

BILL ANALYSIS

C.S.H.B. 3168
By: Callegari
Government Efficiency & Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas needs to adopt multiple approaches to improve the efficiency and functioning of state agencies in this era of budgetary restraints. To that end the bill seeks to address human resource and staffing levels, change the ratio of human resource personnel to staff in state agencies as a means of reducing administrative overhead costs, and adopt provisions granting state agencies greater flexibility in changing employee staffing levels and compensation. The bill also seeks to allow agencies to use potentially more efficient means to liquidate agency surplus.

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

The bill amends the Government Code to authorize an institution of higher education to establish a mandatory employee furlough or work reduction program as necessary to increase efficiency, reduce operational costs, or otherwise address the institution's financial condition. The bill makes the terms and conditions of the program applicable while a furlough or work reduction program is in effect, notwithstanding other law. The bill authorizes the terms and conditions of a program to address the eligibility of an employee for and contributions for benefits under the Texas Employees Group Benefits Act or the State University Employees Uniform Insurance Benefits Act, as applicable.

The bill authorizes the executive director of a state agency, on approval of the agency's governing body, to require an agency employee to participate in an involuntary furlough program without pay in order to balance the agency's budget. The bill requires a state agency implementing an involuntary furlough program to reduce an employee's compensation in an amount equal to the number of hours the employee is furloughed times the employee's hourly rate or equivalent hourly rate. The bill prohibits a state employee from using vacation, sick, or any other paid leave while the employee is on unpaid furlough. The bill establishes that an unpaid furlough does not constitute a break in service for the state employee and that a state employee who is on unpaid furlough continues to accrue state service credit for purposes of longevity pay, vacation leave, and sick leave.

The bill authorizes a state employee on an unpaid furlough that exceeds one month in length to continue to accrue service credit with the Employees Retirement System of Texas (ERS) or Teacher Retirement System of Texas by receiving state pay during each month of the unpaid furlough in an amount equal to the employee's contribution to the retirement system, as appropriate. The bill authorizes an employee to use any combination of paid leave, including state compensatory leave, overtime leave, sick leave, or annual leave, to qualify for the state pay. The bill defines "state agency" for purposes of provisions relating to an involuntary furlough

program. The bill entitles an employee participating in an involuntary furlough program who is otherwise eligible for longevity pay to longevity pay.

The bill authorizes an institution of higher education, notwithstanding other law or terms of contract and subject solely to procedures and rules adopted by the institution's governing body, to establish a program of temporary or permanent salary reductions as necessary to reduce operational costs or otherwise address the institution's financial condition.

The bill redefines "compensation," for purposes of statutory provisions governing ERS, to include amounts by which a person's salary is reduced under an involuntary furlough program.

The bill amends the Insurance Code to establish that an individual is eligible to participate in a group benefits program under the Texas Employees Group Benefits Act if the individual would otherwise be eligible to participate except that the individual is not receiving compensation for service because the individual is participating in an involuntary furlough program. The bill prohibits consideration of any reduction in an employee's hours that results from the employee's participation in such a program in determining whether an individual is a full-time or part-time employee for purposes of the amount of the state contribution for employee coverage under the act. The bill requires an employee participating in an involuntary furlough program for a period of a month or more to make the contributions required for the coverage selected by the employee under the act, including any amount of a salary reduction agreement under a cafeteria plan, as required by the trustee, and entitles the employee to receive compensation for any combination of paid leave, including state compensatory leave, overtime leave, sick leave, or annual leave, to the extent necessary to make the required contribution.

The bill amends the Government Code to change the target ratio of human resources employee to staff for a state agency with 500 or more full-time equivalent employees from not more one human resources employee for every 85 staff members to not more than one human resources employee for every 100 staff members.

The bill requires the State Council on Competitive Government to perform a review to determine the cost-effectiveness of consolidating the human resources functions of or contracting with private entities to perform the human resources functions of all state agencies that employ 100 or fewer full-time equivalent employees; to implement the findings of the review, including contracting for human resources functions on behalf of small state agencies, as necessary; and to review the human resources functions of small state agencies at least once every five years or as determined necessary based on the terms of a contract entered into to implement these provisions. The bill removes requirements for a determination regarding the consolidation or privatization of human resources functions of agencies employing fewer than 500 full-time equivalent employees; for the issuance of requests for proposals if the council determines that privatization is cost-effective; for a determination of which human resources functions are subject to the contract and which functions the agency may select to perform itself; and for each agency's payment for the contract out of the agency's human resources budget.

The bill requires a state agency with fewer than 500 but more than 100 full-time equivalent employees to adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 100 staff members or to request the State Council on Competitive Government to perform a review to determine the cost-effectiveness of consolidating the agency's human resources functions or contracting with private entities to perform those functions. The bill requires an agency, if the council determines that the agency should contract with a private entity to perform the human resources functions, to work with the council to contract for performance of those functions.

The bill amends the Government Code to require the Texas Facilities Commission (TFC) to dispose of surplus and salvage property. The bill authorizes the TFC to authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the TFC its ability to dispose of the property under broader statutory provisions relating to surplus and salvage property, rather than more specific statutory provisions relating to the direct transfer, destruction, donation, or other disposition of surplus or salvage property, in a manner that results in cost savings to the state. The bill requires a state agency, if the agency disposes of property under this provision, to report the disposal to the TFC, including a description of the disposed property, the reasons for the disposal, the price for the disposed property if the property is sold, and the recipient of the disposed property. The bill requires the TFC, if the commission determines that a state agency violated a law or rule, to report the violation to the Legislative Budget Board.

