

BILL ANALYSIS

Senate Research Center

S.B. 273
By: Shapleigh
Government Organization
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Enrolled

DIGEST AND PURPOSE

In 1977, the 65th Texas Legislature created the Court Reporters Certification Board (board) to ensure high standards for court transcripts in Texas through certification of qualified court reporters. The mission of the board is to certify, to the Supreme Court of Texas, qualified reporters to meet the needs and expectations of the public through statewide certification and accountability. The board is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the legislature. S.B. 273 continues the Court Reporters Certification Board for the standard 12-year period and formalizes various board processes in accordance with recommendations by the Texas Sunset Commission.

RULEMAKING AUTHORITY

Rulemaking authority expressly granted to the Texas Supreme Court is modified in SECTION 2 (Section 52.003, Government Code). Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 9 (Section 52.016, Government Code), in SECTION 11 (Section 52.0211, Government code) and in SECTION 13 (Section 52.0261, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52.001, Government Code, by adding Subdivision (2-a) to define “director.”

SECTION 2. Amends Subchapter A, Chapter 52, Government Code, by adding Section 52.003, as follows:

Sec. 52.003. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) Prohibits the supreme court, subject to sections 52.021(i), 52.029, 52.0295, 52.034 Texas Government Code and any rules related to ethics or professional conduct promulgated by the Supreme Court, from adopting rules restricting advertising or competitive bidding by a certification or registration holder except to prohibit false, misleading, or deceptive practices.

(b) Prohibits the supreme court in its rules to prohibit false, misleading, or deceptive practices from including a rule that meets certain criteria.

SECTION 3. Amends the heading to Subchapter B, Chapter 52, Government Code, to read as follows:

SUBCHAPTER B. COURT REPORTERS CERTIFICATION BOARD; ADMINISTRATIVE PROVISIONS

SECTION 4. Amends Sections 52.011(a) through (e), Government Code, as follows:

(a) Provides that the Texas Court Reporters Certification Board (TCRCB) as appointed by the supreme court includes four members who are representative of the general public.

(b) Requires appointments to TCRCB to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. Makes conforming changes.

(c) Prohibits a person from being a member of TCRCB or acting as the general counsel to TCRCB if the person meets certain criteria.

(d) Defines "Texas trade association" in this subsection. Prohibits a person from being a member of TCRCB and from being TCRCB employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if the person meets certain criteria.

(e) Provides that a person may not be rather than is not eligible for appointment as, a public member of TCRCB if the person or the person's spouse meets certain criteria.

SECTION 5. Amends Section 52.013(b) and (c), Government Code, as follows:

(a) Authorizes TCRCB to designate a TCRCB employee to serve as director.

(c) Requires TCRCB to maintain complete record for certain information.

SECTION 6. Amends Subchapter B, Chapter 52, Government Code, by adding Sections 52.0111, 52.0112, and 52.0121 as follows:

Sec. 52.0111. BOARD MEMBER TRAINING. (a) Provides that a person who is appointed to and qualifies for office as a member of TCRCB may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

(c) Provides that a person appointed to TCRCB 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.

Sec. 52.0112. REMOVAL OF BOARD MEMBER. (a) Provides the grounds for removal of a board member.

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

(c) Requires the director, if the director has knowledge that a potential ground for removal exists, to notify the presiding officer of TCRCB of the potential ground. Requires the presiding officer to then notify the supreme court that a potential ground for removal exists. Requires the director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of TCRCB, who is required to then notify the supreme court that a potential ground for removal exists.

Sec. 52.0121. PUBLIC PARTICIPATION. Requires TCRCB to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of TCRCB.

SECTION 7. Amends Subchapter B, Chapter 52, by adding Section 52.0131, as follows:

Sec. 52.0131. ADMINISTRATIVE ATTACHMENT. (a) Provides that TCRCB is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) Requires the Office of Court Administration of the Texas Judicial System, notwithstanding any other law, to perform certain functions.

SECTION 8. Amends Section 52.014, Government Code, to continue the Texas Court Reporters Certification Board for the standard 12-year period until September 1, 2015.

