BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 86th Legislature, Regular Session, passed S.B. 64, which, among other things, encouraged state agencies to consider artificial intelligence (AI) systems. Since then, many agencies have used AI systems to streamline government services. For example, in 2020 the Texas Workforce Commission was able to use AI to help clear their backlog of unemployment claims with a chat bot named "Larry." However, as these applications have become more expansive the legislature has very few oversight tools to ensure these systems are developed in a responsible manner.

H.B. 2060 establishes the Artificial Intelligence Advisory Council (council) to study and monitor the use of AI systems by state agencies in Texas. The council is composed of seven members, including:

- An academic expert specializing in ethics, appointed by the governor;
- An academic expert specializing in artificial intelligence systems, appointed by the governor;
- An expert in law enforcement usage of AI, appointed by the governor;
- An expert in constitutional and legal rights, appointed by the governor;
- The executive director of the Department of Information Resources, or their designee;
- A member of the house of representatives, appointed by the speaker; and
- A member of the senate, appointed by the lieutenant governor.

The members from the house and senate will serve as co-chairs of the council.

The council is tasked with assessing the need for a state code of ethics for AI systems in state government, making recommendations for administrative actions that state agencies can take without further legislative authorization, and making recommendations for the 89th Texas Legislature.

The bill also requires all legislative and executive agencies to submit an inventory report on any automated decision systems (ADS) used by the agency. ADS refers to algorithms, including those incorporating machine learning or other AI techniques, which use data-based analytics to make or support governmental decisions, judgments, or conclusions. The inventory reports submitted by state agencies must include a description of each ADS, including its name and vendor, general capabilities, types of data inputs, and potential impact on constitutional or legal rights, duties, or privileges of Texas residents. The council will review these reports, assess their impact on the liberty, finances, livelihood, and privacy interests of Texas residents, and make recommendations.

The council will submit a report to the legislature by December 1, 2024, summarizing its findings and making policy recommendations. The council will sunset on January 1, 2025.

H.B. 2060 amends current law relating to the creation of the artificial intelligence advisory council.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2054, Government Code, by adding Subchapter S, as follows:

SUBCHAPTER S. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL

Sec. 2054.621. DEFINITIONS. Defines "algorithm," "artificial intelligence systems," "automated decision system," "automated final decision system," "automated support decision system," "council," and "public or private institution of higher education."

Sec. 2054.622. ARTIFICIAL INTELLIGENCE ADVISORY COUNCIL. (a) Provides that the artificial intelligence advisory council (council) is composed of the following seven members:

(1) one member of the house of representatives appointed by the speaker of the house of representatives;

(2) one member of the senate appointed by the lieutenant governor;

(3) the executive director of the Department of Information Resources (executive director; DIR) or the executive director's designee; and

(4) the following four members appointed by the governor:

(A) an academic professional specializing in ethics who is employed by a public or private institution of higher education;

(B) an academic professional specializing in artificial intelligence systems who is employed by a public or private institution of higher education;

(C) an expert on law enforcement usage of artificial intelligence systems; and

(D) an expert in constitutional and legal rights.

(b) Requires the council members appointed under Subsections (a)(1) and (2) to serve as co-chairs of the council.

(c) Provides that a member of the council is not entitled to compensation or reimbursement for expenses.

(d) Requires DIR to provide administrative support for the council.

(e) Requires the council to meet at the call of the co-chairs. Authorizes the council to meet in person or by telephone conference call, videoconference, or another similar telecommunication method. Provides that a meeting held by telephone conference call, videoconference, or another similar telecommunication method, notwithstanding Chapter 551 (Open Meetings) or any other law, is subject to the requirements of Sections 551.125(c) (relating to providing that a telephone conference call meeting is subject to the notice requirements applicable to other meetings), (d) (relating to requiring that the notice of the telephone conference call meeting specify as the location of the meeting the location where meetings of the governmental body are usually held), (e) (relating to requiring that each part of the telephone conference call meeting that is required to be open to the public

be audible to the public at the location specified in the notice of the meeting as the location of the meeting and be recorded), and (f) (relating to requiring that the location designated in the notice as the location of the meeting provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference be clearly stated prior to speaking).

