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| BILL ANALYSIS |

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| S.B. 2155 |
| By: Perry |
| Agriculture & Livestock |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE**  The bill sponsor has informed the committee that during the 88th Regular Session the Sunset Advisory Commission recommended that the State Board of Veterinary Medical Examiners (TBVME) be attached to the Texas Department of Licensing and Regulation (TDLR) for the administrative supervision of the TBVME and that this recommendation was supported by S.B. 1414, which took effect September 1, 2023, and whose provisions relating to the temporary regulation of the practice of veterinary medicine by TDLR are scheduled to expire September 1, 2027. The bill sponsor has also informed the committee that the TBVME had been facing administrative and compliance issues since its sunset review in the 2016-2017 review cycle, including a finding of a strong presence of professionals in the veterinary field being found providing prescription drugs for misuse according to the DEA, and that after multiple reevaluations by the sunset commission the sunset commission advised that the TBVME be temporarily attached to TDLR for the administrative supervision. S.B. 2155 seeks to resolve these issues by revising provisions of the Veterinary Licensing Act, including provisions relating to the TBVME executive director, risk-based inspections, and registration of veterinary medical facilities, in order to allow the TBVME to detach from TDLR and act as its own entity. |
| **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 State Board of Veterinary Medical Examiners in SECTIONS 1, 11, 21, 26, and 37 of this bill. |
| **ANALYSIS**  S.B. 2155 amends the Occupations Code to establish that the executive director of the Texas Department of Licensing and Regulation (TDLR) has authority relating to personnel actions as if the executive director of the State Board of Veterinary Medical Examiners (TBVME) were an employee of TDLR. The bill expands the TBVME duties the administration of which the TBVME executive director is responsible to include licensing and enforcement duties.  S.B. 2155 replaces the authorization for the TBVME to employ an executive director with a requirement for the TBVME to appoint an executive director and establishes that the executive director serves at the will of the TBVME. The bill removes provisions that make the executive director responsible for safekeeping the money collected under the Veterinary Licensing Act and for properly disbursing the veterinary fund account established by the act. The bill requires the executive director to perform any duties assigned by the TBVME and other duties specified by law, administer and enforce the TBVME's programs, and issue licenses regulated by the TBVME. The bill authorizes the executive director to delegate any power or duty assigned to the executive director unless prohibited by law and to issue emergency orders and cease and desist orders as provided by the act. The bill authorizes the TBVME to prescribe the duties and compensation of personnel employed by the TBVME to administer the act, subject to the personnel policies and budget approved by the TBVME.  S.B. 2155 requires the TBVME to supervise the executive director's administration of the act, formulate policy objectives for the TBVME, and approve the TBVME's operating budget and requests for legislative appropriations.  S.B. 2155 replaces the authorizations for the TBVME to adopt rules as necessary to administer the act and adopt rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills, and practice in the veterinary medicine profession with requirements for the TBVME to adopt those respective rules.  S.B. 2155 removes the requirements for the TBVME to maintain a record of each license holder's name, residence address, and business address and for a license holder to notify the TBVME of a change of business address or employer not later than the 60th day after the date the change takes effect. The bill requires the TBVME to maintain an electronic system allowing it to provide accurate reporting of information relating to license holders and applicants, complaints, enforcement actions, investigations, and inspections. The bill requires the TBVME to provide the following on its public-facing website:   * a feature allowing users to verify a license holder's license status, determine whether the license holder is currently subject to disciplinary action, and review relevant disciplinary orders; and * data, updated at least quarterly, summarizing the number, type, and disposition of complaints received during the fiscal year.   S.B. 2155 requires the TBVME to provide information on its website directing licensed veterinarians to approved peer assistance programs.  S.B. 2155 extends to the executive director the authority granted to the TBVME to request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection or copying of evidence relevant to an investigation of an alleged violation of the act.  S.B. 2155 authorizes the TBVME by rule to require an applicant or license holder to provide an email address for purposes of receiving correspondence. The bill makes such a provided email address confidential and not subject to disclosure under state public information law. The bill authorizes the TBVME by rule to provide that service of any notice, order, or pleading required under the Veterinary Licensing Act or under the Administrative Procedure Act may be made electronically to the provided email address.  