

By: Cyrier

H.B. No. 1575

A BILL TO BE ENTITLED

AN ACT

relating to certain provisions applicable to state agencies subject to review by the Sunset Advisory Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 325, Government Code, is amended by designating Sections 325.001 through 325.025 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. SUNSET ADVISORY COMMISSION AND SUNSET REVIEW PROCESS

SECTION 2. Chapter 325, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. GENERAL PROVISIONS FOR STATE AGENCIES

Sec. 325.051. APPLICABILITY; CONFLICTS. (a) Except as provided by Subsection (b), this subchapter applies to a state agency in the executive branch of state government that is subject to review by the commission under this chapter.

(b) This subchapter does not apply to:

(1) an advisory committee as defined by Section 2110.001;

(2) a river authority listed in Section 325.025;

(3) an entity subject to a one time review by the commission;

(4) a division of a state agency that is reviewed independently of the state agency as a whole;

(5) a state agency that does not have a policymaking

1 body but is governed by a single elected or appointed officer;

2 (6) an office of inspector general, ombudsman, or
3 counsel; or

4 (7) the following state agencies:

5 (A) the Cancer Prevention and Research Institute
6 of Texas;

7 (B) the Texas Economic Development and Tourism
8 Office;

9 (C) the Electric Reliability Council of Texas;

10 (D) state employee charitable campaign policy
11 committee;

12 (E) the Texas Health Services Authority;

13 (F) the State Preservation Board;

14 (G) the Office of State-Federal Relations;

15 (H) the Texas Windstorm Insurance Association;

16 or

17 (I) the Texas Low-Level Radioactive Waste
18 Disposal Compact Commission.

19 (c) To the extent of any conflict between this subchapter
20 and any law relating to a state agency subject to review by the
21 commission under this chapter, this subchapter controls.

22 Sec. 325.052. PUBLIC MEMBERSHIP ON STATE AGENCY
23 POLICYMAKING BODY. A person may not be a public member of the
24 policymaking body of a state agency if the person or the person's
25 spouse:

26 (1) is registered, certified, or licensed by a
27 regulatory agency in a field regulated by the state agency;

1 (2) is employed by or participates in the management
2 of a business entity or other organization regulated by or
3 receiving money from the state agency;

4 (3) owns or controls, directly or indirectly, more
5 than a 10 percent interest in a business entity or other
6 organization regulated by or receiving money from the state agency;
7 or

8 (4) uses or receives a substantial amount of tangible
9 goods, services, or money from the state agency other than
10 compensation or reimbursement authorized by law for the state
11 agency's policymaking body membership, attendance, or expenses.

12 Sec. 325.053. PROVISIONS RELATING TO CONFLICTS OF INTEREST.

13 (a) In this section, "Texas trade association" means a cooperative
14 and voluntarily joined statewide association of business or
15 professional competitors in this state designed to assist its
16 members and its industry or profession in dealing with mutual
17 business or professional problems and in promoting their common
18 interest.

19 (b) A person may not be a member of the policymaking body of
20 a state agency and may not be an employee of the state agency
21 employed in a "bona fide executive, administrative, or professional
22 capacity," as that phrase is used for purposes of establishing an
23 exemption to the overtime provisions of the federal Fair Labor
24 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

25 (1) the person is an officer, employee, or paid
26 consultant of a Texas trade association in a field regulated by the
27 state agency; or

1 (2) the person's spouse is an officer, manager, or paid
2 consultant of a Texas trade association in a field regulated by the
3 state agency.

4 (c) A person may not be a member of a state agency's
5 policymaking body or act as the general counsel to the state
6 agency's policymaking body or the state agency if the person is
7 required to register as a lobbyist under Chapter 305 because of the
8 person's activities for compensation on behalf of a profession
9 related to the operation of the state agency.

10 Sec. 325.054. GOVERNOR DESIGNATES PRESIDING OFFICER. The
11 governor shall designate a member of a state agency's policymaking
12 body as the presiding officer of the policymaking body to serve in
13 that capacity at the pleasure of the governor.