SECTION 9. Amends Subchapter B, Chapter 52, Government Code, by adding Sections 52.016, 52.0165, 52.017, 52.0175, 52.018, 52.0185, and 52.019, as follows:

Sec. 52.016. CODE OF ETHICS. (a) Requires TCRCB to develop and recommend to the supreme court for adoption by rule a code of ethics for certification or registration holders under this chapter. Authorizes TCRCB, in developing the code of ethics, to use the codes of ethics adopted by state or national court reporters' associations as models.

(b) Requires TCRCB to publish the code of ethics after adoption by the supreme court.

(c) Requires TCRCB, after publishing the code of ethics, to propose to the supreme court a rule stating that a person who violates the code of ethics is subject to an administrative penalty assessed under Section 52.0321.

(d) Requires TCRCB to update the code of ethics as necessary to reflect changes in technology or other factors affecting the field of shorthand reporting.

Sec. 52.0165. INFORMATION ON COMPLAINTS. (a) Requires TCRCB to maintain a file on each written complaint filed with the board. Requires the file to include certain information

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

(c) Requires TCRCB, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 52.017. USE OF TECHNOLOGY. Requires the Office of Court Administration of the Texas Judicial System to research and propose appropriate technological solutions to improve TCRCB's ability to perform its functions. Requires the technological solutions to perform certain duties.

Sec. 52.0175. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires TCRCB to develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the board's jurisdiction.

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

(c) Requires TCRCB to designate a trained person to perform certain tasks.

Sec. 52.018. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) Requires the Office of Court Administration of the Texas Judicial System to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) and (c) Require the policy statement to include certain information and meet certain requirements.

Sec. 52.0185. STANDARDS OF CONDUCT. Requires the director or the director's designee to provide to members of TCRCB and to TCRCB employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 52.019. STATE EMPLOYEE INCENTIVE PROGRAM. Requires the director or the director's designee to provide to TCRCB employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 10. Amends Section 52.021(i), Government Code, to provide that this subsection does not apply to court reporting services performed outside of this state by a foreign shorthand reporter who is not certified in this state for use in a court proceeding in this state, provided that the work resulting from those services is produced and billed wholly outside of this state.

SECTION 11. Amends Subchapter C, Chapter 52, Government Code, by adding Sections 52.0211, 52.0231, and 52.0241 as follows:

Sec. 52.0211. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION. (a) Provides that Chapter 53, Occupations Code, applies to an applicant for or a holder of a certification or registration under this chapter, notwithstanding Section 53.002, Occupations Code.

(b) Requires the supreme court to adopt rules necessary to comply with Chapter 53, Occupations Code.

Sec. 52.0231. EXAMINATION RESULTS. (a) Requires TCRCB, not later than the 30th day after the date a person takes an examination under this chapter, to notify the person of the results of the examination.

(b) Authorizes TCRCB to perform certain duties if the examination is graded or reviewed by a testing service.

(c) Authorizes TCRCB to require a testing service to notify a person of the results of the person's examination.

(d) Requires TCRCB, if requested in writing by a person who fails an examination administered under this chapter, to furnish the person with an analysis of the person's performance on the examination.

Sec. 52.0241. RECIPROCAL CERTIFICATION OR CERTIFICATION BY ENDORSEMENT. (a) Authorizes TCRCB to waive any prerequisite to certification for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or certification issued by another jurisdiction that has licensing or certification requirements substantially equivalent to those of this state.

(b) Authorizes TCRCB to waive any prerequisite to certification for an applicant who holds a

license or certification issued by another jurisdiction with which this state has a reciprocity agreement. Authorizes TCRCB to make an agreement, subject to the approval of the supreme court, with another state to allow for certification by reciprocity.

SECTION 12. Amends Section 52.026, Government Code, by amending Subsections (c) through (e) and adding Subsections (f) through (h), as follows:

(c) Authorizes a person who is otherwise eligible to renew a certification or registration to renew an unexpired certification or registration by paying the required renewal fee to TCRCB before the expiration date of the certification or registration. Provides that a person whose certification or registration has expired may not engage in activities that require a certification or registration until the certification or registration has been renewed. Deletes current language from existing text.

