

BILL ANALYSIS

C.S.S.B. 1003
By: Deuell
Border & Intergovernmental Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Office of State-Federal Relations (the Office) acts as the State's advocate in Washington, DC to help promote and protect the interests of Texas at the federal level. Initially, the Legislature created the Division of State-Federal Relations in 1965 as a program within the Governor's Office, and later established the Office as an independent state agency in 1971. The Office's main functions include prioritizing a federal agenda for Texas, advocating for federal funding and policy decisions favorable to Texas, and promoting communication and building relationships between the state and federal governments.

The Office is subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The bill includes several changes in law to enact the Sunset Commission's recommendations and subjects the Office to Sunset review in six years. In addition, the bill administratively attaches the Office to the Office of the Governor.

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

C.S.S.B. 1003 administratively attaches the Office to the Office of the Governor, subjecting the Office to Sunset review in six years. The bill also provides strict contracting guidelines for the Office, if it chooses to contract with federal-level government relations consultants. Additionally, the bill requires state agencies and political subdivisions to report federal level government relations contracts to the Office.

Administrative Attachment to the Office of the Governor and Legislative Oversight

C.S.S.B. 1003 amends Chapter 751 of the Government Code to administratively attach the Office to the Office of the Governor and require the Office of the Governor to provide human resources and other administrative support for the Office. The bill provides that the Office be funded by appropriations made to the Office of the Governor. C.S.S.B. 1003 provides that the Office and the Office of the Governor shall establish a plan for the administrative attachment to the Office of the Governor. C.S.S.B. 1003 gives the Office a new Sunset date of September 1, 2015.

C.S.S.B. 1003 requires the Office to notify the Governor, the Lieutenant Governor, the Speaker of the House, and the relevant committees of the House and the Senate of federal activities relevant to the state and inform the Texas Delegation of state activities. C.S.S.B. 1003 requires the Office to conduct frequent conference calls with the Lieutenant Governor and the Speaker of the House or their designees regarding state-federal relations and programs. The bill requires the Office to respond to requests for information from the Legislature, the United States Congress, and federal agencies; and requires the Office to coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget.

The substitute requires the Office to report to, and appear upon request in front of, the appropriate jurisdictional legislative committees, to ensure that the Legislature continues to have oversight of the Office through the committee process.

C.S.S.B. 1003 makes a technical change by deleting a reference in law relating to a cost-of-living salary adjustment being made as provided under Section 751.012(d), Government Code, and makes conforming and nonsubstantive changes. In addition, the bill makes a technical change to change the title of a Section to read the powers and duties of the office, not the director.

Contracting Guidelines

C.S.S.B. 1003 requires the Office to adhere to specific contract procurement and management guidelines, if the Office chooses to contract with federal-level government relations consultants to lobby at the federal level. The substitute specifies these guidelines, including: requiring the Office to have written guidelines for contract management; requiring the Office to use a competitive procurement process, and have procedures to assess a prospective contractor's strengths; requiring the Office to assign a value to a prospective firm's ability to provide services at a reasonable price and level of experience in the consulting field during the contract procurement process; requiring the Office to have a process to determine a potential consultant's ability to work with key members of Congress and effectively advocate on behalf of the State; requiring the contract to contain clear goals for service and to include targeted performance measures that both the Office and contractor agree upon; requiring the Office to ensure that no conflicts of interest exist between the contractor and other parties that may jeopardize the State's interest; requiring the contract to contain a termination clause; and requiring the contract to include an audit clause, allowing the State Auditor's Office and other oversight entities to audit the contract. C.S.S.B. 1003 requires that the members of the Advisory Policy Board sign any contract between the Office and a consultant.

Contract Reporting

C.S.S.B. 1003 requires all state agencies and political subdivisions of the State of Texas, including institutions of higher education and river authorities, to report to the Office on contracts with federal-level government relations consultants. The substitute requires that entities report federal-level consultant contracts within 30 days of entering into a contract and within 30 days of a contract termination. The substitute also contains a provision that requires a state agency or political subdivision that has a contract before the effective date of the bill to report to the Office on the contract before September 30, 2009.

The substitute requires information in such reports to include the name of the consultant or firm contracted with, the issue the firm was hired to work on, and the amount of compensation paid or to be paid to the consultant under the contract. The substitute requires state agencies to report any subcontracts of a contract with a federal-level government relations consultant to the Office. Finally, the substitute provides that the new contract reporting requirements do not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose or report the information to the public and a federal or state entity.

