

1-1 By: Shapleigh S.B. No. 261
1-2 (In the Senate - Filed January 29, 2003; February 5, 2003,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 3, 2003, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; March 3, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the Texas Council on
1-9 Purchasing from People with Disabilities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subdivision (2), Section 122.002, Human
1-12 Resources Code, is amended to read as follows:

1-13 (2) "Commission" means the Texas Building and
1-14 Procurement [General Services] Commission.

1-15 SECTION 2. Section 122.003, Human Resources Code, is
1-16 amended by amending Subsections (b) and (j) and by adding
1-17 Subsection (k) to read as follows:

1-18 (b) The governor shall select three members from the
1-19 category prescribed by Subsection (a)(1) and at least one member
1-20 from the other three categories [each category] prescribed by
1-21 Subsection (a). To the extent possible, the governor shall attempt
1-22 to ensure that the categories prescribed by Subsections (a)(2)-(4)
1-23 are equally [each category is proportionately] represented on the
1-24 council. Members of the council serve staggered terms of six years
1-25 with the terms of three members expiring on January 31 of each
1-26 odd-numbered year. Members may not receive compensation for their
1-27 service on the council, but they are entitled to reimbursement for
1-28 actual and necessary expenses incurred in performing their duties
1-29 as members.

1-30 (j) The council shall adopt rules establishing a formal
1-31 certification procedure [may establish criteria] for recognition
1-32 and approval of community rehabilitation programs. The procedure
1-33 must include a committee composed of three council members
1-34 appointed by the presiding officer to review certification
1-35 applications of community rehabilitation programs and issue
1-36 recommendations to the council. The council may:

1-37 (1) recognize a program that maintains accreditation
1-38 by a nationally accepted vocational rehabilitation accrediting
1-39 organization; and

1-40 (2) approve community rehabilitation program services
1-41 that have been approved for purchase by a state habilitation or
1-42 rehabilitation agency.

1-43 (k) The council may delegate the administration of the
1-44 procedure established under Subsection (j) to a central nonprofit
1-45 agency but may not delegate the authority to certify a community
1-46 rehabilitation program under this section.

1-47 SECTION 3. Section 122.004, Human Resources Code, is
1-48 amended to read as follows:

1-49 Sec. 122.004. INFORMATION RELATING TO STANDARDS OF CONDUCT.
1-50 The presiding officer of the council or the presiding officer's
1-51 designee shall provide to members of the council and to council
1-52 employees, as often as necessary, information regarding
1-53 requirements [their qualification] for office or employment under
1-54 this chapter, including information regarding a person's [and
1-55 their] responsibilities under applicable laws relating to
1-56 standards of conduct for state officers or employees.

1-57 SECTION 4. Section 122.005, Human Resources Code, is
1-58 amended to read as follows:

1-59 Sec. 122.005. MEMBER TRAINING. (a) A person who is
1-60 appointed to and qualifies for office as [Before] a member of the
1-61 council may not vote, deliberate, or be counted as a member in
1-62 attendance at a meeting of the council until the person completes a
1-63 [assume the member's duties and before the member may be confirmed
1-64 by the senate, the member must complete at least one course of the]

2-1 training program that complies with ~~[established under]~~ this
 2-2 section.

2-3 (b) The [A] training program must ~~[established under this~~
 2-4 ~~section shall]~~ provide the person with information ~~[to the member]~~
 2-5 regarding:

2-6 (1) this chapter;
 2-7 (2) the programs operated by the council;
 2-8 (3) the role and functions of the council;
 2-9 (4) the rules of the council with an emphasis on the
 2-10 rules that relate to oversight and investigatory authority;

2-11 (5) the current budget for the council;
 2-12 (6) ~~[(5)]~~ the results of the most recent formal audit
 2-13 of the council;

2-14 (7) ~~[(6)]~~ the requirements of ~~[the]~~:
 2-15 (A) the open meetings law, Chapter 551,
 2-16 Government Code;

2-17 (B) the public information ~~[open records]~~ law,
 2-18 Chapter 552, Government Code; and

2-19 (C) the administrative procedure law, Chapter
 2-20 2001, Government Code;

2-21 (8) other laws relating to public officials, including
 2-22 ~~[(7) the requirements of the]~~ conflict of interest laws ~~[and other~~
 2-23 ~~laws relating to public officials];~~ and

2-24 (9) ~~[(8)]~~ any applicable ethics policies adopted by
 2-25 the council or the Texas Ethics Commission.

