

## **BILL ANALYSIS**

Senate Research Center

S.B. 261  
By: Shapleigh  
Government Organization  
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Enrolled

### **DIGEST AND PURPOSE**

The Texas Council on Purchasing from People with Disabilities (council) oversees the State Use Program, which provides for the employment of persons with disabilities in the production of products and services set aside for state procurement. More than 7,000 Texans with disabilities are employed through the State Use Program at 150 community rehabilitation programs across the state. In 2002, these individuals earned almost \$24 million in wages. Recognizing the benefits of the State Use Program, the 77th Legislature made several substantive changes to strengthen the council's oversight of the State Use Program and encourage agency compliance with program requirements. S.B. 261 continues the council, requires the council and the Texas Building and Procurement Commission to promote the State Use Program and agency compliance with program requirements, and enhances State Use Program accountability through increased oversight of the central nonprofit agency and community rehabilitation programs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Council on Purchasing from People with Disabilities in SECTION 2 (Section 122.003(j), Human Resources Code) and SECTION 16 (Section 122.030, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 122.002(2), Human Resources Code, to redefine "commission."

SECTION 2. Amends Section 122.003, Human Resources Code, by amending Subsections (b) and (j) and by adding Subsection (k), as follows:

(b) Requires the governor to select three members from the category prescribed by Subsection (a)(1) and at least one member from the other three categories prescribed by Subsection (a) rather than at least one member from each category. Requires the governor, to the extent possible, to attempt to ensure that the categories prescribed by Subsections (a)(2)-(4) are equally represented on the Texas Council on Purchasing from People with Disabilities (council).

(j) Requires the council to adopt rules establishing a formal certification procedure for recognition and approval of community rehabilitation programs. Requires the procedure to include a committee composed of three council members appointed by the presiding officer to review certification applications of community rehabilitation programs and issue recommendations to the council.

(k) Authorizes the council to delegate the administration of the procedure established under Subsection (j) to a central nonprofit agency but prohibits the council from delegating the authority to certify a community rehabilitation program under this section.

SECTION 3. Amends Section 122.004, Human Resources Code, to require the presiding officer of the council or the presiding officer's designee to provide information to council employees information relating

to standards of conduct.

SECTION 4. Amends Section 122.005, Human Resources Code, as follows:

Sec. 122.005. MEMBER TRAINING. (a) Provides that a person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section. Deletes text regarding the completion of a course.

(b) Requires the training program to provide the person with certain information.

(c) Provides that a person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 5. Amends Section 122.0055, Human Resources Code, by adding Subsection (c), to require the council to develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the staff of the council.

SECTION 6. Amends Section 122.006, Human Resources Code, to continue the council for a 12-year period until September 1, 2015.

SECTION 7. Amends Section 122.0095, Human Resources Code, by adding Subsection (e), to require the council to review the information contained in the reports under this section and Sections 122.012 and 122.016. Requires the Texas Building and Procurement Commission (TBPC) to assist the council in reviewing and analyzing the reports in order to improve state agency compliance with this chapter.

SECTION 8. Amends Section 122.012, Human Resources Code, by adding Subsection (e), to require TBPC, after any audit or review TBPC conducts with regard to state agency compliance with purchasing laws and procedures, to report to the council a state agency that is not complying with this chapter.

SECTION 9. Amends Section 122.020, Human Resources Code, by amending Subsections (b) and (c) and adding Subsection (d), as follows:

(b) Requires the complaint information file kept by the council to include certain information. Deletes current language in existing text related the information file containing complaints regarding a product or service offered by a community rehabilitation program.

(c) Makes a conforming change.

(d) Requires the council to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

SECTION 10. Amends Chapter 122, Human Resources Code, by adding Section 122.0206, as follows:

Sec. 122.0206. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. Requires the council to develop and implement a policy to encourage the use of certain procedures.

(b) Requires the council's procedures relating to alternative dispute resolution to conform to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

SECTION 11. Amends the heading of Section 122.0215, Human Resources Code, to read as follows:

Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS; INSPECTION.

SECTION 12. Amends Section 122.0215, Human Resources Code, by adding Subsection (d), to authorize the council or a central nonprofit agency at the council's direction to inspect a community rehabilitation program for compliance with certification criteria established under Sections 122.003(j) and 122.013(c). Requires the committee designated under Section 122.003(j) to review the inspection results and recommend appropriate action to the council.

SECTION 13. Amends Chapter 122, Human Resources Code, by adding Section 122.027, as follows:

Sec. 122.027. TECHNOLOGY POLICY. Requires the council to develop and implement a policy requiring the staff of the council or a central nonprofit agency to research and propose appropriate technological solutions to improve the council's ability to perform its functions. Requires the technological solutions to ensure that certain criteria are met.

SECTION 14. Amends Chapter 122, Human Resources Code, by adding Section 122.028, as follows:

Sec. 122.028. PROGRAM PROMOTION. Requires the council to establish procedures for the promotion of the program administered under this chapter.

SECTION 15. Amends Chapter 122, Human Resources Code, by adding Section 122.029, as follows:

Sec. 122.029. DUTIES OF STATE AUDITOR. (a) Requires the state auditor, as part of an audit of a state agency authorized under Section 2161.123, Government Code, to perform certain duties.

(b) Requires the council, if the state auditor reports to the council that a state agency is not complying with this chapter, to assist the agency in complying.

SECTION 16. Amends Chapter 122, Human Resources Code, by adding Section 122.030, as follows:

Sec. 122.030. MANAGEMENT FEE RATE; REVIEW PROCESS. (a) Requires the council to develop a formal review process for the annual review conducted under Section 122.019(e). Requires the review process to include certain information.

(b) Requires the council, before making a decision relating to the management fee rate, to consider certain information.

(c) Requires the council to adopt rules to implement this section.

SECTION 17. (a) Makes application of the changes in law made by this Act in the prohibitions or qualifications applying to members of the council prospective.

(b) Requires the governor, as the terms of members of the Texas Council on Purchasing from People with Disabilities expire or as vacancies on the council occur, to make appointments to the council to achieve as soon as possible the membership plan prescribed for the council by Section 122.003, Human Resources Code, as amended by this Act.

(c) Requires the Texas Council on Purchasing from People with Disabilities to adopt rules by January 1, 2004, to implement the changes in law made by this Act to Section 122.003(j) and to implement Sections 122.003(k), 122.0215(d), and 122.030, as added by this Act.

(d) Makes application of Section 122.020 prospective.

SECTION 18. Effective date: September 1, 2003.