

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 280
By: Nelson
Government Organization
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Committee Report (Substituted)

This analysis utilizes the Texas Sunset Advisory Commission analysis of S. B. 280 relating to the continuation and functions of the Texas Workforce Commission.

BACKGROUND AND PURPOSE

The Texas Workforce Commission (TWC) was created in 1995 by the 74th Texas Legislature to merge employment and training programs from 10 agencies into a single, locally-controlled workforce system. TWC's two key functions are overseeing employment and job training services provided through local workforce development boards, and operating the state's unemployment insurance system. TWC is subject to the Sunset Act and will be abolished on September 1, 2003, unless continued by the legislature. As a result of its review of TWC, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the Texas Workforce Commission in SECTION 4.03 (Section 302.048, Labor Code) and SECTION 7.03 (Section 132.306, Education Code) of this bill. In addition, under the general rulemaking authority already granted to the policymaking body, rules may be developed to implement other new provisions found in this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CONTINUATION OF COMMISSION; GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF.

SECTION 1.01. Amends Chapter 301A, Labor Code, by adding Section 301.0015 and amending Section 301.008, as follows:

Sec. 301.0015. GUIDELINES REGARDING FUNCTIONS OF COMMISSION STAFF. (a) Requires TWC, in administering its functions under this title or another law, to limit itself to certain activities.

(b) Prohibits TWC, in administering its functions under this title or another law, from performing certain actions.

Sec. 301.008 Updates the Texas Workforce Commission's Sunset date to September 1, 2009.

ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION.

SECTION 2.01. Amends Section 301.002(a), Labor Code, to provide that TWC is composed of certain individuals.

SECTION 2.02. Amends Section 301.003, Labor Code, as follows:

(a) Defines "Texas trade association."

(b) Modifies standard Sunset language to prohibit a person from serving as a commissioner if the person or the person's spouse has certain ties to the agency or an industry regulated by the agency.

(c) Prohibits the public member of TWC or the member's spouse from being an officer, employee, or paid consultant of a Texas trade association in the field of labor or business.

SECTION 2.03. Amends Section 301.004, Labor Code, to update standard Sunset language to prohibit a person from being a member of TWC or acting as the agency's general counsel if the person is required to be registered as a lobbyist related to the operations of the agency.

SECTION 2.04. Amends Section 301.006(a), Labor Code, to require the governor to designate the chair of TWC from among the membership. Updates standard Sunset language to clarify that the chair serves in that capacity at the pleasure of the governor.

SECTION 2.05. Amends Section 301.007, Labor Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Updates standard Sunset language to specify the grounds for removing a member. Clarifies a distinction between the duties of TWC, meaning the agency as a whole; and the duties of the members.

(c) Updates standard Sunset language relating to a potential ground for removal.

SECTION 2.06. Amends, Chapter 301A, Labor Code, by adding Section 301.0075, to add standard Sunset language to require members to complete training before assuming their duties.

SECTION 2.07. Specifies that the changes to member qualifications and prohibitions apply only to a commissioner appointed on or after September 1, 2003.

ARTICLE 3. POWERS AND DUTIES

SECTION 3.01. Amends Section 301.023, Labor Code, to update standard Sunset language requiring TWC to maintain information on written complaints and notify the parties about policies for and status of complaints.

SECTION 3.02. Amends Section 301.043, Labor Code, to update standard Sunset language requiring the executive director to inform the members of the commission and employees of the qualifications and responsibilities for office.

SECTION 3.03. Amends Section 301.045 (a) and (b), Labor Code, to add Subsection (a-1), to update standard Sunset language requiring TWC to have a current equal employment opportunity policy.

SECTION 3.04. Amends Chapter 301C, Labor Code, by adding Sections 301.046 and 301.047, to add standard Sunset language requiring the executive director to inform employees about the State Employee Incentive Program. Clarifies that employees of TWC are directly accountable to the executive director.

SECTION 3.05. Amends the heading to Section 301.061, Labor Code, to read as follows:

Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR.