14 Sec. 325.055. GROUNDS FOR REMOVAL OF MEMBERS FROM
15 POLICYMAKING BODIES. (a) It is a ground for removal from a state
16 agency's policymaking body that a member:

17 (1) does not have at the time of taking office the
18 qualifications required by law to be a member of the policymaking
19 body;

20 (2) does not maintain during service on the
21 policymaking body the qualifications required by law to be a member
22 of the policymaking body;

23 (3) is ineligible for membership on the policymaking
24 body under law, including provisions relating to public membership,
25 conflicts of interest, and lobbying;

26 (4) cannot, because of illness or disability,
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly
3 scheduled meetings of the policymaking body that the member is
4 eligible to attend during a calendar year without an excuse
5 approved by a majority vote of the policymaking body.

6 (b) The validity of an action of a state agency's
7 policymaking body is not affected by the fact that it is taken when
8 a ground for removal of a member of the policymaking body exists.

9 (c) If the executive head of a state agency has knowledge
10 that a potential ground for removal exists, the executive head
11 shall notify the presiding officer of the state agency's
12 policymaking body of the potential ground. The presiding officer
13 shall then notify the governor and the attorney general that a
14 potential ground for removal exists. If the potential ground for
15 removal involves the presiding officer, the executive head shall
16 notify the next highest ranking officer of the policymaking body,
17 who shall then notify the governor and the attorney general that a
18 potential ground for removal exists.

19 Sec. 325.056. TRAINING FOR MEMBERS OF POLICYMAKING BODIES.

20 (a) A person who is appointed to and qualifies for office as a
21 member of the policymaking body of a state agency may not vote,
22 deliberate, or be counted as a member in attendance at a meeting of
23 the policymaking body until the person completes a training program
24 that complies with this section.

25 (b) The training program must provide the person with
26 information regarding:

27 (1) the law governing the state agency's operations;

1 (2) the programs, functions, rules, and budget of the
2 state agency;

3 (3) the scope of and limitations on the rulemaking
4 authority of the policymaking body;

5 (4) the results of the most recent formal audit of the
6 state agency;

7 (5) the requirements of:

8 (A) laws relating to open meetings, public
9 information, administrative procedure, and disclosure of conflicts
10 of interest; and

11 (B) other laws applicable to members of a state
12 agency policymaking body in performing their duties; and

13 (6) any applicable ethics policies adopted by the
14 state agency or the Texas Ethics Commission.

15 (c) A person appointed to the state agency's policymaking
16 body is entitled to reimbursement, as provided by the General
17 Appropriations Act, for the travel expenses incurred in attending
18 the training program regardless of whether the attendance at the
19 program occurs before or after the person qualifies for office.

20 (d) The executive head of the state agency shall create a
21 training manual that includes the information required by
22 Subsection (b). The executive head shall distribute a copy of the
23 training manual annually to each member of the policymaking body.
24 Each member of the policymaking body shall sign and submit to the
25 executive head a statement acknowledging that the member received
26 and reviewed the training manual.

27 Sec. 325.057. POLICIES TO SEPARATE POLICYMAKING AND STAFF

1 FUNCTIONS. The policymaking body of a state agency shall develop
2 and implement policies that clearly separate the policymaking
3 responsibilities of the policymaking body and the management
4 responsibilities of the executive head and the staff of the state
5 agency.

6 Sec. 325.058. PUBLIC TESTIMONY AT MEETINGS OF POLICYMAKING
7 BODIES. The policymaking body of a state agency shall develop and
8 implement policies that provide the public with a reasonable
9 opportunity to appear before the policymaking body and to speak on
10 any issue under the jurisdiction of the state agency.

11 Sec. 325.059. COMPLAINT INFORMATION REQUIREMENTS. (a) A
12 state agency shall maintain a system to promptly and efficiently
13 act on complaints filed with the state agency. The state agency
14 shall maintain information about parties to and the subject matter
15 of the complaint and a summary of the results of the review or
16 investigation of the complaint and the disposition of the
17 complaint.

18 (b) The state agency shall make information available
19 describing its procedures for complaint investigation and
20 resolution.

21 (c) The state agency shall periodically notify the
22 complaint parties of the status of the complaint until final
23 disposition unless the notice would jeopardize the investigation.

24 SECTION 3. This Act takes effect September 1, 2021.