BILL ANALYSIS

BACKGROUND AND PURPOSE

In 2019, the legislature enacted legislation that, among other things, encouraged state agencies to consider the use of next generation technology like 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 help clear its backlog of unemployment claims with a chat bot. With these sorts of applications becoming more pervasive, the legislature needs additional oversight tools to ensure AI systems are developed in a responsible manner. Accordingly, C.S.H.B. 2060 establishes the Artificial Intelligence Advisory Council to study and monitor the use of AI systems by certain state agencies in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 2060 amends the Government Code to create the seven-member Artificial Intelligence Advisory Council to study and monitor artificial intelligence systems developed, employed, or procured by executive and judicial branch state agencies. The council is composed of one member of the house of representatives appointed by the speaker of the house of representatives, one member of the senate appointed by the lieutenant governor, the executive director of the Department of Information Resources (DIR) or the executive director's designee, and four public members appointed by the governor as provided by the bill. The bill provides the following with respect to the administration and operation of the council:

- the respective appointing authorities must make their appointments to the council not later than October 1, 2023;
- the member of the house and the member of the senate appointed to the council are the council's co-chairs;
- the council must meet at the calls of the co-chairs and must hold its initial meeting not later than November 1, 2023;
- the council may meet in person or by telephone conference call, videoconference, or another similar telecommunication method and a meeting held by a telecommunication method is subject to certain requirements under state open meetings law applicable to a telephone conference call;
- council members are not entitled to compensation or reimbursement for expenses; and
- DIR must provide administrative support for the council.

C.S.H.B. 2060 requires each executive and legislative branch state agency that uses appropriated money, not later than July 1, 2024, to submit to DIR, the council, and the applicable standing legislative committees an inventory report of all automated decisions systems that are being developed, employed, or procured by the agency. For each system, the report must include the following:

- a description of the name and vendor of the system, if any;
- the system's general capabilities, including reasonably foreseeable capability outside the scope of the agency's proposed use and whether the system is used or may be used for independent decision-making powers and the impact of those decisions on Texas residents;
- the types of data inputs that the technology uses and how such data is generated, collected, and processed;
- the types of data the system is reasonably likely to generate;
- whether the system has been tested by an independent third party, has a known bias, or is untested for bias;
- the purpose and proposed use of the system, including:
  - the decisions the automated decision system will be used to make or support;
  - whether the automated decision system is an automated final decision system or an automated support decision system; and
  - the automated decision system's intended benefits, including any data or research relevant to the outcome of those results;
- how system data is securely stored and processed and whether the agency intends to share access to the system or data with any other entity and why; and
- the information technology fiscal impacts of the system, including:
  - initial acquisition costs and ongoing operating costs, such as maintenance, licensing, personnel, legal compliance, use auditing, data retention, and security costs;
  - any cost savings that would be achieved through the use of the technology; and
  - any current or potential sources of funding, including any subsidies or free products being offered by vendors or governmental entities.

The bill requires the council, not later than March 1, 2024, and in consultation with DIR, to prescribe the form, contents, and manner of submission of the report. For purposes of these provisions, the bill defines, among other terms, "automated decision system" as an algorithm, including an algorithm incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support governmental decisions, judgments, or conclusions.

C.S.H.B. 2060 requires the council, in carrying out its duties, to do the following:

- assess the need for a state code of ethics for artificial intelligence systems in state government;
- review the inventory reports submitted by state agencies, including a review of the effect of such systems on the constitutional or legal rights, duties, or privileges of Texas residents and of the potential benefits, liabilities, or risks that the state could incur as a result of implementing the systems; and
- recommend administrative actions that state agencies may take without further legislative authorization.

C.S.H.B. 2060 requires the council to submit a report to the legislature not later than December 1, 2024, that includes the following information:

- a summary of its findings after reviewing the inventory reports;
- a summary of the recommendations of any relevant national bodies on artificial intelligence systems in state government;
- an assessment of the impact of using artificial intelligence systems in state government on the liberty, finances, livelihood, and privacy interests of Texas residents;
- recommendations of any policies necessary to do the following:

       o protect the privacy and interests of Texas residents from any diminution caused by employment of artificial intelligence systems by state government;

       o 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

       o promote the development of ethical artificial intelligence systems in state government; and

  • any other information that the council considers relevant.

C.S.H.B. 2060 sets the bill's provisions to expire and the council to be abolished on January 1, 2025.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2060 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the deadline for the council to prescribe forms, contents, and manner of submission of the inventory report from January 1, 2024, as in the introduced, to March 1, 2024.

The substitute includes a provision absent from the introduced authorizing the council to meet either in person or by a telecommunication method. The substitute also includes an additional provision subjecting such a remote meeting to certain requirements of state open meetings law.

Both the introduced and the substitute provide that council members may not receive compensation for their service. However, whereas the introduced entitled members to reimbursement for expenses, the substitute does not and instead expressly states that members are not entitled to such reimbursement.

88R 20677-D   23.87.1372

Substitute Document Number: 88R 19089

3