforming and nonsubstantive changes.

SECTION 5. Reenacts Section 659.140(c), Government Code, as amended by Chapters 280 (H.B. 1608), 1249 (S.B. 1664), and 1015 (H.B. 2549), Acts of the 82nd Legislature, Regular Session, 2011, and amends it as follows:

(c) Deletes existing text prohibiting a member of the state policy committee from receiving compensation for serving on the state policy committee and from being entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee. Requires the state policy committee to:

- (1) be composed of employees and retired state employees receiving benefits under Chapter 814; and
- (2) in its membership, represent employees at different levels of employee classification.

SECTION 6. Amends Subchapter I, Chapter 659, Government Code, by adding Sections 659.1401 and 659.1402, as follows:

Sec. 659.1401. GROUND FOR REMOVAL FROM STATE POLICY COMMITTEE.

(a) Provides that it is a ground for removal from the state policy committee that a member:

- (1) does not have at the time of taking office the qualifications required by Section 659.140 (State Employee Charitable Campaign Policy Committee);
- (2) does not maintain during service on the state policy committee the qualifications required by Section 659.140;
- (3) is ineligible for membership under Section 659.140;
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
- (5) is absent from more than half of the regularly scheduled state policy committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the state policy committee.

(b) Provides that the validity of an action of the state policy committee is not affected by the fact that it is taken when a ground for removal of a state policy committee member exists.

(c) Requires the chair to notify the governor and the attorney general that a potential ground for removal exists, if the chair of the state policy committee has knowledge that a potential ground for removal exists. Requires another member of the state policy committee to notify the governor and the attorney general that a potential ground for removal exists if the potential ground for removal involves the chair.

Sec. 659.1402. TRAINING FOR STATE POLICY COMMITTEE MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of the state policy committee from voting, deliberating, or being counted as a member in attendance at a meeting of the state policy committee until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding:

- (1) the legislation that created the state employee charitable campaign;

- (2) the programs, functions, rules, and budget of the state employee charitable campaign;
- (3) the results of the most recent formal audit of the state employee charitable campaign;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the Texas Ethics Commission (TEC) or adopted for the state employee charitable campaign by the state policy committee.

SECTION 7. Amends Section 659.141, Government Code, as follows:

Sec. 659.141. STATE CAMPAIGN MANAGER. Requires the state campaign manager to:

- (1) assist the state policy committee to:
 - (A) develop a campaign plan;
 - (B) develop a campaign budget; and
 - (C) prepare generic materials to be used for the campaign;
- (2) coordinate and facilitate campaign services to state employees throughout the state;
- (3) ensure that all state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants;
- (4) perform other duties prescribed by the comptroller's rules; and
- (5) perform other duties required by the contract with the state policy committee.

Deletes existing text requiring the state campaign manager to prepare a statewide campaign budget in cooperation with local campaign managers, and prepare generic materials to be used by state campaign managers. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Sections 659.142(b) and (e), Government Code, as follows:

(b) Requires that four members represent statewide or local federations or funds. Requires that four members represent other charitable organizations participating in the state employee charitable campaign. Deletes existing text requiring four members to represent campaign managers, and requiring four members to represent federations or funds that are not campaign managers.

(e) Requires the state advisory committee to provide input from charitable organizations participating in the state employee charitable campaign to the state policy committee, in addition to advising the comptroller and state policy committee in adopting rules and establishing procedures for the operation and management of the state employee charitable campaign. Deletes existing text requiring the state advisory committee to recommend the number, not to exceed 50, and geographic scope of local campaign areas to the state policy committee. Deletes existing Subdivision (3) requiring the state advisory committee to review and submit the recommended campaign plan, budget, and generic materials to be used by campaign managers. Makes a nonsubstantive change.

SECTION 9. Amends Section 659.145, Government Code, as follows:

Sec. 659.145. TERMS OF COMMITTEE MEMBERS; COMPENSATION. (a) Provides that a member of the state advisory committee, rather than the state advisory committee, the state policy committee, or a local employee committee, serves a two-year term.

(a-1) Provides that members of the state policy committee serve staggered terms of two years, with the terms of four or five members expiring September 1 of each year.

