

BILL ANALYSIS

Senate Research Center
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H.B. 1326
By: Flynn et al. (Hall)
Veteran Affairs & Border Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Military Department (TMD) comprises both the Texas Military Forces—the Texas Army National Guard, the Texas Air National Guard, and the Texas State Guard—and the state agency that provides civilian administrative support to those forces. TMD plays a vital role in responding to international military deployments and to both state and national disasters. TMD is subject to abolishment under the Sunset Act on September 1, 2019, unless continued by the legislature.

TMD's Sunset review focused on the internal management and operations of TMD, finding TMD struggles somewhat to safeguard state administrative interests and policy concerns given its perpetual need to shift attention to military and emergency matters. The Texas Sunset Advisory Commission (Sunset) recommends clarifying statute to better integrate state administration into TMD's leadership structure, to ensure broader oversight across all of the department's diverse state programs and functions. Sunset also recommends TMD better support efficient purchasing across its decentralized programs by adopting improved tools for collecting data and sharing information. Finally, other recommendations provide a course correction for several department programs, including the Texas State Guard, the Texas Challenge Academy for at-risk youth, and the state-funded tuition assistance program for guard members.

Major Provisions in Sunset Legislation

- Continues TMD for 12 years. (Page 1, Line 15)
- Clarifies the adjutant general has responsibility over all aspects of TMD and strengthens internal oversight of state administration.
- Removes the existing title of executive director and reclassifies the position as a senior-level director of state administration. (Page 1, Lines 7-8)
- Requires the adjutant general to appoint the director of state administration and adopt a policy outlining the position's responsibilities for overseeing state administrative interests across all TMD programs. (Page 4, Lines 19-22; Page 5, Lines 5-9)
- Clarifies that ultimate responsibility for all administration of TMD, including compliance with applicable state law and priorities overseeing state employees, rests with the adjutant general. (Page 2, Lines 9-11)

Comparison of House Engrossed to House Introduced

- The engrossed version modifies the introduced version of the bill by making the following changes:
- Ensures the adjutant general will continue operations of Texas military forces even if TMD is abolished, by removing language expiring a subchapter of Government Code Chapter 437. (Page 1, Lines 14-15)
- Specifies the director of state administration is responsible for the daily administration of TMD's state support operations. (Page 5, Lines 3 and 15)

- Requires members of the state military forces to serve on state active duty, state training, or other duty for more than 60 consecutive days to receive state benefits. (Page 7, Line 16)
- Removes a current cap limiting 30 state guard members to receiving state tuition assistance per semester. (Page 8, Lines 10-13)
- Clarifies state tuition assistance reimbursement process. (Page 8, Lines 17-18)

H.B. 1326 amends current law relating to the continuation and functions of the Texas Military Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 437.001(6), Government Code, to define "director of state administration," rather than "executive director" as the administrative head of the Texas Military Department (TMD) who is responsible for managing TMD.

SECTION 2. Amends Section 437.051, Government Code, as follows:

Sec. 437.051. SUNSET PROVISION. Provides that TMD, unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, is abolished September 1, 2031, rather than providing that TMD is abolished and this subchapter expires September 1, 2019.

SECTION 3. Amends Section 437.052(b), Government Code, to make a conforming change.

SECTION 4. Amends Section 437.053, Government Code, as follows:

Sec. 437.053. ADJUTANT GENERAL: DUTIES. Requires the adjutant general to perform certain actions, including assuming responsibility for all administration of TMD, including ensuring compliance with applicable state law and priorities and overseeing state employees. Creates Subdivision (4) from existing text and renumbers the following subdivisions accordingly.

SECTION 5. Amends Sections 437.060(a), (b), and (c), Government Code, to make conforming changes.

SECTION 6. Amends Section 437.062(b), Government Code, to make a conforming change.

SECTION 7. Amends Section 437.063, Government Code, as follows:

Sec. 437.063. ADJUTANT GENERAL: DELEGATION OF EXPENDITURE APPROVAL AUTHORITY. Makes a conforming change to this section.

SECTION 8. Amends Section 437.101, Government Code, as follows:

Sec. 437.101. New heading: DIRECTOR OF STATE ADMINISTRATION. (a) Provides that the director of state administration, rather than the executive director, is a senior-level employee of TMD and is appointed by and serves at the pleasure of the adjutant general.

(b) Makes a conforming change to this subsection.

(c) Provides that the director of state administration is responsible for the daily administration of TMD's state support operations, rather than providing that the executive director is responsible for the daily administration of TMD, and the operational compliance with the cooperative agreements between TMD and the National Guard Bureau.

(d) Requires the adjutant general to adopt and implement a policy outlining the director of state administration's responsibility for state administrative interests across all TMD programs, including evaluating procedures for oversight of state employees and mitigating administrative and other compliance risks.

SECTION 9. Amends Section 437.102, Government Code, as follows:

Sec. 437.102. DEPARTMENT PERSONNEL. (a) Authorizes the director of state administration, rather than the executive director, to hire employees as necessary to carry on the state support operations of TMD.

(b) Makes conforming changes to this subsection.

SECTION 10. Amends Section 437.104, Government Code, as follows:

Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. Makes conforming changes to this section.

SECTION 11. Amends Section 437.108, Government Code, as follows:

Sec. 437.108. TECHNOLOGY POLICY. Makes a conforming change to this section.

SECTION 12. Amends Section 437.151(a), Government Code, to make a conforming change.

SECTION 13. Amends Section 437.212(f), Government Code, as follows:

(f) Provides that a member of the state military forces who is not a full-time or part-time state employee and who has been on state active duty or on state training or other duty for more than 60 consecutive days, rather than more than 60 days, is, notwithstanding Section 1551.1055 (Date Eligibility Begins; Waiting Period), Insurance Code, eligible to participate in the state group benefits program under Chapter 1551 (Texas Employees Group Benefits Act), Insurance Code, and is considered to be a full-time state employee for the purposes of that chapter, including the receipt of a full state contribution for insurance coverage, subject to Subsection (f-1) (relating to requiring TMD to require payment of the cost associated with paying the state contribution of a member of state military participating in the state group benefits program) and certain requirements.

SECTION 14. Amends Sections 437.226(c) and (h), Government Code, as follows:

(c) Deletes existing text prohibiting the number of assistance awards made to members of the Texas State Guard from exceeding 30 for any semester unless the adjutant general finds a compelling need for additional awards to members of the Texas State Guard.

(h) Requires TMD, from money appropriated for the purposes of this section (Assistance for Tuition and Fees), to authorize the comptroller of public accounts of the State of Texas (comptroller) to reimburse an institution of higher education in an amount equal to the amount of the tuition and mandatory fees under Section 54.345 (Assistance For Tuition and Fees For Members of State Military Forces), Education Code, rather than to authorize the comptroller to reimburse an institution of higher education in an amount equal to the amount of the exemption from tuition and mandatory fees the institution grants to a person under Section 54.345, Education Code.

SECTION 15. Effective date: September 1, 2019.