

By: Buckingham

S.B. No. 712

A BILL TO BE ENTITLED

AN ACT

relating to certain provisions applicable to state agencies subject to review by the Sunset Advisory Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 325, Government Code, is amended by designating Sections 325.001 through 325.025 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. SUNSET ADVISORY COMMISSION AND SUNSET REVIEW PROCESS

SECTION 2. Chapter 325, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. GENERAL PROVISIONS FOR STATE AGENCIES

Sec. 325.051. APPLICABILITY; CONFLICTS. (a) This subchapter applies to a state agency subject to review by the commission under this chapter.

(b) To the extent of any conflict between this subchapter and any law relating to a state agency subject to review by the commission under this chapter, this subchapter controls.

Sec. 325.052. PUBLIC MEMBERSHIP ON STATE AGENCY POLICYMAKING BODY. A person may not be a public member of the policymaking body of a state agency if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in a field regulated by the state agency;

(2) is employed by or participates in the management

1 of a business entity or other organization regulated by or  
2 receiving money from the state agency;

3 (3) owns or controls, directly or indirectly, more  
4 than a 10 percent interest in a business entity or other  
5 organization regulated by or receiving money from the state agency;  
6 or

7 (4) uses or receives a substantial amount of tangible  
8 goods, services, or money from the state agency other than  
9 compensation or reimbursement authorized by law for the state  
10 agency's policymaking body membership, attendance, or expenses.

11 Sec. 325.053. PROVISIONS RELATING TO CONFLICTS OF INTEREST.

12 (a) In this section, "Texas trade association" means a cooperative  
13 and voluntarily joined statewide association of business or  
14 professional competitors in this state designed to assist its  
15 members and its industry or profession in dealing with mutual  
16 business or professional problems and in promoting their common  
17 interest.

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

24 (1) the person is an officer, employee, or paid  
25 consultant of a Texas trade association in a field regulated by the  
26 state agency; or

27 (2) the person's spouse is an officer, manager, or paid

1 consultant of a Texas trade association in a field regulated by the  
2 state agency.

3 (c) A person may not be a member of a state agency's  
4 policymaking body or act as the general counsel to the state  
5 agency's policymaking body or the state agency if the person is  
6 required to register as a lobbyist under Chapter 305 because of the  
7 person's activities for compensation on behalf of a profession  
8 related to the operation of the state agency.

9 Sec. 325.054. GOVERNOR DESIGNATES PRESIDING OFFICER. The  
10 governor shall designate a member of a state agency's policymaking  
11 body as the presiding officer of the policymaking body to serve in  
12 that capacity at the pleasure of the governor.

13 Sec. 325.055. GROUNDS FOR REMOVAL OF MEMBERS FROM  
14 POLICYMAKING BODIES. (a) It is a ground for removal from a state  
15 agency's policymaking body that a member:

16 (1) does not have at the time of taking office the  
17 qualifications required by law to be a member of the policymaking  
18 body;

19 (2) does not maintain during service on the  
20 policymaking body the qualifications required by law to be a member  
21 of the policymaking body;

22 (3) is ineligible for membership on the policymaking  
23 body under law, including provisions relating to public membership,  
24 conflicts of interest, and lobbying;

25 (4) cannot, because of illness or disability,  
26 discharge the member's duties for a substantial part of the member's  
27 term; or

1           (5) is absent from more than half of the regularly  
2 scheduled meetings of the policymaking body that the member is  
3 eligible to attend during a calendar year without an excuse  
4 approved by a majority vote of the policymaking body.

5           (b) The validity of an action of a state agency's  
6 policymaking body is not affected by the fact that it is taken when  
7 a ground for removal of a member of the policymaking body exists.

8           (c) If the executive head of a state agency has knowledge  
9 that a potential ground for removal exists, the executive head  
10 shall notify the presiding officer of the state agency's  
11 policymaking body of the potential ground. The presiding officer  
12 shall then notify the governor and the attorney general that a  
13 potential ground for removal exists. If the potential ground for  
14 removal involves the presiding officer, the executive head shall  
15 notify the next highest ranking officer of the policymaking body,  
16 who shall then notify the governor and the attorney general that a  
17 potential ground for removal exists.

18           Sec. 325.056. TRAINING FOR MEMBERS OF POLICYMAKING BODIES.

19           (a) A person who is appointed to and qualifies for office as a  
20 member of the policymaking body of a state agency may not vote,  
21 deliberate, or be counted as a member in attendance at a meeting of  
22 the policymaking body until the person completes a training program  
23 that complies with this section.

24           (b) The training program must provide the person with  
25 information regarding:

26                   (1) the law governing the state agency's operations;

27                   (2) the programs, functions, rules, and budget of the

1 state agency;

2 (3) the scope of and limitations on the rulemaking  
3 authority of the policymaking body;

4 (4) the results of the most recent formal audit of the  
5 state agency;

6 (5) the requirements of:

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

10 (B) other laws applicable to members of a state  
11 agency policymaking body in performing their duties; and

12 (6) any applicable ethics policies adopted by the  
13 state agency or the Texas Ethics Commission.

14 (c) A person appointed to the state agency's policymaking  
15 body is entitled to reimbursement, as provided by the General  
16 Appropriations Act, for the travel expenses incurred in attending  
17 the training program regardless of whether the attendance at the  
18 program occurs before or after the person qualifies for office.

19 (d) The executive head of the state agency shall create a  
20 training manual that includes the information required by  
21 Subsection (b). The executive head shall distribute a copy of the  
22 training manual annually to each member of the policymaking body.  
23 Each member of the policymaking body shall sign and submit to the  
24 executive head a statement acknowledging that the member received  
25 and reviewed the training manual.

26 Sec. 325.057. POLICIES TO SEPARATE POLICYMAKING AND STAFF  
27 FUNCTIONS. The policymaking body of a state agency shall develop

1 and implement policies that clearly separate the policymaking  
2 responsibilities of the policymaking body and the management  
3 responsibilities of the executive head and the staff of the state  
4 agency.

5 Sec. 325.058. PUBLIC TESTIMONY AT MEETINGS OF POLICYMAKING  
6 BODIES. The policymaking body of a state agency shall develop and  
7 implement policies that provide the public with a reasonable  
8 opportunity to appear before the policymaking body and to speak on  
9 any issue under the jurisdiction of the state agency.

10 Sec. 325.059. COMPLAINT INFORMATION REQUIREMENTS. (a) A  
11 state agency shall maintain a system to promptly and efficiently  
12 act on complaints filed with the state agency. The state agency  
13 shall maintain information about parties to and the subject matter  
14 of the complaint and a summary of the results of the review or  
15 investigation of the complaint and the disposition of the  
16 complaint.

17 (b) The state agency shall make information available  
18 describing its procedures for complaint investigation and  
19 resolution.

20 (c) The state agency shall periodically notify the  
21 complaint parties of the status of the complaint until final  
22 disposition unless the notice would jeopardize the investigation.

23 SECTION 3. This Act takes effect September 1, 2021.