

## **BILL ANALYSIS**

S.B. 966  
By: West  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, the Court Reporters Certification Board, the Guardianship Certification Board, and the process server review board all exist as separate regulatory entities. The licensed court interpreter advisory board is currently an advisory board to the Texas Commission of Licensing and Regulation. Interested parties observe that since these boards all function to assist with the certification of judicial agents or those individuals who assist the court, efficiencies could be realized through a consolidation of efforts.

S.B. 966 seeks to provide greater efficiency and remove the duplication of efforts by consolidating the Court Reporters Certification Board, the Guardianship Certification Board, and the process server review board into an entity to be known as the Judicial Branch Certification Commission and also by moving oversight of the licensed court interpreter advisory board to this new entity.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Judicial Branch Certification Commission in SECTION 1.01 of this bill and to the Supreme Court of Texas in SECTIONS 1.01, 1.05, and 3.02 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Court Reporters Certification Board is transferred to the Judicial Branch Certification Commission in SECTION 1.04 of this bill.

It is the committee's opinion that rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is transferred to the Judicial Branch Certification Commission in SECTION 1.08 of this bill.

### **ANALYSIS**

#### **Consolidation of Judicial Profession Regulation**

S.B. 966 creates the Judicial Branch Certification Commission on September 1, 2014, and on that date abolishes the Court Reporters Certification Board, the Guardianship Certification Board, and the process server review board. The bill transfers the powers, duties, functions, programs, and activities of the abolished boards and of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation related to licensed court interpreters to the Judicial Branch Certification Commission, an entity in the judicial branch of government, on September 1, 2014.

#### **Creation of the Judicial Branch Certification Commission**

##### *General Provisions*

S.B. 966 amends the Government Code to establish the Judicial Branch Certification Commission to oversee the regulatory programs assigned to it by state law or by the Supreme Court of Texas. The bill establishes that the commission is subject to the Texas Sunset Act, but is not abolished under that act. The bill requires the commission to be reviewed during the period in which state agencies abolished in 2019 and every 12th year after 2019 are reviewed. The bill sets out provisions relating to the composition of the nine-member commission appointed by the supreme court. The bill sets out certain nondiscrimination criteria for member appointment and requires an appointee to be knowledgeable about the professions certified by the commission. The bill sets out provisions relating to conflicts of interest, training for commission members, member term lengths, commission vacancies, grounds for removal of commission members, designation of a presiding officer, member compensation and reimbursement, commission meeting frequency, and public testimony.

#### *Commission Administration*

S.B. 966 authorizes the supreme court to adopt rules consistent with the bill's provisions governing court professions regulation and authorizes the supreme court to authorize the commission to adopt rules as the supreme court considers appropriate or as otherwise specified by the bill. The bill sets out restrictions regarding the adoption of rules that restrict advertising or competitive bidding.

S.B. 966 establishes that the commission is administratively attached to the Office of Court Administration of the Texas Judicial System and requires the office to perform certain specified duties relating to the operation of the commission. The bill requires the administrative director of the office to perform any duty assigned by the commission and other duties specified by law and to administer and enforce the commission's programs. The bill requires the commission to develop and implement certain policies relating to the division of responsibilities between the commission and the director and the staff of the office and to implement a specified policy relating to the use of technology by the commission. The bill requires the director or the director's designee to provide to commission members and to office employees, as often as necessary, information regarding the requirements for service or employment under the provisions governing court professions regulation, including certain standard of conduct information.

S.B. 966 requires the commission to prepare information of public interest describing the functions of the commission and the procedure by which complaints are filed and resolved and to make the information available to the public and appropriate state agencies. The bill sets out requirements for the commission with respect to complaints filed with the commission about regulated persons, including requirements relating to the provision of contact information to consumers for the purpose of directing complaints; requirements to maintain a file on each written complaint filed with the commission; and requirements to provide certain information and notifications to each person filing a complaint, including by telephone, and to each person who is a subject of the complaint. The bill provides for the dismissal of certain complaints by office employees. The bill requires the commission to develop and implement alternative dispute resolution procedures that conform to certain guidelines.

#### *Powers and Duties*

S.B. 966 requires the commission to administer and enforce provisions regarding the court professions subject to regulation by the commission; in consultation with appropriate advisory boards, to develop and recommend rules to the supreme court; in consultation with appropriate advisory boards, to develop and recommend to the supreme court a code of ethics for each profession regulated by the commission; to set fees in amounts reasonable and necessary to cover the costs of administering the programs or activities administered by the commission; and

in consultation with appropriate advisory boards, to establish qualifications for certification, registration, and licensing for the professions regulated by the commission. The bill authorizes the commission to require applicants for certification, registration, or licensing to pass an examination that is developed and administered by the commission, or by the commission in conjunction with a person with whom the commission contracts to develop and administer the examination, and charge fees for the examination. The bill also authorizes the commission to require regulated persons to obtain continuing education and to appoint necessary committees.