(d) Authorizes a person whose certification or registration has been expired for 90 days or less to renew the certification or registration by paying TCRCB a renewal fee that is equal to 1-1/2 times the normally required renewal fee. Deletes current language from existing text.

(e) Authorizes a person whose certification or registration has been expired for more than 90 days but less than one year to renew the certification or registration by paying to TCRCB a renewal fee that is equal to two times the normally required renewal fee.

(f) Provides that a person whose certification or registration has been expired for one year or more may not renew the certification or registration. Authorizes the person to obtain a new certification or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original certification or registration.

(g) Authorizes a person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application to obtain a new certification without reexamination. Requires the person to pay to the board a fee that is equal to two times the normally required renewal fee for the certification.

(h) Requires TCRCB, not later than the 30th day before the date a person's certification or registration is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of TCRCB.

SECTION 13. Amends Subchapter C, Chapter 52, Government Code, by adding Section 52.0261, as follows:

Sec. 52.0261. STAGGERED RENEWAL OF CERTIFICATION OR REGISTRATION. Authorizes the supreme court by rule to adopt a system under which certifications or registrations expire on various dates during the year. Requires TCRCB, for the year in which the certification or registration expiration date is changed, to prorate certification or registration fees on a monthly basis so that each certification or registration holder pays only that portion of the certification or registration fee that is allocable to the number of months during which the certification or registration is valid. Provides that on renewal of the certification or registration on the new expiration date, the total certification or registration renewal fee is payable.

SECTION 14. Amends the heading to Section 52.027, Government Code, to read as follows:

Sec. 52.027. COMPLAINT.

SECTION 15. Amends Section 52.027(a), Government Code, to delete existing text “under oath” referring to requiring a person filing a complaint against certain persons or entities signing a completed form.

SECTION 16. Amends Subchapter C, Chapter 52, Government Code, by adding Section 52.0271 as

follows:

Sec. 52.0271. COMPLAINT DISMISSAL. (a) Authorizes TCRCB to adopt a policy allowing board employees to dismiss complaints that:

- (1) clearly do not allege misconduct; or
- (2) are not within the board's jurisdiction.

(b) Requires TCRCB employees to inform TCRCB of all dismissals made under this section.

(c) Authorizes a person who files a complaint that is dismissed under this section to request that TCRCB reconsider the complaint.

SECTION 17. Amends Section 52.029, Government Code, by amending Subsection (a) and adding Subsection (f) as follows:

(a) Requires TCRCB to revoke, suspend, or refuse to renew the shorthand reporter's certification or issue a reprimand to the reporter, after receiving a verified complaint and giving the certified shorthand reporter notice and an opportunity for a hearing as prescribed by Section 52.028, for certain actions or conditions.

(f) Authorizes TCRCB to place on probation a person whose certification is suspended. Authorizes TCRCB, if a certification suspension is probated, to require the person to meet certain criteria.

SECTION 18. Amends Section 52.0295, Government Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Makes conforming changes.

(f) Authorizes TCRCB to place on probation a shorthand reporting firm or affiliate office whose registration is suspended. Authorizes TCRCB, if a registration suspension is probated, to require the firm or office to perform certain tasks.

SECTION 19. Amends the heading to Section 52.032, Government Code, to read as follows:

Sec. 52.032. CRIMINAL PENALTY.

SECTION 20. Amends Subchapter C, Chapter 52, Government Code, by adding Section 52.0321, as follows:

Sec. 52.0321. ADMINISTRATIVE PENALTY. (a) Authorizes TCRCB to assess an administrative penalty against a person who violates this chapter or a rule or provision of the code of ethics adopted under this chapter.

(b) Requires TCRCB, in determining the amount of an administrative penalty assessed under this section, to consider certain information.

SECTION 21. Repealer: Section 52.024(b), Government Code (Certification to Supreme Court).

SECTION 22. Requires the Court Reporters Certification Board, not later than September 1, 2004, to develop and recommend to the Supreme Court of Texas a code of ethics as required by Section 52.016, Government Code, as added by this Act.

SECTION 23. (a) through (g) Makes application of this Act prospective.

SECTION 24. Effective date: September 1, 2003.