The bill removes a provision that limited statutory provisions relating to the disposition of surplus or salvage property to surplus and salvage property located in Travis County and certain other counties and makes its provisions applicable to a state agency delegated the authority to dispose of surplus or salvage property by the TFC.

The bill requires a state agency that determines it has surplus or salvage property to notify the TFC about the property to determine the method of disposal, and removes a requirement that the TFC is responsible for the disposal of surplus or salvage property. The bill, in a provision requiring the TFC to determine, based on the property's condition, whether the property is surplus property that should be offered for transfer or sold or is salvage property, adds the condition that such determination be made in conjunction with the state agency. The bill requires the TFC, after such determination, to direct a state agency to inform the comptroller of public accounts of certain details regarding the property's characteristics and removes a requirement for the commission to provide that information to the comptroller.

The bill requires the comptroller to provide the TFC access to all records in the state property accounting system related to surplus and salvage property. The bill requires, rather than authorizes, a state agency, political subdivision, or assistance organization, during the 10 business days after the date property is posted on the comptroller's website, to coordinate with the TFC for a transfer of the property at price established by the commission. The bill removes a requirement that the TFC establish that price in cooperation with the transferring agency.

The bill authorizes the TFC to contract with a private vendor to assist with disposition of surplus or salvage property by competitive bidding, auction, or direct sale and excludes the cost of such assistance from the amount of the sales proceeds that must be deposited to the credit of the general revenue fund. The bill increases from more than \$5,000 to more than \$25,000 the estimated value of an item or a lot of property to be sold, the sale of which item or property the TFC must advertise at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

The bill includes equipment received from a city or state agency in the program established for the sale of gambling equipment received from a county commissioners court. The bill requires the proceeds from the sale of gambling equipment received from a state agency, less certain costs of the sale, to be deposited to the credit of the general revenue fund.

The bill moves and redesignates provisions relating to the disposition of data processing equipment, with the exception of provisions making surplus or salvage data processing equipment not otherwise disposed of available to the commissioner of education for use in a computer lending pilot program, that previously were incorporated in broader provisions relating to the direct transfer or other disposition of surplus or salvage property by a state agency that are repealed by the bill. The bill requires the TFC to take custody, as surplus property, of the property and other assets of a state agency or advisory committee abolished under the Texas

Sunset Act unless the legislature designates another appropriate governmental entity to take custody of the property and assets.

The bill amends the Education Code, Government Code, and Insurance Code to make conforming changes. The bill also repeals Subchapter C, Chapter 2715, Government Code.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute bill omits provisions included in the original relating to a repeal of longevity pay and the implementation of a merit pay program for certain state employees.

The substitute bill contains provisions not included in the original authorizing an institution of higher education to implement a mandatory employee furlough, work reduction, or salary reduction program; authorizing a state agency to implement an involuntary unpaid furlough program; and providing for an employee's compensation, accrual of service credits, and participation in the applicable retirement system or group benefits program during a furlough period.

The substitute bill omits provisions included in the original establishing content requirements for a state agency's workforce plan; requiring the state auditor to analyze such plan and specifying certain objectives for the analysis; and requiring the state auditor, on request, to provide training and technical assistance in developing and improving an agency's plan.

The substitute bill contains a provision not included in the original requiring the State Council on Competitive Government to perform a review to determine the cost-effectiveness of consolidating or privatizing the human resources functions of all state agencies that employ 100 or fewer full-time equivalent employees; to implement the review findings; and to conduct such review at least once every five years or as determined necessary based on the terms of a contract entered into to implement the privatization of agency human resources functions. The substitute contains provisions not included in the original removing requirements for a similar determination regarding the consolidation or privatization of human resources functions of agencies employing fewer than 500 full-time equivalent employees; for the issuance of requests for proposals if the council determines that privatization is cost-effective; for a determination of which human resources functions are subject to the contract and which functions the agency may select to perform itself; and for each agency's payment for the contract out of the agency's human resources budget.

The substitute bill contains a provision not included in the original requiring a state agency with fewer than 500 but more than 100 full-time equivalent employees, if the agency does not otherwise adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 100 staff members, to request the State Council on Competitive Government perform a review to determine the cost-effectiveness of consolidating or privatizing the agency's human resources functions. The substitute differs from the original by requiring a state agency, if, based on such review, the council determines that the agency should contract with a private entity to perform the agency's human resources functions, to work with the council to contract for performance of those functions, whereas the original requires the agency to contract with a private entity to perform the agency's human resources functions if the council determines that such contracting is cost-effective.

The substitute bill omits provisions included in the original establishing a management performance program for executive branch state agencies and requiring each such agency to develop and enter into performance agreements with its upper management personnel. The substitute omits provisions included in the original requiring the Texas Department of Transportation (TxDOT) to examine its core business and organization and to develop a plan streamline TxDOT's operations through the allocation of employees.

The substitute bill omits provisions included in the original repealing the limitation on state agency purchases of filing cabinets and paper supplies; requiring the comptroller of public accounts to devise and implement a statewide system of state agency vehicle fleet management; and repealing related state vehicle provisions.

The substitute bill contains provisions not included in the original relating to surplus and salvage property.

The substitute bill has the caption *relating to state personnel and other human resources matters and the disposition of certain state property*; whereas the original has the caption *relating to the operation of state agencies*.