S.B. 966 authorizes the commission to establish advisory boards in addition to the advisory boards specifically established by the bill to advise the commission on policy and persons regulated by the commission. The bill sets out provisions relating to the frequency of advisory board meetings. The bill requires any advisory board established under the bill's provisions to develop and recommend rules to the commission and authorizes an advisory board to establish subcommittees to fulfill those duties. The bill establishes that an advisory board member serves without compensation and provides for the reimbursement of advisory board member expenses.

#### *Certification, Registration, and Licensing Requirements*

S.B. 966 sets out requirements relating to deadlines for notifying a person who takes an examination issued by the commission of the examination results. The bill authorizes the commission to require a testing service to notify a person of the results of the person's examination or to collect a fee for administering an examination from a person taking the examination. The bill requires the commission, if requested in writing by a person who fails an examination, to furnish the person with an analysis of the person's performance on the examination.

S.B. 966 authorizes the commission to waive any prerequisite to obtaining a certification, registration, or license for certain applicants that hold a certification, registration, or license by another jurisdiction under certain circumstances. The bill requires the supreme court to adopt rules on applicants' ineligibility for certification, registration, or licensing based on the person's criminal history or other information that indicates the person lacks the honesty, trustworthiness, or integrity to hold the certification, registration, or license.

S.B. 966 authorizes the supreme court to authorize and the commission by rule to require continuing professional education for persons regulated by the commission and authorizes those rules to include certain standards relating to continuing education reporting, course content, and number of hours required. The bill authorizes the commission by rule to exempt certain persons from all or a portion of the continuing education requirements.

S.B. 966 requires the commission to develop and recommend to the supreme court for adoption by rule a code of ethics for persons regulated by the commission and requires the commission, in developing the code of ethics, to use the codes of ethics adopted by state or national associations as models. The bill requires the commission to publish the code of ethics after adoption by the supreme court and, after such publication, to propose to the supreme court a rule stating that a person who violates the code of ethics is subject to an administrative penalty under the bill. The bill requires the commission to update the code of ethics as necessary to reflect changes in technology or other factors affecting a regulated profession.

#### **Commission Enforcement**

S.B. 966 amends the Government Code to authorize the commission to conduct investigations as necessary to enforce the laws administered by the commission and sets out provisions relating to the issuance and enforcement of subpoenas. The bill authorizes the administrative director of the Office of Court Administration to issue a cease and desist order on determining that the action is necessary to prevent certain violations relating to the regulation of court professions by the

commission and authorizes the commission to deny, revoke, suspend, or refuse to renew a certification, registration, or license or to reprimand a regulated person for such violations. The bill authorizes the commission to place on probation a person whose certification, registration, or license is suspended, and to require the person to comply with certain requirements. The bill sets out provisions relating to the commission obtaining an injunction against a violation of the bill's provisions.

S.B. 966 authorizes the commission to impose an administrative penalty on a regulated court professional who violates applicable bill provisions or a rule or standard adopted or order issued under those provisions. The bill authorizes a proceeding to impose an administrative penalty to be combined with a proceeding to impose an administrative sanction otherwise imposed under the provisions relating to court professions regulation, and in the event that a sanction is imposed, applies the requirements of its administrative penalty and administrative sanction provisions to the imposition of the sanction. The bill sets out provisions relating to the amount of an administrative penalty; the commission's duty to determine whether a violation occurred and make recommendations regarding the imposition of a penalty or sanction; notice of the commission's determination and recommendations; penalty payment, sanction acceptance, and hearing procedures; options following the commission's decision in a hearing; penalty collection; appeals of commission decisions; and remittance of the penalty and interest. The bill authorizes the commission, on approval of the supreme court, to adopt rules governing such hearings and requires the supreme court to adopt rules governing appeals of commission decisions.

### **Court Reporters Certification and Shorthand Reporting Firms Registration**

S.B. 966 amends provisions of the Government Code relating to the certification and registration of court reporters, shorthand reporters, and court reporting and shorthand reporting firms to reflect the abolishment of the Court Reporters Certification Board, the transfer of the board's functions to the Judicial Branch Certification Commission, and the general procedures and enforcement provisions established under the bill's provisions for the commission's regulation of court professions.

S.B. 966 establishes the Court Reporters Certification Advisory Board as an advisory board to the commission that is composed of at least seven members appointed by the supreme court and sets out the composition of the advisory board. The bill establishes certain nondiscrimination requirements with respect to the appointment of advisory board members, provides for the designation of a presiding officer, and establishes that a majority of the advisory board constitutes a quorum. The bill provides for the term length of advisory board members and sets out the procedure for filling an advisory board vacancy. The bill establishes that an advisory board member serves without compensation and provides for the reimbursement of advisory board member expenses. The bill provides for advisory board member training. The bill authorizes an advisory board member to recommend to the commission a complaint to be filed against a certified shorthand reporter or a shorthand reporting firm or affiliated office registered with the commission.

### **Guardianship Certification**

S.B. 966 amends provisions of the Government Code relating to the regulation of guardians to reflect the abolishment of the Guardianship Certification Board, the transfer of the board's functions to the Judicial Branch Certification Commission, and the general procedures and enforcement provisions established under the bill's provisions for the commission's regulation of court professions.