SECTION 3.06. Amends Sections 301.061(a) and (b), Labor Code, as follows:

(a) Requires TWC to provide the public with a reasonable opportunity to appear before

TWC and to speak on any issue under the jurisdiction of TWC, rather than adopt rules as necessary for the administration of this title.

(b) Requires the executive director to manage certain affairs and operations.

SECTION 3.07. Amends Chapter 301D, Labor Code, by adding Sections 301.0681, 301.0682, and 301.069 to update standard Sunset language on policies on technological solutions and negotiated rulemaking and alternative dispute resolution policy. Requires TWC to meet the needs of businesses in this state and to equip workers and job seekers with the skills required to compete for jobs in this state.

SECTION 3.08. Specifies that changes to TWC's written complaint and notification policy apply only to written complaints filed on or after the effective date of the bill, September 1, 2003.

SECTION 3.09. Specifies that TWC must implement an equal employment opportunity policy, make effective use of technology, develop a policy that encourages the use of negotiated rulemaking, and partner with the business community not later than February 1, 2004.

ARTICLE 4. WORKFORCE DEVELOPMENT

SECTION 4.01. Amends Section 302.006(a), Labor Code, to authorize rather than require, TWC to develop and administer a program under which TWC awards scholarships in the amount of \$1,000 each for professional child-care training to eligible recipients.

SECTION 4.02. Amends Chapter 302A, Labor Code, by adding Sections 302.0042, 302.0043, and 302.013, to require TWC to conduct an annual evaluation of child care allocation formulas to ensure that local child care needs and costs are reflected in the formulas. Specifies that the evaluation assess each local workforce board area's use of current allocations, ability to meet performance measures, general cost of care in the area, poverty rate relative to state poverty rate, and other factors. Requires TWC to track employment-related outcomes of parents receiving subsidized child care, including whether parents who receive child care get and keep jobs, whether their earnings increase, how long parents receive care, and the reasons parents leave care. Requires TWC to periodically analyze the information collected by TWC under this section and to compile its findings regarding the effectiveness of TWC's child care program in helping parents receiving subsidized child care to maintain employment or to move toward self-sufficiency. Establishes a nine-member Local Workforce Board Advisory Committee to advise TWC on the programs, policies, and rules that affect the boards and local workforce operations. Requires the executive committee of the Workforce Leadership of Texas (WLT) to appoint the committee members, consisting of nine representatives from WLT.

SECTION 4.03. Amends Chapter 302C, Labor Code, by adding Section 302.048, to require TWC to develop, by rule, criteria to assess local workforce development boards' overall capacity to administer and oversee local funds and services. Requires TWC to publish the results of how well each board is doing in meeting these criteria on the agency's Web site. Requires TWC to develop a set of performance measures to evaluate how well local workforce development boards, and individual local workforce centers, are performing, and make that information available to the public on the agency's Web site.

SECTION 4.04. Amends Chapter 302D, Labor Code, by adding Section 302.065, to require local workforce development boards to streamline the delivery of services in local career development centers by integrating the operation of block grant programs and workforce services. Requires TWC, in consultation with local workforce development boards, to ensure that state-level rules, policies, procedures, and organizational structures support the integration of workforce services and related support services at the local level. Requires each local career development center that provides workforce services to provide integrated eligibility determination for workforce services and case management for a customer receiving workforce services.

SECTION 4.05. Requires The commissioners to adopt rules establishing criteria to evaluate

local workforce development boards not later than May 1, 2004.

SECTION 4.06. Requires TWC to assess local workforce development boards' overall capacity to administer and oversee local funds and services, not later than September 1, 2004.

SECTION 4.07. Requires TWC to implement an evaluation of child care allocation formulas and employment outcomes of parents receiving subsidized child care, as soon as possible after the effective date of the bill, September 1, 2003.