S.B. 2155 replaces a provision that establishes that, to the extent of any conflict with Government Code provisions relating to state agency advisory committees, provisions of the Veterinary Licensing Act relating to advisory committees and TBVME rules adopted under such provisions control with a provision making those Government Code provisions, notwithstanding any other law, inapplicable to an advisory committee appointed under such provisions of the act.  S.B. 2155 authorizes the TBVME to conduct inspections or investigations as necessary to enforce the laws administered by the TBVME. The bill authorizes the TBVME, for purposes of performing those functions, to do the following during reasonable business hours:   * enter a veterinary medical facility or other business premises of a person regulated by the TBVME, or of a person suspected of being in violation of, or threatening to violate, a law administered by the TBVME, or a rule or order of the TBVME or executive director; and * examine and copy records pertinent to the inspection or investigation.   The bill authorizes the TBVME to take a disciplinary action authorized by the Veterinary Licensing Act for a violation identified during an inspection.  S.B. 2155 replaces the authorization for the TBVME to conduct a risk-based inspection of a veterinarian's practice based on information obtained from the veterinarian or another source concerning the veterinarian's use, handling, prescribing, dispensing, or delivery of controlled substances with a requirement for the TBVME to prioritize inspections relating to key risk factors identified by the TBVME, including previous violations by the license holder or information concerning a veterinarian's use, handling, prescribing, dispensing, or delivery of controlled substances. The bill authorizes the TBVME to use alternative inspection methods, including videoconference or similar technology, instead of conducting an in-person inspection in circumstances the TBVME considers appropriate.  S.B. 2155 authorizes the TBVME or executive director, if the TBVME finds that a license holder has committed an act that is grounds for license denial or disciplinary action, to order the license holder to pay a refund to a consumer as provided in an agreed settlement, default order, or TBVME order instead of or in addition to imposing an administrative penalty or sanction. The bill caps the amount of an ordered refund at the amount the consumer paid to the license holder for a service regulated by the TBVME and prohibits the amount of an ordered refund from requiring payment of other damages or estimate harm. These provisions expressly do not grant the TBVME jurisdiction over a complaint based solely on the cost of a veterinary service.  S.B. 2155 authorizes the TBVME, with approval of the governor, to enter into an agreement with another state to allow for licensing by reciprocity.  S.B. 2155 expands the applicability of the requirement for the TBVME to adopt rules relating to the investigation of complaints filed with the TBVME to include the disposition of such complaints. The bill removes the requirements for the rules to do the following:   * ensure that the person who filed the complaint has the opportunity to explain the allegations made in the complaint; and * prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the TBVME to obtain the services of a private investigator.   S.B. 2155 requires the TBVME to assign priorities and investigate complaints based on risk posed to the public by the conduct alleged in the complaint. The bill changes the required prioritization of complaints by the TBVME from prioritizing complaints to resolve the more serious complaints first to prioritizing complaints regarding persons engaged in the practice of veterinary medicine without a license.  S.B. 2155 revises the requirement for the TBVME to dismiss a complaint determined by the TBVME to be baseless or unfounded as follows:   * changes the timeline for the determination from before the 180th day after the date the TBVME's official investigation of a complaint is commenced to at any time; * includes as a basis for dismissal of a complaint the determination by the TBVME that a complaint does not fall within the TBVME's regulatory jurisdiction; * removes the specification that the board must determine the complaint is baseless or unfounded in accordance with rules adopted to implement the dismissal of such a complaint; and * applies the dismissal process to an allegation that the TBVME determines is baseless, unfounded, or does not fall within the TBVME's regulatory jurisdiction.   The bill removes the requirement for the TBVME to include a statement in the record of the complaint that the complaint was dismissed because the complaint was baseless or unfounded.  S.B. 2155 authorizes the TBVME to contract with a qualified individual to assist in reviewing or investigating complaints requiring medical expertise. The bill, except for an act involving fraud, conspiracy, or malice, grants such an individual with whom the TBVME contracts immunity from liability or from disciplinary action under the Veterinary Licensing Act and prohibits the individual from being subject to a suit for damages for any act arising from the performance of the individual's duties in:   * participating in an informal conference to determine the facts of a complaint; * offering an expert opinion or technical guidance on an alleged violation of the Veterinary Licensing Act or of a rule or order issued by the TBVME or executive director; * testifying at a hearing regarding a complaint; or * making an evaluation, report, or recommendation regarding a complaint.   