S.B. 966 establishes the Guardianship Certification Advisory Board as an advisory board to the commission that is composed of at least five members appointed by the supreme court. The bill establishes certain nondiscrimination requirements with respect to the appointment of advisory

board members, provides for the appointment of a presiding officer, and establishes that a majority of the advisory board constitutes a quorum. The bill provides for the term length of advisory board members and establishes that members serve without compensation but are entitled to certain expense reimbursement. The bill provides for advisory board member training.

### **Process Server Certification**

S.B. 966 amends provisions of the Government Code relating to the collection of fees for the certification of process servers to reflect the abolishment of the process server review board and the transfer of the board's functions to the Judicial Branch Certification Commission.

S.B. 966 establishes the Process Server Certification Advisory Board as an advisory board to the Judicial Branch Certification Commission that is composed of at least five members appointed by the supreme court. The bill sets out certain nondiscrimination criteria for member appointment, provides for the appointment of a presiding officer, and establishes that a majority of the advisory board constitutes a quorum. The bill provides for the term lengths of advisory board members, sets out the manner in which vacancies on the advisory board are filled, and establishes that an advisory board member serves without compensation but is entitled to certain expense reimbursement.

### **Court Interpreters Licensing**

S.B. 966 amends provisions of the Government Code relating to the licensure of court interpreters for individuals who can hear but who do not comprehend English or communicate in English to reflect the transfer of the functions of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation related to such licenses to the Judicial Branch Certification Commission.

S.B. 966 establishes that the licensed court interpreter advisory board is an advisory board to the Judicial Branch Certification Commission, rather than the Texas Commission of Licensing and Regulation. The bill specifies that the advisory board is composed of at least five members appointed by the supreme court, rather than nine members appointed by the presiding officer of the Texas Commission of Licensing and Regulation, and removes provisions setting out the composition of the board. The bill transfers duties relating to the appointment of the board's presiding officer and board member removal from the presiding officer of the Texas Commission of Licensing and Regulation to the supreme court. The bill revises provisions relating to member term lengths, nondiscrimination criteria for member appointment, and expense reimbursement to conform to provisions applicable to other advisory boards established under the bill. The bill removes provisions relating to board vacancies and board meeting frequency. The bill removes a provision making the advisory board subject to review and abolishment under the Texas Sunset Act. The bill requires rules adopted by the Judicial Branch Certification Commission relating to licensing of court interpreters to be approved by the supreme court.

### **Conforming Changes**

S.B. 966 amends the Code of Criminal Procedure, Education Code, Estates Code, Government Code, Human Resources Code, and Tax Code to make conforming changes.

### **Transition Provisions**

S.B. 966, in provisions effective September 1, 2013, requires the Supreme Court of Texas, in appointing the initial members of the Judicial Branch Certification Commission, to appoint three members to terms expiring February 1, 2017, three members to terms expiring February 1, 2019, and three members to terms expiring February 1, 2021. The bill requires the supreme court to adopt rules, procedures, and forms the supreme court determines are necessary to implement the

bill's provisions regarding the regulation of court professions not later than September 1, 2014.

S.B. 966 provides that an employee of the Court Reporters Certification Board, Guardianship Certification Board, or process server review board becomes an employee of the Office of Court Administration of the Texas Judicial System on September 1, 2014. The bill transfers to the Office of Court Administration on that date all obligations, contracts, property, and records of the Court Reporters Certification Board, Guardianship Certification Board, and process server review board and of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation related to licensed court interpreters. The bill transfers to the Judicial Branch Certification Commission on September 1, 2014, all complaints, investigations, or contested cases that are pending before the Court Reporters Certification Board, Guardianship Certification Board, and process server review board and of the Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation related to licensed court interpreters. The bill establishes that a rule, form, or fee adopted by the Supreme Court of Texas or the Texas Commission of Licensing and Regulation related to a court profession regulated by the Judicial Branch Certification Commission under the bill's provisions remains in effect until altered by the supreme court.

S.B. 966 establishes that except as otherwise provided by the bill, a reference in law to the Court Reporters Certification Board, Guardianship Certification Board, or process server review board means the Judicial Branch Certification Commission. The bill establishes that a license, certification, or registration in effect that was issued by the Court Reporters Certification Board, Guardianship Certification Board, process server review board, or Texas Department of Licensing and Regulation related to the court professions regulated under the bill is continued in effect as a license, certification, or registration of the Judicial Branch Certification Commission. The bill establishes that the board abolitions and transfers provided under the bill's provisions do not affect or impair an act done, any obligation, right, order, permit, certificate, rule, criterion, standard, or requirement existing, or any penalty accrued under former law, and that the law remains in effect for any action concerning those matters.

### **Repealed Laws**

S.B. 966 repeals the following provisions of the Government Code:

- Subdivisions (1), (2), (2-a), and (7), Subsection (a), Section 52.001
- Sections 52.002, 52.003, 52.0112, 52.012, 52.0121, 52.013, 52.0131, 52.014, 52.015, 52.016, 52.0165, 52.017, 52.0175, 52.018, and 52.0185
- the heading to Subchapter B, Chapter 52
- Subdivision (5), Section 57.001
- Section 72.013
- Subchapter F, Chapter 72
- Section 411.1403

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2014.