

By: Flynn, Cook of Navarro, Truitt,
Kolkhorst, McClendon

H.B. No. 3426

Substitute the following for H.B. No. 3426:

By: Escobar

C.S.H.B. No. 3426

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Veterans
Commission.

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

SECTION 1. Section 434.002(a), Government Code, is amended
to read as follows:

(a) The Texas Veterans Commission is subject to Chapter 325
(Texas Sunset Act). Unless continued in existence as provided by
that chapter, the commission is abolished September 1, 2013 [~~2007~~].

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

(a) The commission is composed of five members appointed by
the governor with the advice and consent of the senate. The
governor shall make each appointment without regard to the race,
color, disability [~~creed~~], sex, religion, age, or national origin
of the appointee.

(e) A person may not be a member of the commission if the
person or the person's spouse:

(1) is employed by or participates in the management
of a business entity or other organization, other than a veterans
service organization, receiving money from the commission; or

(2) owns or controls, directly or indirectly, more
than a 10 percent interest in a business entity or other

1 organization receiving money from the commission.

2 SECTION 3. Section 434.004, Government Code, is amended to
3 read as follows:

4 Sec. 434.004. CONFLICT OF INTEREST. (a) In this section,
5 "Texas trade association" means a cooperative and voluntarily
6 joined statewide association of business or professional
7 competitors in this state designed to assist its members and its
8 industry or profession in dealing with mutual business or
9 professional problems and in promoting their common interest.

10 (b) A person may not be a commission employee employed in a
11 "bona fide executive, administrative, or professional capacity,"
12 as that phrase is used for purposes of establishing an exemption to
13 the overtime provisions of the federal Fair Labor Standards Act of
14 1938 (29 U.S.C. Section 201 et seq.), if:

15 (1) the person is an officer, employee, or paid
16 consultant of a Texas or national veterans service organization or
17 a Texas trade association in the field of labor, workforce
18 development, or career schools and colleges; or

19 (2) the person's spouse is an officer, manager, or paid
20 consultant of a Texas or national veterans service organization or
21 a Texas trade association in the field of labor, workforce
22 development, or career schools and colleges.

23 (c) A person may not serve as a member of the commission if:

24 (1) the person is an officer, employee, or paid
25 consultant of a Texas trade association in the field of labor,
26 workforce development, or career schools and colleges; or

27 (2) the person's spouse is an officer, manager, or paid

1 consultant of a Texas trade association in the field of labor,
2 workforce development, or career schools and colleges.

3 (d) A person required to register as a lobbyist under
4 Chapter 305 because of activities on behalf of a veterans
5 association may not serve as a member of or as general counsel to
6 the commission.

7 SECTION 4. Section 434.005, Government Code, is amended to
8 read as follows:

9 Sec. 434.005. REMOVAL. (a) It is a ground for removal from
10 the commission if a member:

11 (1) does [~~did~~] not have at the time of taking office
12 [~~when appointed~~], or does not maintain during the service on the
13 commission, the qualifications required by Section 434.003 for
14 appointment to the commission;

15 (2) violates a prohibition under Section 434.004; [~~or~~]

16 (3) fails to attend at least half of the regularly
17 scheduled commission meetings held in a calendar year, excluding
18 meetings held while the person was not a member of the commission
19 without an excuse approved by a majority vote of the commission; or

20 (4) cannot, because of illness or disability,
21 discharge the member's duties for a substantial part of the member's
22 term.

23 (b) The validity of an action of the commission is not
24 affected by the fact that it is taken when a ground for removal of a
25 commission member exists.

26 (c) If the executive director has knowledge that a potential
27 ground for removal exists, the executive director shall notify the

1 presiding officer of the commission of the potential ground. The
2 presiding officer shall then notify the governor and the attorney
3 general that a potential ground for removal exists. If the
4 potential ground for removal involves the presiding officer, the
5 executive director shall notify the next highest ranking officer of
6 the commission, who shall then notify the governor and the attorney
7 general that a potential ground for removal exists.

8 SECTION 5. Section 434.006, Government Code, is amended to
9 read as follows:

10 Sec. 434.006. OFFICERS; COMMISSION ACTIONS. (a) The
11 governor shall designate a member of the commission as the
12 presiding officer of the commission to serve in that capacity at the
13 pleasure of the governor.

14 (b) The commission annually shall elect from among its
15 members an assistant presiding officer [~~a chairman, a~~
16 ~~vice-chairman,~~] and a secretary. An officer shall serve until the
17 officer's successor is appointed and qualified.

18 (c) [~~(b)~~] The commission shall meet at least once in each
19 three-month period. No action may be taken by less than a majority
20 of the commission.

