

By: Flynn

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, 2011 [~~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, including a veterans service organization, approved by or receiving money from the commission;

(2) owns or controls, directly or indirectly, more

1 than a 10 percent interest in a business entity or other
2 organization approved by or receiving money from the commission; or

3 (3) uses or receives a substantial amount of tangible
4 goods, services, or money from the commission other than
5 compensation or reimbursement authorized by law for commission
6 membership, attendance, or expense.

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

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

15 (b) A person may not serve as a member of the commission and
16 may not be a commission employee employed in a "bona fide executive,
17 administrative, or professional capacity," as that phrase is used
18 for purposes of establishing an exemption to the overtime
19 provisions of the federal Fair Labor Standards Act of 1938 (29
20 U.S.C. Section 201 et seq.), if:

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

25 (2) the person's spouse is an officer, manager, or paid
26 consultant of a Texas or national veterans service organization or
27 a Texas trade association in the field of labor, workforce

1 development, or career schools and colleges.

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

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

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

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

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

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

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

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

25 (c) If the executive director has knowledge that a potential
26 ground for removal exists, the executive director shall notify the
27 presiding officer of the commission of the potential ground. The

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

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

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

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

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

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

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

27 (b) The training program must provide the person with

1 information regarding:

2 (1) the legislation that created the commission;

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

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

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

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

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

17 SECTION 7. Subchapter A, Chapter 434, Government Code, is
18 amended by adding Sections 434.0072 through 434.0078 to read as
19 follows:

20 Sec. 434.0072. MEMORANDUM OF UNDERSTANDING WITH VETERANS'
21 LAND BOARD. (a) The commission's memorandum of understanding with
22 the Veterans' Land Board must specify the guidelines, powers, and
23 duties necessary for the Veterans' Land Board and the commission to
24 coordinate veterans benefits outreach activities.

25 (b) The memorandum of understanding must address Veterans'
26 Land Board and commission coordination with respect to the
27 following veterans benefits outreach activities:

- 1 (1) operation of a joint communications center;
- 2 (2) combined direct mail efforts;
- 3 (3) sharing veterans contact databases;
- 4 (4) dissemination of information through a joint
5 website and joint brochure;
- 6 (5) veterans benefits seminars; and
- 7 (6) any other veterans benefits outreach activity
8 determined by the Veterans' Land Board and the commission to be
9 appropriate for coordination by those agencies.

10 (c) The memorandum of understanding must identify the joint
11 and separate powers and duties of the Veterans' Land Board and the
12 commission as necessary to implement coordinated veterans benefits
13 outreach activities, including powers and duties relating to:

- 14 (1) reimbursements for coordinated activities;
- 15 (2) the management and funding of any collocated
16 employees and the cross-training of those employees;
- 17 (3) operating expenses associated with the
18 coordinated activities, including expenses relating to office
19 space, printing, and postage;
- 20 (4) the development and maintenance of a joint website
21 regarding veterans benefits and services;
- 22 (5) the development and dissemination of a joint
23 brochure regarding veterans benefits and services; and
- 24 (6) joint presentations at or sponsorship of veterans
25 benefits seminars.

26 (d) The memorandum of understanding must identify the
27 degree to which the Veterans' Land Board and the commission may

1 operate independent websites and disseminate independent
2 information to implement a veterans benefits outreach activity.

3 (e) The Veterans' Land Board and the commission shall
4 periodically update the memorandum and continue to explore
5 additional opportunities for coordination between the agencies
6 regarding their respective veterans benefits outreach activities.

7 (f) The Veterans' Land Board and the commission shall
8 consider the appropriate use of authorized bond proceeds and
9 federal money to ensure that each agency complies with applicable
10 funding constraints in entering into the memorandum of
11 understanding.

12 Sec. 434.0073. COMMUNICATIONS CENTER. (a) On behalf of the
13 Veterans' Land Board and the commission, the Veterans' Land Board
14 shall operate a communications center to provide information
15 regarding the benefits and services available to veterans of this
16 state. The communications center must be operated through the use
17 of Veterans' Land Board and commission employees who are
18 cross-trained by the Veterans' Land Board and the commission as
19 provided by Subsection (e). The employees are under Veterans' Land
20 Board supervision and shall be compensated by their respective
21 employing agencies.

