

BILL ANALYSIS

C.S.H.B. 2933
By: Flores
Government Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Texas Commission on Human Rights (TCHR) is a state agency which was established 20 years ago to combat discrimination in Texas. The commission is made up of six commissioners appointed by the governor and approved by the senate.

There are many problems surrounding this agency that should be of major concern to the State. Numerous complaints have been lodged by former and current Hispanic employees of TCHR alleging that they were denied advancement within the agency, while less-qualified and less-productive Anglo co-workers were undeservedly promoted. The TCHR has failed to comply with Senate Bill 382, which requires the TCHR to review tests administered by local fire departments. There is a great concern over the failure of the TCHR to translate its complaint form into Spanish and provide a telephone system with options in Spanish. Additionally, there are substantial revenues that could be earned and that are being lost due to incompetent and poor management. Finally, TCHR is in violation of state statute that stipulates that there should be one manager to every seven employees. Currently, there is one manager to every three and a half employees at TCHR. This is wasting approximately \$747,284 per year for the State of Texas. It is due to this gross mismanagement of the TCHR that the complete dismantling and discontinuation of the TCHR be recommended and that a new division be established in the Office of the Attorney General.

C.S.H.B. 2933 would abolish the TCHR and transfer the functions of the TCHR to the Office of the Attorney General (OAG).

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2933 amends the Labor, Property, and Government codes to establish provisions relating to the abolition of the TCHR and the transfer of its functions to a Civil Rights Division (division) within the OAG.

The bill transfers the powers and duties exercised by the TCHR to the division (Sec. 21.0015, Labor Code and Sec. 301.0015, Property Code). The bill provides that the division is an independent division (Sec. 402.102, Government Code).

The bill states that the division is governed by a commission consisting of seven members appointed by the Governor. The bill provides that one member must represent industry, one member must represent labor, and five members must represent the public. The bill states that TCHR is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to grant relief from the practice, seek relief from the practice, or institute criminal proceedings (Sec. 402.103, Government Code).

The bill provides that the director must be appointed by the commission to administer the powers and duties of the division (Sec. 402.104, Government Code). The bill states that an employee of the new division serving as an investigator may not conduct an investigation until the employee has completed a training and

education program meeting certain requirements as detailed by this bill (Sec. 402.105, Government Code).

The bill provides that the division must collect and report statewide information relating to employment and housing discrimination complaints as detailed and required by this bill. The bill states that the division must also collect and analyze, each state fiscal year, 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 Texas. The bill includes certain criteria that the information must include (Sec. 402.106, Government Code).

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2933 creates an independent division under the OAG to prevent potential conflicts of interest with other divisions and to guarantee the independence of this civil rights division. The substitute establishes the makeup of the commission under the OAG, explains how the commissioners shall be appointed, and lists the duties of the commission. C.S.H.B. 2933 explains the appointment and requirements for the division director of the division.

The substitute sets procedures and requirements for the investigators' training and education programs under the division. The bill also sets the criteria for the analysis of the discrimination complaint report.

CSHB 2933 repeals Chapter 416 of the Government Code, Section 21.002(2) and (3) of the Labor Code, and Sections 301.003 (3), 301.061, and 301.064 of the Property Code. The substitute abolishes the TCHR and creates a separate division under the OAG. The substitute transfers all responsibilities, powers, rules, procedures, current investigations and business, obligations, property, and funds to the division under the OAG.

The substitute sets the date of November 1, 2003, as the deadline for the Governor's appointment of the new members to the commission and sets the member's terms.