

BILL ANALYSIS

Senate Research Center
80R20500 TAD-D

C.S.H.B. 3426
By: Flynn et al. (Shapleigh)
Government Organization
5/18/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature established the Texas Veterans Commission (TVC) in 1927 as the lead state agency for veterans' affairs, to provide benefit information and assistance to Texas veterans. For nearly 80 years, TVC focused solely on providing claims assistance and benefit information, until 2005, when the legislature transferred the Veterans Employment Services program from the Texas Workforce Commission (TWC). In addition, TVC replaced TWC as the State Approving Agency for Veterans Education. Currently, TVC administers its programs with a budget of about \$15.3 million, derived from General Revenue (GR) and federal funds. This is almost a four-fold increase from when TVC's main mission was claims assistance, which was funded by GR. TVC employs a staff of 311, most of whom are located in field offices throughout the state.

TVC is subject to review by the Sunset Advisory Commission (SAC) and will be abolished on September 1, 2007, unless continued by the legislature. SAC found that the recent transfers of the veteran's employment and education programs present significant challenges to TVC and its ability to fulfill these new responsibilities. Additionally, some guidance is needed to help focus TVC's efforts to meet the demands of today's returning veterans.

C.S.H.B. 3426 continues the agency for six additional years and provides guidance to assist TVC's efforts to meet the demands of returning deployed veterans.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Veterans Commission is modified in SECTION 10 (Section 434.010, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Veterans Commission in SECTION 11 (Section 434.0101, Government Code) and SECTION 16 (Section 434.151, Government Code) of this bill.

Rulemaking authority is expressly granted to the Homefront Heroes Advisory Committee in SECTION 16 (Section 434.153, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 434.002(a), Government Code, to provide that the Texas Veterans Commission (TVC) is abolished September 1, 2013, rather than September 1, 2007, unless continued in existence as provided by Chapter 325 (Texas Sunset Act).

SECTION 2. Amends Section 434.003, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Requires the governor to make each appointment to TVC without regard to the race, color, disability, sex, religion, age, or national origin, rather than race, creed, sex, religion, or national origin, of the appointee.

(e) Prohibits a person from being a member of TVC if the person or the person's spouse meets certain criteria.

SECTION 3. Amends Section 434.004, Government Code, as follows:

Sec. 434.004. CONFLICT OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a TVC 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.), if the person meets certain criteria.

(c) Prohibits certain persons from serving as a member of TVC.

(d) Creates this subsection from existing text.

SECTION 4. Amends Section 434.005, Government Code, as follows:

Sec. 434.005. REMOVAL. (a) Provides grounds for removal for a member of TVC.

(b) Provides that the validity of an action of TVC is not affected by the fact that it is taken when a ground for removal of a TVC member exists.

(c) Requires the executive director, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of TVC of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of TVC, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 5. Amends Section 434.006, Government Code, as follows:

Sec. 434.006. OFFICERS; COMMISSION ACTIONS. (a) Requires the governor to designate a member of TVC as presiding officer to serve in that capacity at the pleasure of the governor.

(b) Requires TVC to annually elect from among its members an assistant presiding officer and a secretary, rather than a chairman, a vice-chairman, and a secretary.

(c) Redesignated from existing Subsection (b).

SECTION 6. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.0061, as follows:

Sec. 434.0061. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of TVC from voting, deliberating, or being counted as a member in attendance at a meeting of TVC 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) Entitles a person appointed to TVC to reimbursement, as provided by the General Appropriations Act, for 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.

SECTION 7. Amends Subchapter A, Chapter 434, Government Code, by adding Sections 434.0076 through 434.0078, as follows:

Sec. 434.0076. RECORD OF COMPLAINTS. (a) Requires TVC to maintain a system to promptly and efficiently act on complaints filed with it. Requires TVC to maintain

information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires TVC to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TVC to periodically notify the complaint parties of the status of the complaint until final disposition.

Sec. 434.0077. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires TVC to develop and implement a policy to encourage the use of certain negotiated rulemaking and alternative dispute resolution procedures.

(b) Requires TVC'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 TVC to designate a trained person to follow certain procedures and collect certain information.

Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) Requires TVC to adopt procedures for administering claims assistance services under Section 434.007(5). Sets forth the procedures for administering claims assistance.

