

By: Shapleigh

S.B. No. 261

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Council on Purchasing from People with Disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (2), Section 122.002, Human Resources Code, is amended to read as follows:

(2) "Commission" means the Texas Building and Procurement [~~General Services~~] Commission.

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

(b) The governor shall select three members from the category prescribed by Subsection (a)(1) and at least one member from the other three categories [~~each category~~] prescribed by Subsection (a). To the extent possible, the governor shall attempt to ensure that the categories prescribed by Subsections (a)(2)-(4) are equally [~~each category is proportionately~~] represented on the council. Members of the council serve staggered terms of six years with the terms of three members expiring on January 31 of each odd-numbered year. Members may not receive compensation for their service on the council, but they are entitled to reimbursement for actual and necessary expenses incurred in performing their duties as members.

(j) The council shall adopt rules establishing a formal

1 certification procedure [~~may establish criteria~~] for recognition
2 and approval of community rehabilitation programs. The procedure
3 must include a committee composed of three council members
4 appointed by the presiding officer to review certification
5 applications of community rehabilitation programs and issue
6 recommendations to the council. The council may:

7 (1) recognize a program that maintains accreditation
8 by a nationally accepted vocational rehabilitation accrediting
9 organization; and

10 (2) approve community rehabilitation program services
11 that have been approved for purchase by a state habilitation or
12 rehabilitation agency.

13 (k) The council may delegate the administration of the
14 procedure established under Subsection (j) to a central nonprofit
15 agency but may not delegate the authority to certify a community
16 rehabilitation program under this section.

17 SECTION 3. Section 122.004, Human Resources Code, is
18 amended to read as follows:

19 Sec. 122.004. INFORMATION RELATING TO STANDARDS OF CONDUCT.
20 The presiding officer of the council or the presiding officer's
21 designee shall provide to members of the council and to council
22 employees, as often as necessary, information regarding
23 requirements [~~their qualification~~] for office or employment under
24 this chapter, including information regarding a person's [~~and~~
25 ~~their~~] responsibilities under applicable laws relating to
26 standards of conduct for state officers or employees.

27 SECTION 4. Section 122.005, Human Resources Code, is

1 amended to read as follows:

2 Sec. 122.005. MEMBER TRAINING. (a) A person who is
3 appointed to and qualifies for office as ~~[Before]~~ a member of the
4 council may not vote, deliberate, or be counted as a member in
5 attendance at a meeting of the council until the person completes a
6 ~~[assume the member's duties and before the member may be confirmed~~
7 ~~by the senate, the member must complete at least one course of the]~~
8 training program that complies with ~~[established under]~~ this
9 section.

10 (b) The ~~[A]~~ training program must ~~[established under this~~
11 ~~section shall]~~ provide the person with information ~~[to the member]~~
12 regarding:

- 13 (1) this chapter;
- 14 (2) the programs operated by the council;
- 15 (3) the role and functions of the council;
- 16 (4) the rules of the council with an emphasis on the
17 rules that relate to oversight and investigatory authority;
- 18 (5) the current budget for the council;
- 19 (6) ~~[(5)]~~ the results of the most recent formal audit
20 of the council;
- 21 (7) ~~[(6)]~~ the requirements of ~~[the]~~:
- 22 (A) the open meetings law, Chapter 551,
23 Government Code;
- 24 (B) the public information ~~[open records]~~ law,
25 Chapter 552, Government Code; and
- 26 (C) the administrative procedure law, Chapter
27 2001, Government Code;

1 (8) other laws relating to public officials, including
2 ~~[(7) the requirements of the]~~ conflict of interest laws ~~[and other~~
3 ~~laws relating to public officials]~~; and

4 (9) [(8)] any applicable ethics policies adopted by
5 the council or the Texas Ethics Commission.

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

11 SECTION 5. Section 122.0055, Human Resources Code, is
12 amended by adding Subsection (c) to read as follows:

13 (c) The council shall develop and implement policies that
14 clearly separate the policymaking responsibilities of the council
15 and the management responsibilities of the staff of the council.

16 SECTION 6. Section 122.006, Human Resources Code, is
17 amended to read as follows:

18 Sec. 122.006. SUNSET PROVISION. The Texas Council on
19 Purchasing from People with Disabilities is subject to Chapter 325,
20 Government Code (Texas Sunset Act). Unless continued in existence
21 as provided by that chapter, the council is abolished and this
22 chapter expires September 1, 2015 ~~[2003]~~.

23 SECTION 7. Section 122.0095, Human Resources Code, is
24 amended by adding Subsection (e) to read as follows:

25 (e) The council shall review the information contained in
26 the reports under this section and Sections 122.012 and 122.016.
27 The commission shall assist the council in reviewing and analyzing

1 the reports in order to improve state agency compliance with this
2 chapter.

3 SECTION 8. Section 122.012, Human Resources Code, is
4 amended by adding Subsection (e) to read as follows:

5 (e) After any audit or review the commission conducts with
6 regard to state agency compliance with purchasing laws and
7 procedures, the commission shall report to the council a state
8 agency that is not complying with this chapter.

9 SECTION 9. Section 122.020, Human Resources Code, is
10 amended by amending Subsections (b) and (c) and by adding
11 Subsection (d) to read as follows:

12 (b) The council shall keep an information file about each
13 complaint filed with the council [~~relating to a product or service~~
14 ~~offered by a community rehabilitation program~~]. The file must
15 include:

- 16 (1) the name of the person who filed the complaint;
17 (2) the date the complaint is received by the council;
18 (3) the subject matter of the complaint;
19 (4) the name of each person contacted in relation to
20 the complaint;
21 (5) a summary of the results of the review or
22 investigation of the complaint; and
23 (6) an explanation of the reason the file was closed,
24 if the council closed the file without taking action other than to
25 investigate the complaint.

