

1-1 By: Flynn, et al. (Senate Sponsor - Shapleigh) H.B. No. 3426  
1-2 (In the Senate - Received from the House May 8, 2007;  
1-3 May 10, 2007, read first time and referred to Committee on  
1-4 Government Organization; May 18, 2007, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 4,  
1-6 Nays 0; May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3426 By: Brimer

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the continuation and functions of the Texas Veterans  
1-11 Commission.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 434.002(a), Government Code, is amended  
1-14 to read as follows:

1-15 (a) The Texas Veterans Commission is subject to Chapter 325  
1-16 (Texas Sunset Act). Unless continued in existence as provided by  
1-17 that chapter, the commission is abolished September 1, 2013 [2007].

1-18 SECTION 2. Section 434.003, Government Code, is amended by  
1-19 amending Subsection (a) and adding Subsection (e) to read as  
1-20 follows:

1-21 (a) The commission is composed of five members appointed by  
1-22 the governor with the advice and consent of the senate. The  
1-23 governor shall make each appointment without regard to the race,  
1-24 color, disability [~~creed~~], sex, religion, age, or national origin  
1-25 of the appointee.

1-26 (e) A person may not be a member of the commission if the  
1-27 person or the person's spouse:

1-28 (1) is employed by or participates in the management  
1-29 of a business entity or other organization, other than a veterans  
1-30 service organization, receiving money from the commission; or

1-31 (2) owns or controls, directly or indirectly, more  
1-32 than a 10 percent interest in a business entity or other  
1-33 organization receiving money from the commission.

1-34 SECTION 3. Section 434.004, Government Code, is amended to  
1-35 read as follows:

1-36 Sec. 434.004. CONFLICT OF INTEREST. (a) In this section,  
1-37 "Texas trade association" means a cooperative and voluntarily  
1-38 joined statewide association of business or professional  
1-39 competitors in this state designed to assist its members and its  
1-40 industry or profession in dealing with mutual business or  
1-41 professional problems and in promoting their common interest.

1-42 (b) A person may not be a commission employee employed in a  
1-43 "bona fide executive, administrative, or professional capacity,"  
1-44 as that phrase is used for purposes of establishing an exemption to  
1-45 the overtime provisions of the federal Fair Labor Standards Act of  
1-46 1938 (29 U.S.C. Section 201 et seq.), if:

1-47 (1) the person is an officer, employee, or paid  
1-48 consultant of a Texas or national veterans service organization or  
1-49 a Texas trade association in the field of labor, workforce  
1-50 development, or career schools and colleges; or

1-51 (2) the person's spouse is an officer, manager, or paid  
1-52 consultant of a Texas or national veterans service organization or  
1-53 a Texas trade association in the field of labor, workforce  
1-54 development, or career schools and colleges.

1-55 (c) A person may not serve as a member of the commission if:

1-56 (1) the person is an officer, employee, or paid  
1-57 consultant of a Texas trade association in the field of labor,  
1-58 workforce development, or career schools and colleges; or

1-59 (2) the person's spouse is an officer, manager, or paid  
1-60 consultant of a Texas trade association in the field of labor,  
1-61 workforce development, or career schools and colleges.

1-62 (d) A person required to register as a lobbyist under  
1-63 Chapter 305 because of activities on behalf of a veterans

2-1 association may not serve as a member of or as general counsel to  
2-2 the commission.

2-3 SECTION 4. Section 434.005, Government Code, is amended to  
2-4 read as follows:

2-5 Sec. 434.005. REMOVAL. (a) It is a ground for removal from  
2-6 the commission if a member:

2-7 (1) does [did] not have at the time of taking office  
2-8 [when appointed], or does not maintain during the service on the  
2-9 commission, the qualifications required by Section 434.003 for  
2-10 appointment to the commission;

2-11 (2) violates a prohibition under Section 434.004; [or]

2-12 (3) fails to attend at least half of the regularly  
2-13 scheduled commission meetings held in a calendar year, excluding  
2-14 meetings held while the person was not a member of the commission  
2-15 without an excuse approved by a majority vote of the commission; or

2-16 (4) cannot, because of illness or disability,  
2-17 discharge the member's duties for a substantial part of the member's  
2-18 term.

2-19 (b) The validity of an action of the commission is not  
2-20 affected by the fact that it is taken when a ground for removal of a  
2-21 commission member exists.