(b) Sets forth requirements for TVC in developing procedures under Subsection (a).

SECTION 8. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.0091, as follows:

Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Requires TVC to develop and implement policies that clearly separate the policymaking responsibilities of TVC and the management responsibilities of the executive director and the staff of TVC.

SECTION 9. Amends Section 434.010, Government Code, as follows:

Sec. 434.010. RULES. (a) Creates this subsection from existing text.

(b) Requires TVC to adopt procedures for receiving input and recommendations from interested persons regarding the development of rules and policies.

SECTION 10. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.0101, as follows:

Sec. 434.0101. ADVISORY COMMITTEES. (a) Authorizes TVC, in developing procedures under Section 434.010, to establish and appoint members to an advisory committee to advise and make recommendations to TVC on programs, rules, and policies affecting the delivery of services to veterans.

(b) Requires TVC, if it establishes an advisory committee under Subsection (a), to adopt rules regarding certain procedures, requirements, and qualifications of the committee and its members.

SECTION 11. Amends Subchapter A, Chapter 434, Government Code, by adding Section 434.0151, as follows:

Sec. 434.0151. PUBLIC PARTICIPATION. Requires TVC to develop and implement policies that provide the public with a reasonable opportunity to appear before it and to speak on any issue under its jurisdiction.

SECTION 12. Amends Section 434.038, Government Code, by amending Subsections (a) and (d) and adding Subsections (a-1), (e), and (f), as follows:

(a) Requires a veterans county service officer (officer), in order to maintain certification, to complete continuing training to the extent required by TVC, rather than attend at least one TVC training conference a year.

(a-1) Requires TVC to develop and implement methods for providing training to officers. Authorizes the methods to include Internet-based seminars, participation through videoconference, cooperation with training provided by the United States Department of Veterans Affairs (VA), and other methods as appropriate.

(d) Requires TVC to develop standard course materials, training curriculum, and examinations to be used for county service officer certification and VA accreditation. Requires TVC members to approve the course materials, training curriculum, and examinations before it may distribute the materials and administer examinations.

(e) Sets forth requirements for course materials and examinations and requires TVC to develop a training handbook containing certain information.

(f) Redesignated from existing Subsection (d). Makes a nonsubstantive change.

SECTION 13. Amends Subchapter B, Chapter 434, Government Code, by adding Section 434.039, as follows:

Sec. 434.039. COORDINATION WITH COUNTY SERVICE OFFICERS AND COMMISSIONERS COURTS. Requires TVC to develop and adopt certain procedures to coordinate with county service officers and county commissioners courts.

SECTION 14. Amends Subchapter C, Chapter 434, Government Code, by adding Section 434.107, as follows:

Sec. 434.107. USE OF TECHNOLOGY. Requires TVC to implement a policy requiring it to use appropriate technological solutions to improve the commission's ability to perform its functions. Requires the policy to ensure that the public is able to interact with TVC on the Internet.

SECTION 15. Makes application of Section 434.0061, Government Code, as added by this Act, prospective to September 1, 2007.

SECTION 16. Requires TVC, not later than March 1, 2008, to comply with Sections 434.0076, 434.0078, 434.0091, 434.010(b), 434.0151, 434.038(a-1) and (e), 434.039, and 434.107, Government Code, as added by this Act, and with Section 434.038(d), Government Code, as amended by this Act.

SECTION 17. Requires TVC to comply with and implement any nonstatutory recommendations regarding TVC adopted by the Sunset Advisory Commission as a result of its review of the TVC; and report to the Sunset Advisory Commission the information that the Sunset Advisory Commission requires regarding the TVC's implementation of the Sunset Advisory Commission's nonstatutory recommendations not later than November 1, 2008.

SECTION 18. (a) Provides that the changes in law made by this Act in the prohibitions or qualifications applying to a member of the TVC do not affect the entitlement of a member serving on TVC immediately before September 1, 2007, to continue to serve and function as a member of the TVC for the remainder of the member's term. Provides that those changes in law apply only to a member appointed on or after September 1, 2007.

(b) Makes application of Section 434.0076, Government Code, as added by this Act, prospective to September 1, 2007.

SECTION 19. Effective date: September 1, 2007.