22 (b) In operating the communications center, employees
23 shall:

24 (1) answer the veterans toll-free hotline;
25 (2) maintain and improve any existing veterans contact
26 databases and create additional databases as necessary; and

27 (3) engage in direct mail efforts to veterans, as

1 appropriate.

2 (c) As part of the direct mail efforts described by
3 Subsection (b)(3), communications center employees shall
4 coordinate to identify newly discharged veterans, promote benefits
5 seminars for veterans, and provide specific and current information
6 regarding the services available to veterans.

7 (d) Communications center employees have equal access to
8 the veterans contact databases maintained by the communications
9 center regardless of whether the communications center employees
10 are employees of the Veterans' Land Board or the commission.

11 (e) The Veterans' Land Board and the commission jointly
12 shall cross-train communications center employees to be
13 knowledgeable and proficient about the activities performed and
14 services provided by the Veterans' Land Board and the commission.

15 Sec. 434.0074. WEBSITE; BROCHURE. (a) The Veterans' Land
16 Board and the commission jointly shall develop a single website and
17 a single hard-copy brochure that provide in a centralized,
18 comprehensive, and simplified format information about all
19 available veterans benefits and services.

20 (b) The single uniform resource locator (URL) for the
21 website must be easily identifiable and prominently indicated in
22 the brochure developed under this section.

23 (c) This section does not preclude the Veterans' Land Board
24 or commission from operating additional websites or disseminating
25 other information as determined appropriate by the Veterans' Land
26 Board or the commission, in accordance with the memorandum of
27 understanding provided under Section 434.0072.

1 Sec. 434.0075. BENEFITS SEMINARS. (a) To ensure that the
2 veterans of this state receive uniform information on all veterans
3 benefits and services available, the Veterans' Land Board and the
4 commission shall:

5 (1) jointly plan and provide state-sponsored veterans
6 benefits seminars; and

7 (2) coordinate the involvement of each agency in
8 seminars hosted for veterans by other organizations.

9 (b) Planning and coordination under this section must
10 ensure the consistent presentation of benefits and services
11 information by the Veterans' Land Board or the commission at
12 seminars described by this section.

13 Sec. 434.0076. RECORD OF COMPLAINTS. (a) The commission
14 shall maintain a system to promptly and efficiently act on
15 complaints filed with the commission. The commission shall
16 maintain information about parties to the complaint, the subject
17 matter of the complaint, a summary of the results of the review or
18 investigation of the complaint, and its disposition.

19 (b) The commission shall make information available
20 describing its procedures for complaint investigation and
21 resolution.

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

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

27 (1) negotiated rulemaking procedures under Chapter

1 2008 for the adoption of commission rules; and

2 (2) appropriate alternative dispute resolution
3 procedures under Chapter 2009 to assist in the resolution of
4 internal and external disputes under the commission's
5 jurisdiction.

6 (b) The commission's procedures relating to alternative
7 dispute resolution must conform, to the extent possible, to any
8 model guidelines issued by the State Office of Administrative
9 Hearings for the use of alternative dispute resolution by state
10 agencies.

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

12 (1) coordinate the implementation of the policy
13 adopted under Subsection (a);

14 (2) serve as a resource for any training needed to
15 implement the procedures for negotiated rulemaking or alternative
16 dispute resolution; and

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

19 Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) The
20 commission by rule shall develop procedures for administering
21 claims assistance services under Section 434.007(5). The
22 procedures shall include:

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

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

1 (A) is in immediate need;

2 (B) is terminally ill;

3 (C) has a verifiable financial hardship; or

4 (D) has a disability that presents an undue
5 burden;

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

8 (4) a process to ensure adequate documentation and
9 development of a claim or appeal, including early client
10 involvement, collection of needed evidence and records, and
11 analysis of actions necessary to pursue and support a claim or
12 appeal;

13 (5) criteria for evaluating whether a decision of the
14 United States Department of Veterans Affairs contains sufficient
15 cause for filing an appeal;

16 (6) a requirement that a claims counselor report to
17 the United States Department of Veterans Affairs if the counselor
18 has direct knowledge that a claim contains false or deceptive
19 information; and

20 (7) a procedure for prioritizing a claim, when
21 appropriate, or providing an alternative source for obtaining
22 claims assistance services when it is not appropriate to
23 prioritize.