(f) Requires the council to study and monitor artificial intelligence systems developed, employed, or procured by state agencies. Requires the council, in carrying out its duties under this section, to:

    (1) assess the need for a state code of ethics for artificial intelligence systems in state government;

    (2) review automated decision systems inventory reports submitted by state agencies under Section 2054.623, including a review of:

        (A) the effect of the automated decision systems on the constitutional or legal rights, duties, or privileges of the residents of this state; and

        (B) the potential benefits, liabilities, or risks that this state could incur as a result of implementing the automated decision systems; and

    (3) recommend administrative actions that state agencies are authorized to take without further legislative authorization.

(g) Requires the council, not later than December 1, 2024, to submit a report to the legislature that includes:

    (1) a summary of the council's findings after reviewing the automated decision systems inventory reports submitted under Section 2054.623;

    (2) a summary of the recommendations of any relevant national bodies on artificial intelligence systems in state government;

    (3) an assessment of the impact of using artificial intelligence systems in state government on the liberty, finances, livelihood, and privacy interests of the residents of this state;

    (4) recommendations of any policies necessary to:

        (A) protect the privacy and interests of the residents of this state from any diminution caused by employment of artificial intelligence systems by state government;

        (B) ensure that the residents of this state are free from unfair discrimination caused or compounded by the employment of artificial intelligence systems in state government; and

        (C) promote workforce knowledge of artificial intelligence technology and the development of ethical artificial intelligence systems in state government; and

    (5) any other information that the council considers relevant.

Sec. 2054.623. AUTOMATED DECISION SYSTEMS INVENTORY REPORT. (a) Requires each agency in the executive and legislative branches of state government, not later than July 1, 2024, using money appropriated to the agency by this state, to submit an

inventory report of all automated decision systems that are being developed, employed, or procured by the agency. Requires that the inventory report, for each automated decision system, include a description of:

(1) the name and vendor of the automated decision system, if any;

(2) the automated decision system's general capabilities, including:

(A) reasonably foreseeable capabilities outside the scope of the agency's proposed use; and

(B) whether the automated decision system is used or is authorized to be used for independent decision-making powers and the impact of those decisions on the residents of this state;

(3) the types of data inputs that the technology uses;

(4) how the data described by Subdivision (3) is generated, collected, and processed;

(5) the types of data the automated decision system is reasonably likely to generate;

(6) whether the automated decision system has been tested by an independent third party, has a known bias, or is untested for bias;

(7) the purpose and proposed use of the automated decision system, including:

(A) the decisions the automated decision system will be used to make or support;

(B) whether the automated decision system is an automated final decision system or an automated support decision system; and

(C) the automated decision system's intended benefits, including any data or research relevant to the outcome of those results;

(8) how automated decision system data is securely stored and processed and whether the agency intends to share access to the automated decision system or data from that automated decision system with any other entity, and why; and

(9) the information technology fiscal impacts of the automated decision system, including:

(A) initial acquisition costs and ongoing operating costs, such as maintenance, licensing, personnel, legal compliance, use auditing, data retention, and security costs;

(B) any cost savings that would be achieved through the use of the technology; and

(C) any current or potential sources of funding, including any subsidies or free products being offered by vendors or governmental entities.

(b) Requires the council, in consultation with DIR, not later than March 1, 2024, to prescribe the form, contents, and manner of submission of the automated decision systems inventory report required under this section.

(c) Requires each agency to submit the report required under this section to the:

(1) DIR;

(2) council; and

(3) standing committees of the senate and house of representatives with primary jurisdiction over state agency information technology.

Sec. 2054.624. COUNCIL ABOLISHED; EXPIRATION OF SUBCHAPTER. Provides that the council is abolished and this subchapter expires January 1, 2025.

SECTION 2. (a) Requires the appropriate appointing authorities, as soon as practicable after the effective date of this Act but not later than October 1, 2023, to appoint the members to the artificial intelligence advisory council as required by Section 2054.622, Government Code, as added by this Act.

(b) Requires the council established under Subchapter S, Chapter 2054, Government Code, as added by this Act, to hold its initial meeting not later than November 1, 2023.

SECTION 3. Effective date: upon passage or September 1, 2023.