

## **BILL ANALYSIS**

S.B. 273  
By: Shapleigh  
Judicial Affairs  
Committee Report (Amended)

### **BACKGROUND AND PURPOSE**

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

Currently, the CRCB is an independent agency, although it outsources some administrative functions to the Office of Court Administration (“OCA”). S.B. 273 attaches the CRCB to the OCA for the purposes of administration, and removes the CRCB’s authority to hire employees and to pay for agency expenses.

S.B. 273 also removes the requirement that a complaint to the CRCB be verified or sworn, and provides that CRCB employees may dismiss frivolous complaints.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that 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 10 (Section 52.0211, Government code) and in SECTION 12 (Section 52.0261, Government Code) of this bill.

### **ANALYSIS**

S.B. 273 amends the Government Code to provide for the continuation and function of the Court Reporters Certification Board (“CRCB”). The bill updates standard Sunset language to require that one-third of Board members be public members without financial ties to the agency or the regulated industry, to require that appointments to the CRCB be made without regard to the appointee’s race, color, disability, sex, religion, age, or national origin, to prohibit Board members or their spouses from serving as an officer or employee of a Texas trade association,

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

SECTION 2. Amends Chapter 52A, 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 Chapter 52B, Government Code, to read as follows:

SUBCHAPTER B. COURT REPORTERS CERTIFICATION BOARD;  
ADMINISTRATIVE PROVISIONS

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

- (a) Provides that the Texas Court Reporters Certification Board (CRCB) as appointed by the supreme court includes four members who are representative of the general public.
- (b) Requires pppointments to CRCB 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 CRCB or acting as the general counsel to CRCB if the person meets certain criteria.
- (d) Defines "Texas trade association" in this subsection. Prohibits a person from being a member of CRCB and from being CRCB 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 CRCB if the person or the person's spouse meets certain criteria.

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

- (b) Authorizes CRCB to designate a CRCB employee to serve as director, but removes the ability of the CRCB to hire necessary employees or to pay all reasonable expenses from available funds.
- (c) Requires CRCB to maintain complete record for certain information.

SECTION 6. Amends Chapter 52B, 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 CRCB 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 CRCB 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 CRCB 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 CRCB 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 CRCB, who is required to then notify the supreme court that a potential ground for removal exists.

Sec. 52.0121. PUBLIC PARTICIPATION. Requires CRCB 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 CRCB.

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

Sec. 52.0131. ADMINISTRATIVE ATTACHMENT. (a) Provides that CRCB 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 Chapter 52B, Government Code, by adding Sections 52.016, 52.0165, 52.017, 52.0175, 52.018, 52.0185, and 52.019, as described in the following:

Sec. 52.016. CODE OF ETHICS. (a) Requires CRCB 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 CRCB, in developing the code of ethics, to use the codes of ethics adopted by state or national court reporters' associations as models.

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

(c) Requires CRCB, 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 CRCB 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 CRCB to maintain a file on each written complaint filed with the board. Requires the file to include certain information.

(b) Requires CRCB 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 CRCB, 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 CRCB's ability to perform its functions. Requires the technological solutions to perform certain duties.

Sec. 52.0175. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires CRCB 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 CRCB'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 CRCB 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 CRCB and to CRCB 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 CRCB employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 10. Amends Chapter 52C, 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 CRCB, 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 CRCB to perform certain duties if the examination is graded or reviewed by a testing service.

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

(d) Requires CRCB, 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 CRCB 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 CRCB 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 CRCB to make an agreement, subject to the approval of the supreme court, with another state to allow for certification by reciprocity.

SECTION 11. Amends Section 52.026, Government Code, by amending Subsections (c)-(e) and adding Subsections (f)-(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 CRCB 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 CRCB 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 CRCB 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 CRCB, 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 CRCB.

SECTION 12. Chapter 52C, 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 CRCB, 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 13. Amends the heading to Section 52.027, Government Code, to read as follows:

Sec. 52.027. COMPLAINT. [Deletes “VERIFIED”]

SECTION 14. 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 15. Amends Chapter 52C, Government Code, by adding Section 52.0271 as follows:

Sec. 52.0271. COMPLAINT DISMISSAL. (a) Authorizes CRCB 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 CRCB employees to inform CRCB of all dismissals made under this section.

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

SECTION 16. Amends Section 52.029, Government Code, by amending Subsection (a) and adding Subsection (f) as follows:

(a) Requires CRCB to revoke, suspend, or refuse to renew the shorthand reporter's certification or issue a reprimand to the reporter, after receiving a 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 CRCB to place on probation a person whose certification is suspended. Authorizes CRCB, if a certification suspension is probated, to require the person to meet certain criteria.

SECTION 17. Amends Section 52.0295, Government Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Makes conforming changes.

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

SECTION 18. Amends the heading to Section 52.032, Government Code, to read as follows:

Sec. 52.032. CRIMINAL PENALTY.

SECTION 19. Amends Chapter 52C, Government Code, by adding Section 52.0321, as follows:

Sec. 52.0321. ADMINISTRATIVE PENALTY. (a) Authorizes CRCB 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 CRCB, in determining the amount of an administrative penalty assessed under this section, to consider certain information.

SECTION 20. Repealer: Section 52.024(b), Government Code (Certification to Supreme Court).

SECTION 21. 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 22. (a) through (g) Makes application of this Act prospective.

SECTION 23. Effective date: September 1, 2003.

**EFFECTIVE DATE**

September 1, 2003.

**EXPLANATION OF AMENDMENTS**

Committee Amendment No. 1 provides that Subsection 52.021(i), Government Code, shall not apply to court reporting services performed outside of this state for use in a court proceeding in this state by a foreign shorthand reporter who is not certified in this state, provided the work is produced and billed wholly outside of this state.