2-22 (c) If the executive director has knowledge that a potential  
2-23 ground for removal exists, the executive director shall notify the  
2-24 presiding officer of the commission of the potential ground. The  
2-25 presiding officer shall then notify the governor and the attorney  
2-26 general that a potential ground for removal exists. If the  
2-27 potential ground for removal involves the presiding officer, the  
2-28 executive director shall notify the next highest ranking officer of  
2-29 the commission, who shall then notify the governor and the attorney  
2-30 general that a potential ground for removal exists.

2-31 SECTION 5. Section 434.006, Government Code, is amended to  
2-32 read as follows:

2-33 Sec. 434.006. OFFICERS; COMMISSION ACTIONS. (a) The  
2-34 governor shall designate a member of the commission as the  
2-35 presiding officer of the commission to serve in that capacity at the  
2-36 pleasure of the governor.

2-37 (b) The commission annually shall elect from among its  
2-38 members an assistant presiding officer [~~a chairman, a~~  
2-39 ~~vice chairman,~~] and a secretary. An officer shall serve until the  
2-40 officer's successor is appointed and qualified.

2-41 (c) [~~(b)~~] The commission shall meet at least once in each  
2-42 three-month period. No action may be taken by less than a majority  
2-43 of the commission.

2-44 SECTION 6. Subchapter A, Chapter 434, Government Code, is  
2-45 amended by adding Section 434.0061 to read as follows:

2-46 Sec. 434.0061. TRAINING. (a) A person who is appointed to  
2-47 and qualifies for office as a member of the commission may not vote,  
2-48 deliberate, or be counted as a member in attendance at a meeting of  
2-49 the commission until the person completes a training program that  
2-50 complies with this section.

2-51 (b) The training program must provide the person with  
2-52 information regarding:

2-53 (1) the legislation that created the commission;

2-54 (2) the programs, functions, rules, and budget of the  
2-55 commission;

2-56 (3) the results of the most recent formal audit of the  
2-57 commission;

2-58 (4) the requirements of laws relating to open  
2-59 meetings, public information, administrative procedure, and  
2-60 conflicts of interest; and

2-61 (5) any applicable ethics policies adopted by the  
2-62 commission or the Texas Ethics Commission.

2-63 (c) A person appointed to the commission is entitled to  
2-64 reimbursement, as provided by the General Appropriations Act, for  
2-65 the travel expenses incurred in attending the training program  
2-66 regardless of whether the attendance at the program occurs before  
2-67 or after the person qualifies for office.

2-68 SECTION 7. Subchapter A, Chapter 434, Government Code, is  
2-69 amended by adding Sections 434.0076 through 434.0078 to read as  
2-70 follows:

3-1 Sec. 434.0076. RECORD OF COMPLAINTS. (a) The commission  
3-2 shall maintain a system to promptly and efficiently act on  
3-3 complaints filed with the commission. The commission shall  
3-4 maintain information about parties to the complaint, the subject  
3-5 matter of the complaint, a summary of the results of the review or  
3-6 investigation of the complaint, and its disposition.

3-7 (b) The commission shall make information available  
3-8 describing its procedures for complaint investigation and  
3-9 resolution.

3-10 (c) The commission shall periodically notify the complaint  
3-11 parties of the status of the complaint until final disposition.

3-12 Sec. 434.0077. NEGOTIATED RULEMAKING AND ALTERNATIVE  
3-13 DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop  
3-14 and implement a policy to encourage the use of:

3-15 (1) negotiated rulemaking procedures under Chapter  
3-16 2008 for the adoption of commission rules; and

3-17 (2) appropriate alternative dispute resolution  
3-18 procedures under Chapter 2009 to assist in the resolution of  
3-19 internal and external disputes under the commission's  
3-20 jurisdiction.

3-21 (b) The commission's procedures relating to alternative  
3-22 dispute resolution shall conform, to the extent possible, to any  
3-23 model guidelines issued by the State Office of Administrative  
3-24 Hearings for the use of alternative dispute resolution by state  
3-25 agencies.

3-26 (c) The commission shall designate a trained person to:

3-27 (1) coordinate the implementation of the policy  
3-28 adopted under Subsection (a);

3-29 (2) serve as a resource for any training needed to  
3-30 implement the procedures for negotiated rulemaking or alternative  
3-31 dispute resolution; and

3-32 (3) collect data concerning the effectiveness of those  
3-33 procedures, as implemented by the commission.