2-26 (c) A person appointed to the council is entitled to
 2-27 reimbursement, as provided by the General Appropriations Act, for
 2-28 the travel expenses incurred in attending the training program
 2-29 regardless of whether the attendance at the program occurs before
 2-30 or after the person qualifies for office.

2-31 SECTION 5. Section 122.0055, Human Resources Code, is
 2-32 amended by adding Subsection (c) to read as follows:

2-33 (c) The council shall develop and implement policies that
 2-34 clearly separate the policymaking responsibilities of the council
 2-35 and the management responsibilities of the staff of the council.

2-36 SECTION 6. Section 122.006, Human Resources Code, is
 2-37 amended to read as follows:

2-38 Sec. 122.006. SUNSET PROVISION. The Texas Council on
 2-39 Purchasing from People with Disabilities is subject to Chapter 325,
 2-40 Government Code (Texas Sunset Act). Unless continued in existence
 2-41 as provided by that chapter, the council is abolished and this
 2-42 chapter expires September 1, 2015 ~~[2003]~~.

2-43 SECTION 7. Section 122.0095, Human Resources Code, is
 2-44 amended by adding Subsection (e) to read as follows:

2-45 (e) The council shall review the information contained in
 2-46 the reports under this section and Sections 122.012 and 122.016.
 2-47 The commission shall assist the council in reviewing and analyzing
 2-48 the reports in order to improve state agency compliance with this
 2-49 chapter.

2-50 SECTION 8. Section 122.012, Human Resources Code, is
 2-51 amended by adding Subsection (e) to read as follows:

2-52 (e) After any audit or review the commission conducts with
 2-53 regard to state agency compliance with purchasing laws and
 2-54 procedures, the commission shall report to the council a state
 2-55 agency that is not complying with this chapter.

2-56 SECTION 9. Section 122.020, Human Resources Code, is
 2-57 amended by amending Subsections (b) and (c) and by adding
 2-58 Subsection (d) to read as follows:

2-59 (b) The council shall keep an information file about each
 2-60 complaint filed with the council ~~[relating to a product or service~~
 2-61 ~~offered by a community rehabilitation program]~~. The file must
 2-62 include:

2-63 (1) the name of the person who filed the complaint;
 2-64 (2) the date the complaint is received by the council;
 2-65 (3) the subject matter of the complaint;
 2-66 (4) the name of each person contacted in relation to
 2-67 the complaint;

2-68 (5) a summary of the results of the review or
 2-69 investigation of the complaint; and

3-1 (6) an explanation of the reason the file was closed,
 3-2 if the council closed the file without taking action other than to
 3-3 investigate the complaint.

3-4 (c) If a written complaint is filed with the council
 3-5 [relating to a product or service offered by a community
 3-6 rehabilitation program], the council, at least as frequently as
 3-7 quarterly and until final disposition of the complaint, shall
 3-8 notify the parties to the complaint of the status of the complaint
 3-9 unless the notice would jeopardize an undercover investigation.

3-10 (d) The council shall provide to the person filing the
 3-11 complaint and to each person who is a subject of the complaint a
 3-12 copy of the council's policies and procedures relating to complaint
 3-13 investigation and resolution.

3-14 SECTION 10. Chapter 122, Human Resources Code, is amended
 3-15 by adding Section 122.0206 to read as follows:

3-16 Sec. 122.0206. NEGOTIATED RULEMAKING AND ALTERNATIVE
 3-17 DISPUTE RESOLUTION PROCEDURES. (a) The council shall develop and
 3-18 implement a policy to encourage the use of:

3-19 (1) negotiated rulemaking procedures under Chapter
 3-20 2008, Government Code, for the adoption of council rules; and

3-21 (2) appropriate alternative dispute resolution
 3-22 procedures under Chapter 2009, Government Code, to assist in the
 3-23 resolution of internal and external disputes under the council's
 3-24 jurisdiction.

3-25 (b) The council's procedures relating to alternative
 3-26 dispute resolution must conform, to the extent possible, to any
 3-27 model guidelines issued by the State Office of Administrative
 3-28 Hearings for the use of alternative dispute resolution by state
 3-29 agencies.

3-30 SECTION 11. The heading of Section 122.0215, Human
 3-31 Resources Code, is amended to read as follows:

3-32 Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS;
 3-33 INSPECTION.

3-34 SECTION 12. Section 122.0215, Human Resources Code, is
 3-35 amended by adding Subsection (d) to read as follows:

3-36 (d) The council or a central nonprofit agency at the
 3-37 council's direction may inspect a community rehabilitation program
 3-38 for compliance with certification criteria established under
 3-39 Sections 122.003(j) and 122.013(c). The committee designated under
 3-40 Section 122.003(j) shall review the inspection results and
 3-41 recommend appropriate action to the council.