SECTION 4.08. Requires TWC, by September 1, 2004, to conduct a review of its programs, rules, policies, procedures, and organizational structure to identify barriers to service integration; conduct three to five pilot projects in different local workforce board areas to identify best methods to integrate services; and modify and develop TWC's programs, rules, policies, procedures, and organizational structure to support service integration. Allows TWC to request a waiver from federal requirements to implement service integration. Requires TWC to submit a report by January 15, 2005, to the 79th Legislature regarding the results of the pilot projects.

ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

SECTION 5.01. Amends Chapter 301, Labor Code, by adding Subchapter I, to require the Texas Education Agency (TEA) and TWC to improve the coordination and implementation of adult education and literacy services. Requires TWC, under contract with TEA, to develop a workplace literacy and basic skills curriculum. Requires TWC to evaluate existing efforts and potential cost savings resulting from such a curriculum; contract for development assistance; target up to five industry sectors that would benefit; pilot test the curriculum in those industry sectors; and develop appropriate credentials associated with the curriculum. This section expires September 1, 2005.

SECTION 5.02. Amends Section 302.021(a), Labor Code, to make technical changes to delete an incorrect reference to adult education programs that were not consolidated at TWC, and to remove outdated language referring to the Job Training Partnership Act. Changes reference to the words "proprietary schools" to "career schools and colleges."

SECTION 5.03. Amends Section 29.252, Subsection (a), Education Code, by adding Subsection (a-1), to require TEA to collaborate with TWC to improve the coordination and implementation of adult education and literacy services, and to monitor and evaluate educational and employment outcomes of students who participate in TEA adult education and literacy programs. Requires TEA to use existing funds to contract with TWC for the development of a workplace literacy and basic skills curriculum. The requirement for TEA to contract with TWC for a curriculum expires September 1, 2005.

SECTION 5.04. Amends Chapter 2308C, Government Code, by adding Section 2308.1016, to require the Texas Council on Workforce and Economic Competitiveness (council) to evaluate adult education and literacy programs at the Texas Education Agency (TEA) and TWC, to identify any problems, including any duplication of planning and lack of client information sharing. Requires the council to develop and implement immediate and long-term strategies for improving any problems affecting the delivery of services. Requires the council to develop a system to monitor and evaluate the employment outcomes of participants in TEA-administered adult education and literacy programs. Requires the council to report to the governor and the legislature problems identified, and the result of measures taken to address them. Requires the council to identify the agency responsible for implementing each strategy, and a schedule for implementation.

SECTION 5.05. Amends Section 2308.104, Government Code, by adding Subsection (i), to require the council to include any long-term strategies for improving the delivery of adult education and literacy services in its strategic plan.

SECTION 5.06. Requires TWC to collaborate with TEA to improve the coordination and implementation of adult education and literacy as soon as possible after the effective date of the

bill, September 1, 2003.

SECTION 5.07. Requires TWC, under contract with TEA, to develop a workplace literacy and basic skills curriculum by September 1, 2005.

SECTION 5.08. Requires TEA, as soon as possible after the effective date of the bill, September 1, 2003, to collaborate with TWC to improve the coordination and implementation of adult education and literacy, and to contract with TWC to implement a workplace literacy and basic skills curriculum.

SECTION 5.09. Requires the council, by December 31, 2003, to develop long-range strategies to facilitate delivery of adult education and literacy services, and include them in the council's strategic plan.

ARTICLE 6. PARTIAL TRANSFERS OF UNEMPLOYMENT

COMPENSATION EXPERIENCE RATES

SECTION 6.01. Amends Section 204.084 (c), Labor Code, and adds Subsection (d), to authorize TWC to deny a partial transfer of unemployment compensation experience if TWC determines the acquisition or reorganization was done primarily to qualify for a reduced unemployment insurance tax rate by circumventing the experience rating system or manipulating the experience rating system by minimizing the impact of chargebacks to the predecessor employer's tax account. Establishes a one-year time limit for employers to file an application for a partial transfer due to an acquisition or reorganization. Prohibits partial transfers for part of an organization, trade, or business that cannot operate independently. The part of the business being transferred would have to be a stand-alone part of the business, able to operate on its own, and not be just a few select employees or a particular division of the business.

