

BILL ANALYSIS

C.S.S.B. 1414
By: Johnson
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The State Board of Veterinary Medical Examiners (TBVME) has undergone three sunset reviews over the last six years. These reviews have repeatedly documented significant data collection, reliability, and analysis issues and poor enforcement procedures that have plagued the TBVME. In November 2022, a special purpose sunset review found the TBVME had improperly contracted for a new database it never received and indications that the TBVME was continuing to struggle with data collection, tracking, reliability, and analysis. As a result of these and other findings, the Sunset Advisory Commission directed staff to identify options to address the systemic issues at the TBVME and submit them to the sunset commission. The sunset commission has recommended performing another review of the TBVME in four years, but in the meantime administratively attaching the TBVME to the Texas Department of Licensing and Regulation (TDLR). During this four-year period, TDLR would provide the TBVME with policy-making and administrative oversight, guidance, and support and the TBVME would serve as an advisory board to TDLR. At the end of the four-year attachment, the TBVME would return to its independent agency status. C.S.S.B. 1414 seeks to implement these recommendations.

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 rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 1414 amends the Occupations Code to move forward the next review of the State Board of Veterinary Medical Examiners (TBVME) under the Texas Sunset Act from the 2028-2029 review cycle to the 2026-2027 review cycle and to set out provisions, detailed below, providing for the temporary regulation of the practice of veterinary medicine by the Texas Department of Licensing and Regulation (TDLR) until September 1, 2027.

C.S.S.B. 1414 requires TDLR to assume all policy-making powers of the TBVME and to administer the Veterinary Licensing Act and authorizes TDLR to contract as necessary to administer the act. The bill establishes that a power or duty granted to the TBVME under the act is a power or duty of TDLR's executive director, TDLR, or the Texas Commission of Licensing and Regulation (TCLR), as applicable. The bill authorizes TCLR or TDLR's executive director to delegate, or withdraw any delegation of, any power or duty under the act to the TBVME or the TBVME executive director. The delegation or withdrawal of delegation must be in writing.

C.S.S.B. 1414 requires TDLR, not later than December 31, 2026, to conduct a review under the Administrative Procedure Act of each TBVME rule in the Texas Administrative Code. The bill requires TDLR, in conducting the review, to ensure that license holders and the public have a meaningful opportunity to provide input and recommend changes to the rules. The bill requires TDLR to propose necessary amendments to a rule, or the repeal of a rule, for which TDLR determines the TBVME lacks a sufficient reason or authority to adopt or enforce. The bill authorizes TDLR or TDLR, as applicable, to have a TBVME member who is a veterinarian licensed in good standing in Texas serve as an expert witness for any rulemaking or contested case for which an expert witness is necessary.

C.S.S.B. 1414 requires TDLR's executive director to direct, and authorizes TDLR's executive director to dismiss, the TBVME executive director. The bill requires TDLR's presiding officer to appoint a replacement executive director of the TBVME if necessary. The bill establishes that, subject to such oversight, the TBVME executive director is responsible for the administration of financial services, human resources, and workforce development duties of the TBVME, including the following:

- accounts payable and accounts receivable;
- budgeting, inventory, and asset management;
- payroll;
- personnel and labor issues;
- purchasing;
- recruitment, evaluation, selection, training, and promotion of personnel;
- submitting required reports regarding finances, performance measures, strategic planning, legislative appropriations requests, operating budgets, and similar information as required by law;
- legal support services, including responding to requests for public information; and
- information technology and support.

If TDLR provides any of these functions, the TBVME must reimburse TDLR for administrative costs incurred.

C.S.S.B. 1414 makes the TBVME an advisory board to TDLR and requires the TBVME, the equine dental provider advisory committee, and any advisory committee appointed by the TBVME to provide advice and recommendations to TDLR on technical matters relevant to the administration of the Veterinary Licensing Act.

C.S.S.B. 1414 requires TDLR to adopt all rules necessary to implement the Veterinary Licensing Act, except with respect to rules relating to the scope of practice of, or a health-related standard of care for, the practice of the profession of veterinary medicine, which remain the purview of the TBVME. The bill requires the TBVME to adopt those rules and requires TDLR to review each such rule adopted by the TBVME. If TDLR determines that the rule is not authorized by the act or other law or is an unauthorized anticompetitive rule, TDLR is required to issue an order stating that determination. The bill prohibits a rule for which such an order is issued from taking effect or being enforced.

With respect to the Veterinary Licensing Act, C.S.S.B. 1414 establishes the following:

- the act controls to the extent of any conflict between the act and TDLR's statutory governing provisions; and
- the bill's provisions relating to TDLR's temporary regulation of the practice of veterinary medicine control to the extent of any conflict between those provisions and another provision of the act.

C.S.S.B. 1414 requires the Department of Information Resources (DIR), not later than October 1, 2023, to consult with TDLR and the TBVME to assess the TBVME's database needs and establish a plan for the procurement and acquisition of a database suitable to address those

needs. The bill requires the TBVME to provide DIR and TDLR with access to any system, hardware, software, documents, or information necessary to achieve these purposes and establishes that the provision of information under these provisions of the bill to DIR or TDLR does not waive confidentiality or privilege.

C.S.S.B. 1414 requires TDLR, not later than December 1, 2024, to submit to the Sunset Advisory Commission and each standing committee of the legislature with primary jurisdiction over the TBVME any legislative recommendations necessary to improve the TBVME's operations.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1414 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute differs from the engrossed with respect to the rulemaking authority of the TBVME and TCLR as follows:

- the substitute omits provisions present in the engrossed that did the following:
 - required the TBVME to propose rules to TCLR relating to the scope of practice of or a health-related standard of care for the practice of the profession of veterinary medicine and prohibited TCLR from adopting a new rule relating to such scope of practice or standard of care unless the rule had been proposed by the TBVME;
 - required TCLR, for such a rule, to either adopt the rule as proposed or return the rule to the TBVME for revision; and
 - established that TCLR retained authority for final adoption of all rules and was responsible for ensuring compliance with all laws regarding the rulemaking process; and
- the substitute includes provisions absent in the engrossed that do the following instead:
 - require the TBVME to adopt the rules relating to the scope of practice of or a health-related standard of care for the practice of the profession of veterinary medicine but provide for the review of each adopted rule by TCLR;
 - require TCLR, on determining a rule is not authorized by law or is an unauthorized anticompetitive rule, to issue an order stating that determination;
 - prohibit a rule for which such an order is issued from taking effect or being enforced; and
 - require TCLR to adopt all rules necessary to implement the Veterinary Licensing Act, except with respect to those rules adopted by the TBVME.

The substitute includes a provision absent in the engrossed authorizing TCLR or TDLR, as applicable, to have a TBVME member who is a veterinarian licensed in good standing in Texas serve as an expert witness for any rulemaking or contested case for which an expert witness is necessary.