3-34 Sec. 434.0078. CLAIMS ASSISTANCE SERVICES. (a) The  
3-35 commission shall adopt procedures for administering claims  
3-36 assistance services under Section 434.007(5). The procedures shall  
3-37 include:

3-38 (1) criteria for determining when a veteran's initial  
3-39 claim is substantially complete and basic eligibility requirements  
3-40 are met as provided by federal law;

3-41 (2) a process for expediting a claim based on  
3-42 hardship, including whether the veteran:

3-43 (A) is in immediate need;

3-44 (B) is terminally ill;

3-45 (C) has a verifiable financial hardship; or

3-46 (D) has a disability that presents an undue  
3-47 burden;

3-48 (3) a procedure for counseling veterans on the  
3-49 potential merits or drawbacks of pursuing a claim;

3-50 (4) a process to ensure adequate documentation and  
3-51 development of a claim or appeal, including early client  
3-52 involvement, collection of needed evidence and records, and  
3-53 analysis of actions necessary to pursue and support a claim or  
3-54 appeal;

3-55 (5) criteria for evaluating whether a decision of the  
3-56 United States Department of Veterans Affairs contains sufficient  
3-57 cause for filing an appeal;

3-58 (6) a requirement that a claims counselor report to  
3-59 the United States Department of Veterans Affairs if the counselor  
3-60 has direct knowledge that a claim contains false or deceptive  
3-61 information; and

3-62 (7) a procedure for prioritizing a claim, when  
3-63 appropriate, or providing an alternative source for obtaining  
3-64 claims assistance services when it is not appropriate to  
3-65 prioritize.

3-66 (b) The commission shall consult with the United States  
3-67 Department of Veterans Affairs in developing the procedures under  
3-68 Subsection (a) to:

3-69 (1) ensure the services provided by the commission do  
3-70 not unnecessarily duplicate services provided through the United

4-1 States Department of Veterans Affairs;

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

4-5 (3) ensure that commission employees are not  
4-6 improperly involved in adjudicating claims; and

4-7 (4) establish broad areas of cooperation between the  
4-8 commission and the United States Department of Veterans Affairs to  
4-9 streamline and align the commission's service delivery with United  
4-10 States Department of Veterans Affairs processes, including:

4-11 (A) identifying processes to update changes to  
4-12 veterans' cases and power of attorney designation;

4-13 (B) cooperating to expedite hardship cases and  
4-14 appeals; and

4-15 (C) identifying opportunities for the United  
4-16 States Department of Veterans Affairs to provide the commission  
4-17 with necessary data to assist with tracking the progress and  
4-18 outcomes of claims.

4-19 SECTION 8. Subchapter A, Chapter 434, Government Code, is  
4-20 amended by adding Section 434.0091 to read as follows:

4-21 Sec. 434.0091. SEPARATION OF POLICYMAKING AND MANAGEMENT  
4-22 RESPONSIBILITIES. The commission shall develop and implement  
4-23 policies that clearly separate the policymaking responsibilities  
4-24 of the commission and the management responsibilities of the  
4-25 executive director and the staff of the commission.

4-26 SECTION 9. Section 434.010, Government Code, is amended to  
4-27 read as follows:

4-28 Sec. 434.010. RULES. (a) The commission may adopt rules  
4-29 that it considers necessary for its administration.

4-30 (b) The commission shall adopt procedures for receiving  
4-31 input and recommendations from interested persons regarding the  
4-32 development of rules and policies.

4-33 SECTION 10. Subchapter A, Chapter 434, Government Code, is  
4-34 amended by adding Section 434.0101 to read as follows:

4-35 Sec. 434.0101. ADVISORY COMMITTEES. (a) In developing  
4-36 procedures under Section 434.010, the commission may establish and  
4-37 appoint members to an advisory committee to advise and make  
4-38 recommendations to the commission on programs, rules, and policies  
4-39 affecting the delivery of services to veterans.

4-40 (b) If the commission establishes an advisory committee  
4-41 under Subsection (a), the commission shall adopt rules regarding:

4-42 (1) the purpose, role, and goals of the committee;  
4-43 (2) the size and quorum requirements of the committee;  
4-44 (3) the qualifications of the members and the criteria  
4-45 for selecting members;

4-46 (4) the procedures for appointing members;

4-47 (5) the terms of service of members;

4-48 (6) the training requirements of members;

4-49 (7) the implementation of a needs assessment process  
4-50 to regularly evaluate the continuing need for the committee; and

4-51 (8) a requirement that the committee comply with  
4-52 Chapter 551.