21 SECTION 6. Subchapter A, Chapter 434, Government Code, is
22 amended by adding Section 434.0061 to read as follows:

23 Sec. 434.0061. TRAINING. (a) A person who is appointed to
24 and qualifies for office as a member of the commission may not vote,
25 deliberate, or be counted as a member in attendance at a meeting of
26 the commission until the person completes a training program that
27 complies with the section.

1 (b) The training program must provide the person with
2 information regarding:

3 (1) the legislation that created the commission;

4 (2) the programs, functions, rules, and budget of the
5 commission;

6 (3) the results of the most recent formal audit of the
7 commission;

8 (4) the requirements of laws relating to open
9 meetings, public information, administrative procedure, and
10 conflicts of interest; and

11 (5) any applicable ethics policies adopted by the
12 commission or the Texas Ethics Commission.

13 (c) A person appointed to the commission is entitled to
14 reimbursement, as provided by the General Appropriations Act, for
15 the travel expenses incurred in attending the training program
16 regardless of whether the attendance at the program occurs before
17 or after the person qualifies for office.

18 SECTION 7. Subchapter A, Chapter 434, Government Code, is
19 amended by adding Sections 434.0076 through 434.0078 to read as
20 follows:

21 Sec. 434.0076. RECORD OF COMPLAINTS. (a) The commission
22 shall maintain a system to promptly and efficiently act on
23 complaints filed with the commission. The commission shall
24 maintain information about parties to the complaint, the subject
25 matter of the complaint, a summary of the results of the review or
26 investigation of the complaint, and its disposition.

27 (b) The commission shall make information available

1 describing its procedures for complaint investigation and
2 resolution.

3 (c) The commission shall periodically notify the complaint
4 parties of the status of the complaint until final disposition.

5 Sec. 434.0077. NEGOTIATED RULEMAKING AND ALTERNATIVE
6 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop
7 and implement a policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008 for the adoption of commission rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009 to assist in the resolution of
12 internal and external disputes under the commission's
13 jurisdiction.

14 (b) The commission's procedures relating to alternative
15 dispute resolution shall conform, to the extent possible, to any
16 model guidelines issued by the State Office of Administrative
17 Hearings for the use of alternative dispute resolution by state
18 agencies.

19 (c) The commission shall designate a trained person to:

20 (1) coordinate the implementation of the policy
21 adopted under Subsection (a);

22 (2) serve as a resource for any training needed to
23 implement the procedures for negotiated rulemaking or alternative
24 dispute resolution; and

25 (3) collect data concerning the effectiveness of those
26 procedures, as implemented by the commission.

27 Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) The

1 commission shall adopt procedures for administering claims
2 assistance services under Section 434.007(5). The procedures shall
3 include:

4 (1) criteria for determining when a veteran's initial
5 claim is substantially complete and basic eligibility requirements
6 are met as provided by federal law;

7 (2) a process for expediting a claim based on
8 hardship, including whether the veteran:

9 (A) is in immediate need;

10 (B) is terminally ill;

11 (C) has a verifiable financial hardship; or

12 (D) has a disability that presents an undue
13 burden;

14 (3) a procedure for counseling veterans on the
15 potential merits or drawbacks of pursuing a claim;

16 (4) a process to ensure adequate documentation and
17 development of a claim or appeal, including early client
18 involvement, collection of needed evidence and records, and
19 analysis of actions necessary to pursue and support a claim or
20 appeal;

21 (5) criteria for evaluating whether a decision of the
22 United States Department of Veterans Affairs contains sufficient
23 cause for filing an appeal;

24 (6) a requirement that a claims counselor report to
25 the United States Department of Veterans Affairs if the counselor
26 has direct knowledge that a claim contains false or deceptive
27 information; and

1 (7) a procedure for prioritizing a claim, when
2 appropriate, or providing an alternative source for obtaining
3 claims assistance services when it is not appropriate to
4 prioritize.

5 (b) The commission shall consult with the United States
6 Department of Veterans Affairs in developing the procedures under
7 Subsection (a) to:

8 (1) ensure the services provided by the commission do
9 not unnecessarily duplicate services provided through the United
10 States Department of Veterans Affairs;

11 (2) ensure that the procedures will provide for
12 resolving disputes at the lowest level of the United States
13 Department of Veterans Affairs benefit decision process;

14 (3) ensure that commission employees are not
15 improperly involved in adjudicating claims; and

16 (4) establish broad areas of cooperation between the
17 commission and the United States Department of Veterans Affairs to
18 streamline and align the commission's service delivery with United
19 States Department of Veterans Affairs processes, including:

20 (A) identifying processes to update changes to
21 veterans' cases and power of attorney designation;

22 (B) cooperating to expedite hardship cases and
23 appeals; and

24 (C) identifying opportunities for the United
25 States Department of Veterans Affairs to provide the commission
26 with necessary data to assist with tracking the progress and
27 outcomes of claims.