(b) Prohibits a member of the state advisory committee, the state policy committee, or a local employee committee appointed by the state policy committee from receiving compensation for serving on the committee and from being entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee.

SECTION 10. Amends Section 659.146, Government Code, by amending Subsection (e) and adding Subsections (f) and (g), as follows:

(e) Requires that the appeals process permit a charitable organization that is not approved for statewide participation to apply for participation in the state employee charitable campaign only in a local campaign area, rather than to apply for participation in a local state employee charitable campaign.

(f) Requires the state policy committee to develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150 (Limitation On the Use of Contributions). Requires the state policy committee to make the guidelines publicly available.

(g) Provides that a federation or organization that participated in the state employee charitable campaign before June 20, 2003, is not barred from participation in the program, both in terms of actual participation and the purposes for which the contributions are used, solely as a result of changes made by Sections 35 (defining "indirect services"), 36 (relating to the application and review of a federation or fund by the state policy committee for participation in a state employee charitable campaign), 37 (relating to the prohibiting the use of certain contributions by a participating charitable organization to fund certain actions), and 121(9) (relating to the repeal of a definition of "international federation or fund") and (11) (relating to the repeal of the exemption of an international federation or fund from requirements relating to the provision of health and human services to citizens of this state), Chapter 1310 (H.B. 2425), Acts of the 78th Legislature, Regular Session, 2003. Provides that this subsection does not excuse a federation or organization from compliance with any other law, rule, or state policy.

SECTION 11. Amends Section 659.147, Government Code, as follows:

Sec. 659.147. ELIGIBILITY OF CHARITABLE ORGANIZATIONS FOR LOCAL PARTICIPATION. (a) Requires a charitable organization that seeks to participate in the a state employee charitable campaign only in a local campaign area to apply to the state policy committee during the annual eligibility determination period specified by the state policy committee. Deletes existing text requiring a charitable organization that seeks local participation in a state employee charitable campaign to apply to the appropriate local employee committee during the annual eligibility determination period specified by the state policy committee.

(b) Requires the state policy committee, with assistance of any applicable local employee committee appointed by the state policy committee, to review each application and is authorized to approve a charitable organization for participation, rather than local participation, only in a local campaign area only if the organization qualifies as a local charitable organization and is:

- (1) an unaffiliated local organization; or
- (2) a federation or fund or an affiliate of a federation or fund that is not approved for statewide participation.

(c) Authorizes an affiliated organization of an eligible federation or fund that does not qualify as a statewide charitable organization under Section 659.146 (Eligibility of Charitable Organizations in General; Eligibility of Federations and Funds for Statewide Participation) because it does not provide services in two or more noncontiguous standard metropolitan statistical areas to apply to the state policy committee for participation in the state employee charitable campaign only in a local campaign area, rather than apply to a local employee committee for participation in a local state employee charitable campaign.

(d) Requires that an appeal from a decision of the state policy committee regarding the eligibility of an organization to participate in the state employee charitable campaign only in a local campaign area, rather than an appeal from a decision of a local employee committee, be conducted in the manner prescribed by the state policy committee.

(e) Requires the state policy committee to develop guidelines for evaluation of applications based on eligibility criteria under this section and Section 659.150. Requires the state policy committee to make the guidelines publicly available.

SECTION 12. Amends Section 659.148, Government Code, by amending Subsections (a), (b), and (c) and adding Subsection (b-1), as follows:

(a) Prohibits the state campaign manager, rather than a campaign manager, or any local campaign manager appointed by the state policy committee from charging a fee to the comptroller of public accounts of the state of Texas (comptroller), a state agency, or a state employee for the services the state campaign manager or local campaign manager provides in connection with a state employee charitable campaign.

(b) Authorizes the state campaign manager to charge a reasonable and necessary fee for actual campaign expenses to the participating charitable organizations in the same proportion that the contributions to that charitable organization bear to the total of contributions in the state employee charitable campaign. Makes a conforming change.

(b-1) Authorizes the state policy committee to authorize the local campaign manager to charge a reasonable and necessary fee in the same manner provided for the state campaign manager under Subsection (b) if the state policy committee appoints a local campaign manager to administer the state employee charitable campaign in a local campaign area.