4-53 SECTION 11. Subchapter A, Chapter 434, Government Code, is  
4-54 amended by adding Section 434.0151 to read as follows:

4-55 Sec. 434.0151. PUBLIC PARTICIPATION. The commission shall  
4-56 develop and implement policies that provide the public with a  
4-57 reasonable opportunity to appear before the commission and to speak  
4-58 on any issue under the jurisdiction of the commission.

4-59 SECTION 12. Section 434.038, Government Code, is amended by  
4-60 amending Subsections (a) and (d) and adding Subsections (a-1), (e),  
4-61 and (f) to read as follows:

4-62 (a) An officer shall, within the time after the date of the  
4-63 officer's appointment that the commission prescribes, complete a  
4-64 course of initial training provided by the Texas Veterans  
4-65 Commission. The commission shall issue the officer a certificate  
4-66 of training after completion of the initial training course. To  
4-67 maintain certification, the officer shall complete continuing  
4-68 training to the extent required by the commission [~~attend at least~~  
4-69 ~~one commission training conference a year~~]. An officer must  
4-70 maintain certification to remain in office.

5-1           (a-1) The commission shall develop and implement methods  
 5-2 for providing training to officers. The methods may include  
 5-3 Internet-based seminars, participation through videoconference,  
 5-4 cooperation with training provided by the United States Department  
 5-5 of Veterans Affairs, and other methods as appropriate.

5-6           (d) The commission shall develop standard course materials,  
 5-7 training curriculum, and examinations to be used for county service  
 5-8 officer certification and United States Department of Veterans  
 5-9 Affairs accreditation. The members of the commission must approve  
 5-10 the course materials, training curriculum, and examinations before  
 5-11 the commission may distribute the materials and administer  
 5-12 examinations.

5-13           (e) The commission shall:

5-14           (1) maintain course materials and examinations in a  
 5-15 central location and provide county service offices and commission  
 5-16 field staff with access to the course materials on the commission's  
 5-17 Internet website;

5-18           (2) regularly update course materials, training  
 5-19 curriculum, and examinations after consulting with:

5-20           (A) the United States Department of Veterans  
 5-21 Affairs to ensure the course materials, training curriculum, and  
 5-22 examinations are accurate and meet applicable United States  
 5-23 Department of Veterans Affairs requirements; and

5-24           (B) accredited county service officers to ensure  
 5-25 the materials, training curriculum, and examinations include  
 5-26 issues developing at the county level; and

5-27           (3) develop a training handbook containing  
 5-28 instruction and case studies addressing:

5-29           (A) general assistance techniques, including how  
 5-30 to provide general information regarding state and federal benefits  
 5-31 and referrals for other services and to other agencies, and general  
 5-32 information regarding state and federal benefits;

5-33           (B) basic counseling approaches for assisting  
 5-34 veterans, their family members, and other eligible dependents  
 5-35 filing benefit claims;

5-36           (C) basic information on United States  
 5-37 Department of Veterans Affairs processes and procedures, including  
 5-38 how to accurately complete claims and appeals forms and how to  
 5-39 support claims;

5-40           (D) methods of collecting required documentation  
 5-41 and developing claims and appeals;

5-42           (E) methods of documenting progress and updating  
 5-43 a veteran's, a veteran's family member's, or another eligible  
 5-44 dependent's case information;

5-45           (F) methods of assisting veterans, their family  
 5-46 members, or other eligible dependents in pursuing appeals,  
 5-47 including offering case knowledge in appeals hearings; and

5-48           (G) methods of representing veterans, their  
 5-49 family members, or other eligible dependents during appeals  
 5-50 hearings.

5-51           (f) The commission may establish rules to carry out the  
 5-52 purposes of this section, including rules regarding carryover of  
 5-53 credit for extra course attendance from one year into subsequent  
 5-54 years and the anniversary date by which the continuing  
 5-55 certification requirement must be met.