26 (c) If a written complaint is filed with the council
27 [~~relating to a product or service offered by a community~~

1 ~~rehabilitation program]~~, the council, at least as frequently as
2 quarterly and until final disposition of the complaint, shall
3 notify the parties to the complaint of the status of the complaint
4 unless the notice would jeopardize an undercover investigation.

5 (d) The council shall provide to the person filing the
6 complaint and to each person who is a subject of the complaint a
7 copy of the council's policies and procedures relating to complaint
8 investigation and resolution.

9 SECTION 10. Chapter 122, Human Resources Code, is amended
10 by adding Section 122.0206 to read as follows:

11 Sec. 122.0206. NEGOTIATED RULEMAKING AND ALTERNATIVE
12 DISPUTE RESOLUTION PROCEDURES. (a) The council shall develop and
13 implement a policy to encourage the use of:

14 (1) negotiated rulemaking procedures under Chapter
15 2008, Government Code, for the adoption of council rules; and

16 (2) appropriate alternative dispute resolution
17 procedures under Chapter 2009, Government Code, to assist in the
18 resolution of internal and external disputes under the council's
19 jurisdiction.

20 (b) The council's procedures relating to alternative
21 dispute resolution must conform, to the extent possible, to any
22 model guidelines issued by the State Office of Administrative
23 Hearings for the use of alternative dispute resolution by state
24 agencies.

25 SECTION 11. The heading of Section 122.0215, Human
26 Resources Code, is amended to read as follows:

27 Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS;

1 INSPECTION.

2 SECTION 12. Section 122.0215, Human Resources Code, is
3 amended by adding Subsection (d) to read as follows:

4 (d) The council or a central nonprofit agency at the
5 council's direction may inspect a community rehabilitation program
6 for compliance with certification criteria established under
7 Sections 122.003(j) and 122.013(c). The committee designated under
8 Section 122.003(j) shall review the inspection results and
9 recommend appropriate action to the council.

10 SECTION 13. Chapter 122, Human Resources Code, is amended
11 by adding Section 122.027 to read as follows:

12 Sec. 122.027. TECHNOLOGY POLICY. The council shall develop
13 and implement a policy requiring the staff of the council or a
14 central nonprofit agency to research and propose appropriate
15 technological solutions to improve the council's ability to perform
16 its functions. The technological solutions must:

17 (1) ensure that the public is able to easily find
18 information about the council on the Internet;

19 (2) ensure that persons who want to use the council's
20 services are able to:

21 (A) interact with the council through the
22 Internet; and

23 (B) access any service that can be provided
24 effectively through the Internet; and

25 (3) be cost-effective and developed through the
26 council's planning processes.

27 SECTION 14. Chapter 122, Human Resources Code, is amended

1 by adding Section 122.028 to read as follows:

2 Sec. 122.028. PROGRAM PROMOTION. The council shall
3 establish procedures for the promotion of the program administered
4 under this chapter.

5 SECTION 15. Chapter 122, Human Resources Code, is amended
6 by adding Section 122.029 to read as follows:

7 Sec. 122.029. DUTIES OF STATE AUDITOR. (a) As part of an
8 audit of a state agency authorized under Section 2161.123,
9 Government Code, the state auditor shall:

10 (1) conduct an audit of a state agency for compliance
11 with this chapter; and

12 (2) report to the council a state agency that is not
13 complying with this chapter.

14 (b) If the state auditor reports to the council that a state
15 agency is not complying with this chapter, the council shall assist
16 the agency in complying.

17 SECTION 16. Chapter 122, Human Resources Code, is amended
18 by adding Section 122.030 to read as follows:

19 Sec. 122.030. MANAGEMENT FEE RATE; REVIEW PROCESS.

20 (a) The council shall develop a formal review process for the
21 annual review conducted under Section 122.019(e). The review
22 process must include:

23 (1) notice to affected parties, including community
24 rehabilitation programs;

25 (2) solicitation of public comment; and

26 (3) documentation provided by a central nonprofit
27 agency in support of a proposed management fee rate change.

1 (b) Before making a decision relating to the management fee
2 rate, the council shall consider:

3 (1) any public comment received;

4 (2) documentation provided by a central nonprofit
5 agency; and

6 (3) any documentation provided by a community
7 rehabilitation program or the public.

8 (c) The council shall adopt rules to implement this section.

9 SECTION 17. (a) The changes in law made by this Act in the
10 prohibitions or qualifications applying to members of the Texas
11 Council on Purchasing from People with Disabilities do not affect
12 the entitlement of a member serving on the council immediately
13 before September 1, 2003, to continue to serve and function as a
14 member of the council for the remainder of the member's term. Those
15 changes in law apply only to a member appointed on or after
16 September 1, 2003.

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

23 (c) The Texas Council on Purchasing from People with
24 Disabilities shall adopt rules by January 1, 2004, to implement:

25 (1) the changes in law made by this Act to Subsection
26 (j), Section 122.003, Human Resources Code; and

27 (2) Subsection (k), Section 122.003, Subsection (d),

1 Section 122.0215, and Section 122.030, Human Resources Code, as
2 added by this Act.

3 (d) Section 122.020, Human Resources Code, as amended by
4 this Act, applies only to a complaint filed with the Texas Council
5 on Purchasing from People with Disabilities on or after the
6 effective date of this Act, regardless of whether the conduct or act
7 that is the subject of the complaint occurred or was committed
8 before, on, or after the effective date of this Act.

9 SECTION 18. This Act takes effect September 1, 2003.