24 (b) The commission shall consult with the United States
25 Department of Veterans Affairs in developing the rules and
26 procedures under Subsection (a) to:

27 (1) ensure the services provided by the commission do

1 not unnecessarily duplicate services provided through the United
2 States Department of Veterans Affairs;

3 (2) ensure that the rules and procedures will provide
4 for resolving disputes at the lowest level of the United States
5 Department of Veterans Affairs benefit decision process;

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

8 (4) establish broad areas of cooperation between the
9 commission and the United States Department of Veterans Affairs to
10 streamline and align the commission's service delivery with United
11 States Department of Veterans Affairs processes, including:

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

14 (B) cooperating to expedite hardship cases and
15 appeals; and

16 (C) identifying opportunities for the United
17 States Department of Veterans Affairs to provide the commission
18 with necessary data to assist with tracking the progress and
19 outcomes of claims.

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

22 Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT
23 RESPONSIBILITIES. The commission shall develop and implement
24 policies that clearly separate the policymaking responsibilities
25 of the commission and the management responsibilities of the
26 executive director and the staff of the commission.

27 SECTION 9. Section 434.010, Government Code, is amended to

1 read as follows:

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

4 (b) The commission by rule shall adopt procedures for
5 receiving input and recommendations from interested persons
6 regarding the development of rules and policies.

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

9 Sec. 434.0101. ADVISORY COMMITTEES. (a) In developing
10 procedures under Section 434.010, the commission may establish and
11 appoint members to an advisory committee to advise and make
12 recommendations to the commission on programs, rules, and policies
13 affecting the delivery of services to veterans.

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

- 16 (1) the purpose, role, and goals of the committee;
17 (2) the size and quorum requirements of the committee;
18 (3) the qualifications of the members and the criteria
19 for selecting members;
20 (4) the procedures for appointing members;
21 (5) the terms of service of members;
22 (6) the training requirements of members;
23 (7) the implementation of a needs assessment process
24 to regularly evaluate the continuing need for the committee; and
25 (8) a requirement that the committee comply with
26 Chapter 551.

27 SECTION 11. Subchapter A, Chapter 434, Government Code, is

1 amended by adding Section 434.0151 to read as follows:

2 Sec. 434.0151. PUBLIC PARTICIPATION. The commission shall
3 develop and implement policies that provide the public with a
4 reasonable opportunity to appear before the commission and to speak
5 on any issue under the jurisdiction of the commission.

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

9 (a) An officer shall, within the time after the date of the
10 officer's appointment that the commission prescribes, complete a
11 course of initial training provided by the Texas Veterans
12 Commission. The commission shall issue the officer a certificate
13 of training after completion of the initial training course. To
14 maintain certification, the officer shall complete continuing
15 training to the extent required by the commission [~~attend at least~~
16 ~~one commission training conference a year~~]. An officer must
17 maintain certification to remain in office.

18 (a-1) The commission shall develop and implement methods
19 for providing training to officers. The methods may include
20 Internet-based seminars, participation through videoconference,
21 cooperation with training provided by the United States Department
22 of Veterans Affairs, and other methods as appropriate.

23 (d) The commission shall develop standard course materials,
24 training curriculum, and examinations to be used for county service
25 officer certification and United States Department of Veterans
26 Affairs accreditation. The members of the commission must approve
27 the course materials, training curriculum, and examinations before

1 the commission may distribute the materials and administer
2 examinations.