1 SECTION 8. Subchapter A, Chapter 434, Government Code, is
2 amended by adding Section 434.0091 to read as follows:

3 Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT
4 RESPONSIBILITIES. The commission shall develop and implement
5 policies that clearly separate the policymaking responsibilities
6 of the commission and the management responsibilities of the
7 executive director and the staff of the commission.

8 SECTION 9. Section 434.010, Government Code, is amended to
9 read as follows:

10 Sec. 434.010. RULES. (a) The commission may adopt rules
11 that it considers necessary for its administration.

12 (b) The commission shall adopt procedures for receiving
13 input and recommendations from interested persons regarding the
14 development of rules and policies.

15 SECTION 10. Subchapter A, Chapter 434, Government Code, is
16 amended by adding Section 434.0101 to read as follows:

17 Sec. 434.0101. ADVISORY COMMITTEES. (a) In developing
18 procedures under Section 434.010, the commission may establish and
19 appoint members to an advisory committee to advise and make
20 recommendations to the commission on programs, rules, and policies
21 affecting the delivery of services to veterans.

22 (b) If the commission establishes an advisory committee
23 under Subsection (a), the commission shall adopt rules regarding:

- 24 (1) the purpose, role, and goals of the committee;
25 (2) the size and quorum requirements of the committee;
26 (3) the qualifications of the members and the criteria
27 for selecting members;

- 1 (4) the procedures for appointing members;
2 (5) the terms of service of members;
3 (6) the training requirements of members;
4 (7) the implementation of a needs assessment process
5 to regularly evaluate the continuing need for the committee; and
6 (8) a requirement that the committee comply with
7 Chapter 551.

8 SECTION 11. Subchapter A, Chapter 434, Government Code, is
9 amended by adding Section 434.0151 to read as follows:

10 Sec. 434.0151. PUBLIC PARTICIPATION. The commission shall
11 develop and implement policies that provide the public with a
12 reasonable opportunity to appear before the commission and to speak
13 on any issue under the jurisdiction of the commission.

14 SECTION 12. Section 434.038, Government Code, is amended by
15 amending Subsections (a) and (d) and adding Subsections (a-1), (e),
16 and (f) to read as follows:

17 (a) An officer shall, within the time after the date of the
18 officer's appointment that the commission prescribes, complete a
19 course of initial training provided by the Texas Veterans
20 Commission. The commission shall issue the officer a certificate
21 of training after completion of the initial training course. To
22 maintain certification, the officer shall complete continuing
23 training to the extent required by the commission [~~attend at least~~
24 ~~one commission training conference a year~~]. An officer must
25 maintain certification to remain in office.

26 (a-1) The commission shall develop and implement methods
27 for providing training to officers. The methods may include

1 Internet-based seminars, participation through videoconference,
2 cooperation with training provided by the United States Department
3 of Veterans Affairs, and other methods as appropriate.

4 (d) The commission shall develop standard course materials,
5 training curriculum, and examinations to be used for county service
6 officer certification and United States Department of Veterans
7 Affairs accreditation. The members of the commission must approve
8 the course materials, training curriculum, and examinations before
9 the commission may distribute the materials and administer
10 examinations.

11 (e) The commission shall:

12 (1) maintain course materials and examinations in a
13 central location and provide county service offices and commission
14 field staff with access to the course materials on the commission's
15 Internet website;

16 (2) regularly update course materials, training
17 curriculum, and examinations after consulting with:

18 (A) the United States Department of Veterans
19 Affairs to ensure the course materials, training curriculum, and
20 examinations are accurate and meet applicable United States
21 Department of Veterans Affairs requirements; and

22 (B) accredited county service officers to ensure
23 the materials, training curriculum, and examinations include
24 issues developing at the county level; and

25 (3) develop a training handbook containing
26 instruction and case studies addressing:

27 (A) general assistance techniques, including how

1 to provide general information regarding state and federal benefits
2 and referrals for other services and to other agencies, and general
3 information regarding state and federal benefits;

4 (B) basic counseling approaches for assisting
5 veterans, their family members, and other eligible dependents
6 filing benefit claims;

7 (C) basic information on United States
8 Department of Veterans Affairs processes and procedures, including
9 how to accurately complete claims and appeals forms and how to
10 support claims;

11 (D) methods of collecting required documentation
12 and developing claims and appeals;

13 (E) methods of documenting progress and updating
14 a veteran's, a veteran's family member's, or another eligible
15 dependent's case information;

16 (F) methods of assisting veterans, their family
17 members, or other eligible dependents in pursuing appeals,
18 including offering case knowledge in appeals hearings; and

19 (G) methods of representing veterans, their
20 family members, or other eligible dependents during appeals
21 hearings.