(c) Requires that fees under Subsections (b) and (b-1) be based on the combined expenses of the state campaign manager and any local campaign managers appointed by the state policy committee, rather than requiring that a fee under Subsection (b) be based on the combined expenses of the state campaign manager and each local campaign manager, and is prohibited from exceeding 10 percent of the total amount collected in the state employee charitable campaign unless the state policy committee approves a higher amount to accommodate reasonable documented costs.

SECTION 13. Amends Section 659.151, Government Code, by amending Subsections (a), (b), and (c), and adding Subsection (a-1) as follows:

(a) Authorizes the state policy committee to request the comptroller or state auditor to audit a participating charitable organization, the state campaign manager, rather than a campaign manager, or a local employee committee or local campaign manager appointed by the state policy committee that the state policy committee reasonably believes has misapplied contributions under this subchapter.

(a-1) Requires the comptroller to audit a participating charitable organization's distributions of money received from the state employee charitable campaign at the request of the state policy committee.

(b) Requires the state policy committee to remove the campaign manager or local employee committee if an audit under this section reveals gross negligence or intentional misconduct on the part of the state campaign manager or a local employee committee or local campaign manager appointed by the state policy committee. Provides that a person removed under this subsection is not eligible to serve in the capacity from which the person was removed before the fifth anniversary of the date the person was removed. Makes a conforming change.

(c) Requires the state policy committee to forward its findings to the appropriate law enforcement agency if an audit under this section reveals intentional misconduct on the part of the state campaign manager, a local employee committee or local campaign manager appointed by the state policy committee, or a participating charitable organization that has distributed money received from the state employee charitable campaign. Makes conforming and nonsubstantive changes.

SECTION 14. Amends Section 659.153, Government Code, to require the attorney general to represent the state policy committee and any, rather than each, local employee committee appointed by the state policy committee in all legal matters.

SECTION 15. Repealer: Section 659.131(1) (defining "campaign manager"), Government Code.

Repealer: Section 659.131(12) (defining "local campaign manager"), Government Code.

Repealer: Section 659.131(14) (defining "local employee committee"), Government Code.

Repealer: Section 659.140(i) (relating to the state employee charitable campaign policy committee being subject to the Texas Sunset Act and the policy committee being abolished and certain sections expiring on September 1, 2013), Government Code.

Repealer: Section 659.143 (Local State Employee Charitable Campaign Committee), Government Code.

Repealer: Section 659.144 (Local Campaign Manager), Government Code.

SECTION 16. (a) Repealer: Section 18.01 (relating to a federation or organization that has participated in the state employee charitable campaign not being barred from participation in the program), Chapter 3 (H.B. 7), Acts of the 78th Legislature, 3rd Called Session, 2003.

(b) Provides that each federation or charitable organization is subject to Section 659.146(a)(3) (relating to the requirement of a charitable organization to not spend more than 25 percent of its annual revenue for administrative and fund-raising expenses), Government Code.

(c) Provides that Subsections (a) and (b) of this section and Section 659.146(g), Government Code, as added by this Act, apply only to the eligibility of a charitable organization to participate in, and the use of contributions from, a state employee charitable campaign conducted on or after January 1, 2014.

(d) Effective date, this section and Section 659.146(g), Government Code, as added by this Act: January 1, 2014.

SECTION 17. (a) Provides that the term of each member of the state policy committee expires September 1, 2013.

(b) Provides that not later than September 2, 2013:

(1) the governor is required to appoint one member who is a state employee and one member who is a retired state employee receiving benefits under Chapter 814, Government Code, the lieutenant governor is required to appoint one member, and the comptroller is required to appoint one member to the state policy committee for terms expiring September 1, 2014; and

(2) the governor is required to appoint one member who is a state employee, the lieutenant governor is required to appoint two members, and the comptroller is required to appoint two members to the state policy committee for terms expiring September 1, 2015.

SECTION 18. Requires the comptroller to adopt rules necessary to implement the changes in law made by this Act not later than December 31, 2013.

SECTION 19. Provides that any changes made by the state policy committee to the operation of the state employee charitable campaign under Section 659.140(e), Government Code, as amended by this Act, apply only to a state employee charitable campaign conducted on or after January 1, 2014.

SECTION 20. Effective date, except as otherwise provided by this Act: September 1, 2013.