3 (e) The commission shall:

4 (1) maintain course materials and examinations in a
5 central location and provide county service offices and commission
6 field staff with access to the course materials on the commission's
7 Internet website;

8 (2) regularly update course materials, training
9 curriculum, and examinations by consulting with:

10 (A) the United States Department of Veterans
11 Affairs to ensure the course materials, training curriculum, and
12 examinations are accurate and meet applicable United States
13 Department of Veterans Affairs requirements; and

14 (B) accredited county service officers to ensure
15 the materials, training curriculum, and examinations include
16 issues developing at the county level; and

17 (3) develop a training handbook containing
18 instruction and case studies addressing:

19 (A) general assistance techniques, including how
20 to provide general information regarding state and federal benefits
21 and referrals for other services and to other agencies, and general
22 information regarding state and federal benefits;

23 (B) basic counseling approaches for assisting
24 veterans, their family members, and other eligible dependents
25 filing benefit claims;

26 (C) basic information on United States
27 Department of Veterans Affairs processes and procedures, including

1 how to accurately complete claims and appeals forms and how to
2 support claims;

3 (D) methods of collecting required documentation
4 and developing claims and appeals;

5 (E) methods of documenting progress and updating
6 a veteran's, a veteran's family member's, or another eligible
7 dependent's case information;

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

11 (G) methods of representing veterans, their
12 family members, or other eligible dependents during appeals
13 hearings.

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

19 SECTION 13. Subchapter B, Chapter 434, Government Code, is
20 amended by adding Section 434.039 to read as follows:

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

25 (1) identify the shared objectives of the commission,
26 county service officers, and counties with a county service office
27 in serving veterans;

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

4 (3) include a procedure for consulting with counties
5 to determine the most effective locations for county service
6 offices;

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

9 (5) include a process for providing technical
10 assistance to county service officers and collecting information
11 regarding county service officer performance;

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

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

19 (8) explore opportunities for funding county service
20 officer travel to participate in United States Department of
21 Veterans Affairs appeals hearings; and

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

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

27 Sec. 434.107. USE OF TECHNOLOGY. The commission shall

1 implement a policy requiring the commission to use appropriate
2 technological solutions to improve the commission's ability to
3 perform its functions. The policy must ensure that the public is
4 able to interact with the commission on the Internet.

5 SECTION 15. The Sunset Advisory Commission's report to the
6 82nd Legislature shall evaluate:

7 (1) the Texas Veterans Commission's overall
8 performance and ability to integrate new programs into its mission;
9 and

10 (2) the ability of the veterans employment program
11 administered by the Texas Veterans Commission to work within the
12 state's overall workforce system.

13 SECTION 16. 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 17. (a) Not later than March 1, 2008, the Texas
22 Veterans Commission shall comply with Sections 434.0075, 434.0076,
23 434.0078, 434.0091, 434.010(b), 434.0151, 434.038(a-1), (d), and
24 (e), 434.039, and 434.107, Government Code, as added by this Act.

25 (b) Not later than March 1, 2008, the Texas Veterans
26 Commission and the Veterans' Land Board shall agree on the revised
27 memorandum of understanding developed in accordance with Section

1 434.0072, Government Code, as added by this Act.

2 SECTION 18. The Texas Veterans Commission shall:

3 (1) comply with and implement any nonstatutory
4 recommendations regarding the Texas Veterans Commission adopted by
5 the Sunset Advisory Commission as a result of its review of the
6 veterans commission; and

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

11 SECTION 19. (a) The changes in law made by this Act in the
12 prohibitions or qualifications applying to a member of the Texas
13 Veterans Commission do not affect the entitlement of a member
14 serving on the Texas Veterans Commission immediately before
15 September 1, 2007, to continue to serve and function as a member of
16 the Texas Veterans Commission for the remainder of the member's
17 term. Those changes in law apply only to a member appointed on or
18 after September 1, 2007.

19 (b) Section 434.0075, Government Code, as added by this Act,
20 relating to complaints filed with the Texas Veterans Commission
21 applies only to a complaint filed on or after September 1, 2007. A
22 complaint filed with the commission before September 1, 2007, is
23 governed by the law as it existed immediately before that date, and
24 the former law is continued in effect for that purpose.

25 SECTION 20. This Act takes effect September 1, 2007.