SECTION 6.02. Specifies that changes to requirements for partial transfers of unemployment compensation experience apply only to an acquisition of an organization, trade, or business that occurs on or after the effective date of the bill, September 1, 2003.

ARTICLE 7. CAREER SCHOOLS AND COLLEGES

SECTION 7.01. Amends Chapter 132A, Education Code, by adding Section 132.0015, to change all references to the words "proprietary schools" to mean "career schools and colleges" in this code or another law.

SECTION 7.02. Amends Section 132.061, Education Code, to change all references to the words "proprietary schools" to "career schools and colleges." Clarifies that a closing proprietary school must make full refunds to students, and that each officer, director, and owner of a career school is personally liable for the amount of any refund owed.

SECTION 7.03. Amends Chapter 132, Education Code, by adding Subchapter J, to authorize TWC to issue a cease-and-desist order to bring an unlicensed proprietary school into compliance with state law. Only schools that fail to respond to the cease-and-desist order would be referred to the Consumer Protection Division of the Office of the Attorney General for further action. Requires TWC to adopt rules as necessary to implement the changes.

SECTION 7.04. Amends Section 132.241 (a), (b), (d), and (e), Education Code, and adds Subsections (f) and (g), to change all references to the words "proprietary schools" to "career schools and colleges." Increases the amount that triggers the replenishment of the proprietary school Tuition Protection Fund (TPF) from \$200,000 to \$400,000. Increases the ceiling on the TPF from \$250,000 to \$500,000 by September 1, 2005. Clarifies that refunds from the TPF depend on available funding, and that students might not receive a full refund of prepaid tuition from TWC if a proprietary school closes. Outlines the factors TWC can take into consideration if paying full student refunds is not possible. Provides that notwithstanding Subsections (b) and (e), in the state fiscal year ending August 31, 2004, TWC is required to collect a fee under

Subsection (b) only if on January 1 of that year the amount in the fund is less than \$300,000 and the balance of the tuition protection fund is prohibited from exceeding \$375,000. Provides that this subsection expires September 1, 2005.

SECTION 7.05. Amends Section 132.242, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Increases from \$50,000 to \$150,000 the amount that can be spent per school closure from the Tuition Protection Fund.

SECTION 7.06. Amends Section 52.32(b), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.07. Amends Section 53.02(5), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.08. Amends Section 54.6001, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.09. Amends Section 54.601(9), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.10. Amends Section 54.605(a), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.11. Amends Section 54.618(b), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.12. Amends Section 54.619(h), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.13. Amends heading of Chapter 132, Education Code, to change the reference to “proprietary schools” to “career schools and colleges.”

SECTION 7.14. Amends Section 132.001, Subdivisions (1) - (8) and (10) and (12), Education Code, and adds Subdivision (13). Changes all references to the words “proprietary schools” to “career schools and colleges.” Defines “division.”

SECTION 7.15. Amends Section 132.002(a), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Includes a conforming change to update a reference to a recoded statute.

SECTION 7.16. Amends Sections 132.021(a), (b), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges,” and to clarify that The commissioners, meaning the three full-time commissioners, have responsibility for adopting rules and policies for carrying out this chapter.

SECTION 7.17. Amends Section 132.022, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.18. Amends Section 132.023, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Clarifies that the commissioners, meaning the three full-time commissioners, have responsibility for adopting rules; and that staff have responsibility for implementing policy.