5-56           SECTION 13. Subchapter B, Chapter 434, Government Code, is  
 5-57 amended by adding Section 434.039 to read as follows:

5-58           Sec. 434.039. COORDINATION WITH COUNTY SERVICE OFFICERS AND  
 5-59 COMMISSIONERS COURTS. The commission shall develop and adopt  
 5-60 procedures to coordinate with county service officers and county  
 5-61 commissioners courts to:

5-62           (1) identify the shared objectives of the commission,  
 5-63 county service officers, and counties with a county service office  
 5-64 in serving veterans;

5-65           (2) develop a plan for encouraging service officers to  
 5-66 become accredited by the United States Department of Veterans  
 5-67 Affairs;

5-68           (3) develop a procedure for consulting with counties  
 5-69 to evaluate the state's overall approach to service delivery by  
 5-70 county service officers and commission claims staff as part of the

6-1 state's veterans assistance network;  
6-2 (4) define the commission's responsibilities in  
6-3 overseeing claims and appeals prepared by county service officers  
6-4 for instances when the commission has been designated as a  
6-5 veteran's agent under a power of attorney;

6-6 (5) develop a process for collecting information  
6-7 regarding claims filed by county service officers for instances  
6-8 when the commission has been designated as a veteran's agent under a  
6-9 power of attorney, for providing technical assistance to county  
6-10 service officers, and for providing evaluative information, on  
6-11 request, to county judges or other local officials who supervise  
6-12 county service officers;

6-13 (6) incorporate county service officers into United  
6-14 States Department of Veterans Affairs appeals hearings either to  
6-15 represent veterans or to appear as witnesses, as needed;

6-16 (7) explore opportunities for funding county service  
6-17 officer travel to participate in United States Department of  
6-18 Veterans Affairs appeals hearings; and

6-19 (8) develop procedures to regularly update county  
6-20 service officers on changes in United States Department of Veterans  
6-21 Affairs policies and procedures, and other information.

6-22 SECTION 14. Subchapter C, Chapter 434, Government Code, is  
6-23 amended by adding Section 434.107 to read as follows:

6-24 Sec. 434.107. USE OF TECHNOLOGY. The commission shall  
6-25 implement a policy requiring the commission to use appropriate  
6-26 technological solutions to improve the commission's ability to  
6-27 perform its functions. The policy must ensure that the public is  
6-28 able to interact with the commission on the Internet.

6-29 SECTION 15. The change in law made by Section 434.0061,  
6-30 Government Code, as added by this Act, regarding training for  
6-31 members of the Texas Veterans Commission does not affect the  
6-32 entitlement of a member serving on the commission immediately  
6-33 before September 1, 2007, to continue to serve and function as a  
6-34 member of the commission for the remainder of the member's term.  
6-35 The change in law described by Section 434.0061 applies only to a  
6-36 member appointed or reappointed on or after September 1, 2007.

6-37 SECTION 16. Not later than March 1, 2008, the Texas Veterans  
6-38 Commission shall comply with Sections 434.0076, 434.0078,  
6-39 434.0091, 434.010(b), 434.0151, 434.038(a-1) and (e), 434.039, and  
6-40 434.107, Government Code, as added by this Act, and with Section  
6-41 434.038(d), Government Code, as amended by this Act.

6-42 SECTION 17. The Texas Veterans Commission shall:

6-43 (1) comply with and implement any nonstatutory  
6-44 recommendations regarding the Texas Veterans Commission adopted by  
6-45 the Sunset Advisory Commission as a result of its review of the  
6-46 veterans commission; and

6-47 (2) report to the Sunset Advisory Commission the  
6-48 information that the sunset commission requires regarding the Texas  
6-49 Veterans Commission's implementation of the sunset commission's  
6-50 nonstatutory recommendations not later than November 1, 2008.

6-51 SECTION 18. (a) The changes in law made by this Act in the  
6-52 prohibitions or qualifications applying to a member of the Texas  
6-53 Veterans Commission do not affect the entitlement of a member  
6-54 serving on the Texas Veterans Commission immediately before  
6-55 September 1, 2007, to continue to serve and function as a member of  
6-56 the Texas Veterans Commission for the remainder of the member's  
6-57 term. Those changes in law apply only to a member appointed on or  
6-58 after September 1, 2007.

6-59 (b) Section 434.0076, Government Code, as added by this Act,  
6-60 relating to complaints filed with the Texas Veterans Commission  
6-61 applies only to a complaint filed on or after September 1, 2007. A  
6-62 complaint filed with the commission before September 1, 2007, is  
6-63 governed by the law as it existed immediately before that date, and  
6-64 the former law is continued in effect for that purpose.

6-65 SECTION 19. This Act takes effect September 1, 2007.

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