Performance Measures

C.S.S.B. 1003 requires that the Office's annual report include an evaluation of the Office's performance based on measures developed by the Advisory Policy Board.

The bill repeals the following statutory provisions.

Government Code, § 751.006(b), (c), (d), (e), and (f) relating to the Office's career ladder program, annual performance evaluations, and equal employment opportunity policy.

Government Code, § 751.012(b), (e), and (f) relating to requiring the Office to contract with the Legislative Budget Board (LBB) to locate staff in Washington D.C., and requiring the LBB to identify state agencies that receive significant federal funding to develop and submit coordination plans to the Office.

Government Code, § 751.013 relating to compliance with laws related to program and facility accessibility.

Government Code, § 751.014 relating to funds paid to the Office being subject to State Funds Reform Act.

Government Code, § 751.024 relating to grant fund reporting.

EFFECTIVE DATE

September 1, 2009

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 1003 modifies the caption of the bill to relate to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor. The original bill caption related to the abolishment of the Office of State-Federal Relations as an independent agency and the transfer of the duties and functions of that agency to the office of the governor.

C.S.S.B. 1003 reinstates two sections, Sections 751.010 and 751.011, repealed in the original bill that provide for the Office's Advisory Policy Board, consisting of the Governor, Lieutenant Governor and the Speaker of the House, and set out the Board's duties.

The substitute removes provisions in the original bill that abolished the agency and recreated it as a program in the Governor's Office. C.S.S.B. 1003 restores language removed in the original bill that described the Office as an agency of the state that operates within the executive department. C.S.S.B. 1003 administratively attaches the Office to the Office of the Governor and requires the Office of the Governor to provide human resources and other administrative support for the Office. The substitute requires that the Office be funded by appropriations made to the Office of the Governor. The original bill had no similar provision.

The substitute removes language in the original bill that required the Office to consult with the Lieutenant Governor and the Speaker of the House about relations between the state and federal governments and to inform the legislative leadership of the Office's progress on federal issues including federal funding and policy decisions. This language is not needed since the substitute reinstates the Advisory Policy Board, which includes the Lieutenant Governor and the Speaker of the House. The substitute reinstates a provision that was deleted in the original bill that makes the Office subject to the administrative procedures law.

The substitute requires the Office to report to, and appear upon request in front of, the appropriate jurisdictional legislative committees, to ensure that the Legislature continues to have oversight of the Office through the committee process. In addition, the substitute adds the relevant committees of the House and Senate to the list of offices the Office must notify of federal activities. The original bill only required notification of the Governor, the Lieutenant Governor, and the Speaker of the House of federal activities.

C.S.S.B. 1003 removes a provision in the original bill that required the executive director to be appointed by the Governor and accountable to the Governor. Instead, the substitute preserves current law, which requires the Governor, with the advice and consent of the Senate, to appoint the director.

C.S.S.B. 1003 removes a provision in the original bill that required the Office's priorities to be approved by the Governor, in consultation with the Lieutenant Governor and the Speaker of the House. Instead, the substitute reinstates current law that requires the Advisory Policy Board to review the priorities.

C.S.S.B. 1003 removes the requirement that the Governor, in consultation with the Lieutenant Governor and the Speaker of the House, develop performance measures for the Office to report on annually. Instead, the substitute requires that the Office's annual report include an evaluation of the Office's performance based on measures developed by the Advisory Policy Board.

C.S.S.B. 1003 restores two sections repealed in the original bill, Sections 751.007 and 751.008, Government Code that are Sunset across-the-board provisions in current law that relate to the

lobbyist restriction on the Office's general counsel and the Office's maintenance of public information about complaints.

The substitute requires all three members of the Board to sign all consultant contracts, if the Office chooses to enter into such contracts. The original bill required the Governor to sign consultant contracts.

The substitute adds new language that provides that the new contract reporting requirements contained in the bill do not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose or report the information to the public and a federal or state entity.

C.S.S.B. 1003 deletes instructional provisions relating to the abolishment and transfer of the agency to the Governor's Office. The substitute modifies an additional instructional provision in the original bill that required the Office and the Office of the Governor to establish a transition plan for the transfer of duties to the Office of the Governor. Instead, the substitute requires the Office and the Office of the Governor to establish a plan for the Office's administrative attachment to the Office of the Governor.