The bill replaces the prohibition against a veterinarian TBVME member who reviews a complaint that requires medical expertise participating in any subsequent disciplinary proceeding related to the complaint with a prohibition against such a member deliberating or voting in any such proceeding.  S.B. 2155 replaces the authorization for the TBVME to delegate to a committee of TBVME staff the authority to dismiss or enter into an agreed settlement of a complaint that does not require medical expertise with a requirement for the TBVME to adopt rules relating to the evaluation and disposition of complaints not requiring medical expertise.  S.B. 2155 repeals provisions relating to the timely disposition by the TBVME of a complaint.  S.B. 2155 removes provisions that do the following:   * establish that, except as otherwise provided, a TBVME record is a public record and is available for public inspection during normal business hours; and * establish that, except as otherwise provided, each complaint, investigation file and record, and other investigation report and all other investigative information in the possession of or received or gathered by the TBVME or the TBVME's employees or agents relating to a license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the TBVME or the TBVME's employees or agents involved in discipline of a license holder.   The bill replaces those provisions with provisions that do the following:   * establish that, except as otherwise provided, a complaint and investigation concerning a person to whom the Veterinary Licensing Act applies, and all information and materials subpoenaed or compiled by the TBVME in connection with the complaint and investigation, are confidential and not subject to disclosure under state public information law or to disclosure, discovery, subpoena, or other means of legal compulsion for their release to any person; and * authorize the TBVME to disclose information regarding a complaint or investigation to the following:   + a person providing testimony or review on the TBVME's behalf in a disciplinary proceeding;   + a respondent or the respondent's authorized representative;   + a professional licensing, credentialing, or disciplinary entity;   + a peer assistance program approved by the TBVME;   + a law enforcement agency; or   + a person engaged in bona fide research, if all individual-identifying information has been deleted.   The bill prohibits the TBVME from being compelled to release or disclose complaint and investigation information or materials to such a listed person if the TBVME has not issued a notice of alleged violation related to the information or materials. The bill establishes that notices of alleged violation and disciplinary orders, including warnings and reprimands, issued by the TBVME are not confidential and are subject to disclosure in accordance with state public information law. The bill authorizes the TBVME, if an investigation would be jeopardized by the disclosure of information relating to a complaint or investigation, to temporarily withhold or otherwise refrain from disclosing to any person any information or materials that the TBVME would otherwise be required to disclose.  S.B. 2155 removes the requirements for the TBVME to do the following:   * conduct a veterinarian licensing examination at a time and place the TBVME determines is convenient for applicants; and * examine each qualified applicant who attends the examination.   The bill replaces the manner in which the TBVME is required to provide notice of a licensing examination from providing the notice by publication in a newspaper or periodical to providing the notice on its website. The bill repeals a provision that requires the TBVME to conduct licensing examinations at least twice each year as provided by TBVME rule, but the bill retains a provision that requires the TBVME to conduct licensing examinations for veterinarians as provided by TBVME rule.  S.B. 2155 removes provisions that do the following:   * require the TBVME, on conviction of a license holder of a felony of an inhalant paraphernalia offense or under the Texas Controlled Substances Act or the Texas Dangerous Drug Act, to impose, after conducting an administrative hearing in which the fact of conviction is determined, a penalty as provided by applicable provisions; * require the TBVME to set the amount of the penalty to match the seriousness of the conviction; and * authorize the TBVME to reinstate or reissue the suspended or revoked license only on an express determination based on substantial evidence contained in an investigative report indicating that reinstatement or reissuance of the license is in the best interests of the public and the person whose license has been suspended or revoked.   The bill replaces those provisions with an authorization for the TBVME, if a person's license has been revoked by applicable operation of law upon imprisonment after a conviction of a felony under the Texas Controlled Substances Act or the Texas Dangerous Drug Act or has been revoked by the TBVME upon conviction of a license holder of an inhalant paraphernalia offense or of any offense under the Texas Controlled Substances Act or the Texas Dangerous Drug Act, to reinstate or reissue the license only upon determining that reinstatement or reissuance of the license is in the best interests of the public and the person whose license has been revoked.  