

BILL ANALYSIS

C.S.H.B. 762

By: Dutton

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Supreme Court of Texas has promulgated rules for lawyer discipline and disability proceedings. However, the responsibility for administering and supervising lawyer discipline and disability is delegated to the Board of Directors of the State Bar of Texas.

Section 2.02 of the Texas Rules of Disciplinary Procedure require that a disciplinary grievance committee be comprised of no fewer than nine members, two-thirds of whom must be attorneys who are licensed to practice law in the State of Texas and are in good standing, and one-third of whom must be public members. Additionally, all committee panels must be comprised of two-thirds attorneys and one-third public members.

A member of a panel nevertheless, is disqualified or is subject to recusal as a panel member for an evidentiary hearing if a district judge would, under similar circumstances, be disqualified or recused, yet the standard for a district judge is purportedly much higher, and often times a member of a panel who may have such a conflict that would demand recusal of himself or herself, will not do so unless, a party to the disciplinary action brings this allegation before the panel.

C.S.H.B.762 would require a member of a panel of a district grievance committee to recuse himself or herself from disciplinary proceedings if at any time he or she had a direct interest in the conduct at issue or if he or she had any interactions with the complainant or respondent that a reasonable person may deem as a conflict of interest.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 81.072, Government Code by adding Subsections (p) and (q) to requires a member of a panel of a district grievance committee of the state bar who at any time has had a direct interest in conduct at issue in a grievance matter to which the panel was assigned, or who at any time before the hearing on a grievance matter to which the panel was assigned has had significant interactions with the complainant or the respondent that would lead a reasonable person to believe the member has a conflict of interest with respect to the matter, to recuse himself or herself from participating in the matter or from participating in a hearing on the matter, which also includes a closed hearing on a complaint placed on a dismissal docket and voting on disposition of the matter. Additionally, (q) authorizes another member of the district grievance committee to be substituted for that member, subject to approval by the complainant and respondent to the hearing

SECTION 2. Prospective Clause

SECTION 3. Effective date: September 1, 2007

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.762 modifies the original H.B.762 by removing "significant" in line 13 and add that the interactions must be believed by a reasonable person that the member has a conflict of interest with respect to the matter.