22 (f) The commission may establish rules to carry out the
23 purposes of this section, including rules regarding carryover of
24 credit for extra course attendance from one year into subsequent
25 years and the anniversary date by which the continuing
26 certification requirement must be met.

27 SECTION 13. Subchapter B, Chapter 434, Government Code, is

1 amended by adding Section 434.039 to read as follows:

2 Sec. 434.039. STATEWIDE PLAN FOR SERVICES. The commission
3 by rule shall develop procedures to coordinate with county services
4 officers and county commissioners courts to create a statewide plan
5 for providing claims assistance services. The statewide plan must:

6 (1) identify the shared objectives of the commission,
7 county service officers, and counties with a county service office
8 in serving veterans;

9 (2) include a plan for recruiting county service
10 officers and encouraging service officers to become accredited by
11 the United States Department of Veterans Affairs;

12 (3) include a procedure for consulting with counties
13 to determine the most effective locations for county service
14 offices;

15 (4) define the commission's responsibilities in
16 overseeing claims and appeals prepared by county service officers;

17 (5) include a process for providing technical
18 assistance to county service officers and collecting information
19 regarding county service officer performance;

20 (6) contain a procedure for documenting a county
21 service officer's performance, including on-site visit reports,
22 and providing that information to county judges or other local
23 officials who supervise county service officers;

24 (7) incorporate county service officers into United
25 States Department of Veterans Affairs appeals hearings either to
26 represent veterans or to appear as witnesses, as needed;

27 (8) explore opportunities for funding county service

1 officer travel to participate in United States Department of
2 Veterans Affairs appeals hearings; and

3 (9) include procedures to regularly update county
4 service officers on changes in United States Department of Veterans
5 Affairs policies and procedures, and other information.

6 SECTION 14. Subchapter C, Chapter 434, Government Code, is
7 amended by adding Section 434.107 to read as follows:

8 Sec. 434.107. USE OF TECHNOLOGY. The commission shall
9 implement a policy requiring the commission to use appropriate
10 technological solutions to improve the commission's ability to
11 perform its functions. The policy must ensure that the public is
12 able to interact with the commission on the Internet.

13 SECTION 15. The change in law made by Section 434.0061,
14 Government Code, as added by this Act, regarding training for
15 members of the Texas Veterans Commission does not affect the
16 entitlement of a member serving on the commission immediately
17 before September 1, 2007, to continue to serve and function as a
18 member of the commission for the remainder of the member's term.
19 The change in law described by Section 434.0061 applies only to a
20 member appointed or reappointed on or after September 1, 2007.

21 SECTION 16. Not later than March 1, 2008, the Texas Veterans
22 Commission shall comply with Sections 434.0076, 434.0078,
23 434.0091, 434.010(b), 434.0151, 434.038(a-1) and (e), 434.039, and
24 434.107, Government Code, as added by this Act, and with Section
25 434.038(d), Government Code, as amended by this Act.

26 SECTION 17. The Texas Veterans Commission shall:

27 (1) comply with and implement any nonstatutory

1 recommendations regarding the Texas Veterans Commission adopted by
2 the Sunset Advisory Commission as a result of its review of the
3 veterans commission; and

4 (2) report to the Sunset Advisory Commission the
5 information that the sunset commission requires regarding the Texas
6 Veterans Commission's implementation of the sunset commission's
7 nonstatutory recommendations not later than November 1, 2008.

8 SECTION 18. (a) The changes in law made by this Act in the
9 prohibitions or qualifications applying to a member of the Texas
10 Veterans Commission do not affect the entitlement of a member
11 serving on the Texas Veterans Commission immediately before
12 September 1, 2007, to continue to serve and function as a member of
13 the Texas Veterans Commission for the remainder of the member's
14 term. Those changes in law apply only to a member appointed on or
15 after September 1, 2007.

16 (b) Section 434.0076, Government Code, as added by this Act,
17 relating to complaints filed with the Texas Veterans Commission
18 applies only to a complaint filed on or after September 1, 2007. A
19 complaint filed with the commission before September 1, 2007, is
20 governed by the law as it existed immediately before that date, and
21 the former law is continued in effect for that purpose.

22 SECTION 19. This Act takes effect September 1, 2007.