S.B. 2155 removes the authorization for the TBVME to conduct deliberations relating to a disciplinary action during executive session and the requirement for the TBVME, at the conclusion of those deliberations, to vote and announce its decision to the license holder in open session. The bill requires the TBVME by rule to prescribe notice procedures for proceedings under the Veterinary Licensing Act relating to license denial and disciplinary procedures.  S.B. 2155, with respect to the requirement that TBVME rules relating to informal proceedings require the presence of the TBVME's general counsel or a representative of the attorney general during an informal proceeding to advise the TBVME or the TBVME's employees, replaces the TBVME's general counsel with a member of the TBVME's legal staff. The bill removes the following provisions:   * an authorization for a committee of TBVME staff to recommend enforcement action at an informal proceeding for a complaint that does not require medical expertise or to refer the complaint to an applicable committee of TBVME members; and * an authorization for the TBVME, at an informal proceeding and on agreement with the license holder, to order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty under the Veterinary Licensing Act and a prohibition against the TBVME requiring payment of other damages or estimating harm.   S.B. 2155 authorizes the TBVME, for any action or complaint for which the TBVME proposes to impose on a person a sanction other than a reprimand or a denial, suspension, or revocation of a license, to do the following:   * defer the final action the TBVME has proposed if the person conforms to conditions imposed by the TBVME, including any condition the TBVME could impose as a condition of probation under applicable provisions; and * if the person successfully meets the imposed conditions, dismiss the complaint.   The bill establishes that a deferred action by the TBVME is not confidential and is subject to disclosure in accordance with state public information law. The bill makes the deferred action of the TBVME confidential to the same extent as a complaint is confidential under applicable provisions of the Veterinary Licensing Act if the person successfully meets the conditions imposed by the TBVME in deferring final action and the TBVME dismisses the action or complaint.  S.B. 2155 authorizes a proceeding imposing an administrative penalty to be combined with a proceeding to impose an administrative sanction. The bill makes the requirements of administrative penalty provisions of the Veterinary Licensing Act applicable to the imposition of a sanction imposed in an administrative penalty proceeding.  S.B. 2155 changes from not later than the 20th day after the date a person on whom an administrative penalty may be imposed receives the notice of each alleged violation, the amount of any recommended penalty, and the person's right to an applicable hearing to not later than the 20th day after the date such a person receives a notice of alleged violation the deadline by which the person may in writing accept the determination and recommended administrative penalty or request a hearing on the occurrence of the violation, the amount of the penalty, or both. The bill changes the determination from the applicable committee's determination to the TBVME's determination. With respect to a person who accepts the determination and recommended penalty, the bill replaces the authorization for the TBVME by order to approve the determination and impose the recommended penalty, modify the determination or recommended penalty, or reject the determination or recommended penalty with a requirement for the TBVME by order to approve the determination and require the person to pay the recommended penalty.  S.B. 2155 replaces the requirement for the executive director, if the person requests a hearing or fails to respond timely to the applicable notice, to set a hearing and give notice of the hearing to the person with a requirement that a hearing be conducted by the State Office of Administrative Hearings (SOAH) if the respondent requests a hearing pursuant to applicable provisions of the Veterinary Licensing Act relating to a person's right to a hearing. The bill requires SOAH to consider the TBVME's applicable substantive rules and policies when conducting a hearing under administrative penalty provisions of the act. The bill includes among the decisions a proposal for which the administrative law judge is required to promptly issue to the TBVME a decision as to any recommended license sanction.  S.B. 2155 authorizes the TBVME, in the event that it determines that a violation has occurred, to impose, as an alternative to an administrative penalty, a license sanction or both such a sanction and such a penalty.  S.B. 2155 changes the petition for judicial review that a person is required to file if the person does not pay an administrative penalty or has the option to file if the person pays the penalty from a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both to a petition for judicial review contesting the TBVME's order.  