SECTION 7.19. Amends Section 132.051, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.20. Amends Section 132.052, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.21. Amends Section 132.053, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.” Clarifies a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 7.22. Amends Section 132.054, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.23. Amends Section 132.055, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.24. Amends Section 132.056, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.25. Amends Section 132.058, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.26. Amends Sections 132.059(a), (b), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.27. Amends Section 132.060, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.28. Amends Section 132.062, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.29. Amends Section 132.063, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.30. Amends Section 132.064, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.31. Amends Section 132.151, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.32. Amends Section 132.153, Education Code, to clarify a distinction between the duties of TWC, meaning the agency as a whole. Changes all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.33. Amends Section 132.154(a), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.34. Amends Section 132.156, Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.35. Amends Sections 132.157(a), (b), (c), and (d), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.36. Amends Sections 132.201(a), (c), (d), (e), (f), (h), and (i), Education Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.37. Amends Section 52.013(b), Government Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.38. Amends Section 305.002(3), Labor Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.39. Amends Section 305.023, Labor Code, to change all references to the words “proprietary schools” to “career schools and colleges.”

SECTION 7.40. Amends Subsection E, Section 2.23A, Texas Non-Profit Corporation Act (Article 1396-2.23A, V.T.C.S.), to change all references to the words “proprietary schools” to “career schools and colleges.” Includes conforming changes to update agency names.

ARTICLE 8. REPEALER

SECTION 8.01. Repeals Section 201.002, Labor Code, to eliminate the application of the Texas Sunset Act to the Texas Employment Commission. This section was replaced by Section 301.008, Labor Code, to apply the Texas Sunset Act to TWC. Repeals Section 301.006, Labor Code, to eliminate an outdated section related to Private Industry Councils. Repeals Section 302.005 (k), Labor Code, to eliminate a section on Child-Care Training Center Pilot Programs that ended in 1999.

ARTICLE 9. GENERAL CONFORMING AMENDMENTS

SECTION 9.01. Amends Section 30.103, Education Code, with a conforming change to update the agency name.

SECTION 9.02. Amends Sections 501.095(d), Government Code, to require TWC, to develop a memorandum of understanding (MOU).

SECTION 9.03. Amends Section 531.045(b), Government Code, to clarify that the executive director of TWC appoints a representative of TWC to the Interagency Task Force on Electronic Benefits Transfers.

SECTION 9.04. Amends Section 572.003(c), Government Code, with conforming changes to update agency names, and to clarify a distinction between the duties of TWC, meaning the agency as a whole; and the duties of the commissioners, meaning the three full-time commissioners, acting as the governing body of the agency. Includes a conforming change to delete a reference to an agency that no longer exists.

SECTION 9.05. Amends Section 656.001, Government Code, with a conforming change to update the agency name.

SECTION 9.06. Amends Section 656.021(l), Government Code, with a conforming change to update the agency name, and to clarify a distinction between TWC, meaning the agency as a whole.

SECTION 9.07. Amends Section 657.009, Government Code, with a conforming change to update the agency name, and to clarify a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 9.08. Amends Section 772.0031(a), Government Code, to clarify that the executive director of TWC appoints a representative of TWC to the Human Resource Task Force.

SECTION 9.09. Amends Section 2162.051(a), Government Code, to clarify a distinction between TWC, meaning the agency as a whole.

SECTION 9.10. Amends Section 115.002(c), Human Resources Code, to clarify that the executive director of TWC is an ex-officio member of the Governor’s Committee on People with Disabilities.

SECTION 9.11. Amends Section 61.005(a), Labor Code, to clarify that agency staff, or an authorized representative, have responsibility for implementing procedures tied to a person’s refusal to obey a subpoena issued by the agency.

SECTION 9.12. Amends Section 62.107(c), Labor Code, with conforming change to update the agency name.

SECTION 9.13. Amends Section 201.011(8), Labor Code, to clarify a distinction between the duties of TWC, meaning the agency as a whole.

SECTION 9.14. Amends Sections 306.007(a) and (b), Labor Code, to require TWC through project RIO to assist in the reintegration into the labor force those persons formerly sentenced to the institutional division or the state jail division. Clarifies a distinction between the duties of TWC, meaning the agency as a whole. Includes a conforming change to update an agency name.

ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Effective date: September 1, 2003, except as otherwise provided by this Act.