3-42 SECTION 13. Chapter 122, Human Resources Code, is amended
 3-43 by adding Section 122.027 to read as follows:

3-44 Sec. 122.027. TECHNOLOGY POLICY. The council shall develop
 3-45 and implement a policy requiring the staff of the council or a
 3-46 central nonprofit agency to research and propose appropriate
 3-47 technological solutions to improve the council's ability to perform
 3-48 its functions. The technological solutions must:

3-49 (1) ensure that the public is able to easily find
 3-50 information about the council on the Internet;

3-51 (2) ensure that persons who want to use the council's
 3-52 services are able to:

3-53 (A) interact with the council through the
 3-54 Internet; and

3-55 (B) access any service that can be provided
 3-56 effectively through the Internet; and

3-57 (3) be cost-effective and developed through the
 3-58 council's planning processes.

3-59 SECTION 14. Chapter 122, Human Resources Code, is amended
 3-60 by adding Section 122.028 to read as follows:

3-61 Sec. 122.028. PROGRAM PROMOTION. The council shall
 3-62 establish procedures for the promotion of the program administered
 3-63 under this chapter.

3-64 SECTION 15. Chapter 122, Human Resources Code, is amended
 3-65 by adding Section 122.029 to read as follows:

3-66 Sec. 122.029. DUTIES OF STATE AUDITOR. (a) As part of an
 3-67 audit of a state agency authorized under Section 2161.123,
 3-68 Government Code, the state auditor shall:

3-69 (1) conduct an audit of a state agency for compliance

4-1 with this chapter; and
 4-2 (2) report to the council a state agency that is not
 4-3 complying with this chapter.

4-4 (b) If the state auditor reports to the council that a state
 4-5 agency is not complying with this chapter, the council shall assist
 4-6 the agency in complying.

4-7 SECTION 16. Chapter 122, Human Resources Code, is amended
 4-8 by adding Section 122.030 to read as follows:

4-9 Sec. 122.030. MANAGEMENT FEE RATE; REVIEW PROCESS.

4-10 (a) The council shall develop a formal review process for the
 4-11 annual review conducted under Section 122.019(e). The review
 4-12 process must include:

4-13 (1) notice to affected parties, including community
 4-14 rehabilitation programs;

4-15 (2) solicitation of public comment; and

4-16 (3) documentation provided by a central nonprofit
 4-17 agency in support of a proposed management fee rate change.

4-18 (b) Before making a decision relating to the management fee
 4-19 rate, the council shall consider:

4-20 (1) any public comment received;

4-21 (2) documentation provided by a central nonprofit
 4-22 agency; and

4-23 (3) any documentation provided by a community
 4-24 rehabilitation program or the public.

4-25 (c) The council shall adopt rules to implement this section.

4-26 SECTION 17. (a) The changes in law made by this Act in the
 4-27 prohibitions or qualifications applying to members of the Texas
 4-28 Council on Purchasing from People with Disabilities do not affect
 4-29 the entitlement of a member serving on the council immediately
 4-30 before September 1, 2003, to continue to serve and function as a
 4-31 member of the council for the remainder of the member's term. Those
 4-32 changes in law apply only to a member appointed on or after
 4-33 September 1, 2003.

4-34 (b) As the terms of members of the Texas Council on
 4-35 Purchasing from People with Disabilities expire or as vacancies on
 4-36 the council occur, the governor shall make appointments to the
 4-37 council to achieve as soon as possible the membership plan
 4-38 prescribed for the council by Section 122.003, Human Resources
 4-39 Code, as amended by this Act.

4-40 (c) The Texas Council on Purchasing from People with
 4-41 Disabilities shall adopt rules by January 1, 2004, to implement:

4-42 (1) the changes in law made by this Act to Subsection
 4-43 (j), Section 122.003, Human Resources Code; and

4-44 (2) Subsection (k), Section 122.003, Subsection (d),
 4-45 Section 122.0215, and Section 122.030, Human Resources Code, as
 4-46 added by this Act.

4-47 (d) Section 122.020, Human Resources Code, as amended by
 4-48 this Act, applies only to a complaint filed with the Texas Council
 4-49 on Purchasing from People with Disabilities on or after the
 4-50 effective date of this Act, regardless of whether the conduct or act
 4-51 that is the subject of the complaint occurred or was committed
 4-52 before, on, or after the effective date of this Act.

4-53 SECTION 18. This Act takes effect September 1, 2003.

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