S.B. 2155 repeals provisions that do the following:   * authorize a court that sustains the determination that a violation occurred to uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount; * require a court that does not sustain the determination that a violation occurred to order that an administrative penalty is not owed; * subject a veterinarian administrative penalty proceeding to the Administrative Procedure Act; and * establish that veterinarian administrative penalty provisions of the Veterinary Licensing Act do not prohibit the TBVME from assessing an administrative penalty by using an informal proceeding under specified provisions.   S.B. 2155 repeals the requirement that a TBVME member or employee pay a fine of not less than $1,000 or more than $5,000 if the member or employee issues a license other than as provided by the Veterinary Licensing Act or provides to an applicant for examination a list of questions to be propounded at the examination.  S.B. 2155 removes provisions that do the following:   * authorize the TBVME, if it appears to the TBVME that a person is engaging in an act or practice that constitutes the practice of veterinary medicine without a license or the practice of equine dentistry without a license under the Veterinary Licensing Act, to issue, after notice and opportunity for a hearing, a cease and desist order prohibiting the person from engaging in the activity; and * establish that a violation of such an order constitutes grounds for imposing an administrative penalty.   The bill replaces those provisions with an authorization for the TBVME or executive director to issue a cease and desist order upon determining that it is necessary to prevent a violation of the Veterinary Licensing Act, or of a rule adopted or order issued by the TBVME.  S.B. 2155 authorizes the TBVME or executive director, upon determining that an emergency exists requiring immediate action to protect the public health and safety, to issue an emergency order to do the following:   * suspend or revoke a license or other authorization issued under a program regulated by the TBVME; or * halt operation of an unsafe veterinary medical facility.   The bill authorizes the TBVME or executive director to issue an emergency order with or without notice and hearing. The bill requires the TBVME, if an emergency order is issued without a hearing, to set the time and place for a hearing conducted by SOAH to affirm, modify, or set aside the emergency order not later than the 17th day after the date the order was issued. The bill requires the order to be affirmed to the extent that reasonable cause existed to issue the order. The bill makes a proceeding under these provisions a contested case under the Administrative Procedure Act.  S.B. 2155 restricts the practice of veterinary medicine, including veterinary medicine practiced remotely by electronic means, to practice in or from a veterinary medical facility that is registered with the TBVME or that is exempted by rule from the registration requirement. The bill defines "veterinary medical facility" as a location, including a building, portion of a building, or vehicle, in which the practice of veterinary medicine normally takes place or is provided. The bill requires every individual facility to be registered with the TBVME unless exempted by these provisions of the bill or by TBVME rule adopted pursuant to such provisions. The bill exempts from this restriction and requirement a facility maintained or operated by the federal government. The bill exempts a mobile facility affiliated with a registered veterinary medical facility from separate registration if identified in the application for registration filed pursuant to the bill's provisions relating to veterinary medical facilities. The bill authorizes the TBVME by rule to provide exemptions to the registration requirement for facilities if it determines that imposing or enforcing the requirement is not cost-effective for the TBVME, is not feasible with current TBVME resources or standards, or will not substantially benefit or protect consumers.  S.B. 2155 requires the business entity providing services at a veterinary medical facility, for purposes of registering the facility, to submit the application provided by the TBVME and pay the applicable fee established by the TBVME. The bill requires the application to be signed by a person with authority to act on behalf of the entity. The bill requires the facility, in its application for registration, to do the following:   * indicate the type of business entity that provides services at the facility, and provide information regarding the owners, partners, and operators of the entity, including a management services organization that contracts with the facility, as required by TBVME rule; and * provide the names and license or registration numbers of all persons who provide services at the facility and are regulated by the TBVME.   The bill defines "management services organization" as a business entity that provides management services to a veterinary medical facility, as defined by TBVME rule. The bill requires an application under these provisions to require the facility to designate a medical director. The designated medical director must:   * be licensed by the TBVME as a veterinarian and remain in good standing; * regularly practice veterinary medicine at or from the facility; * co-sign the application for registration; and * agree to accept all correspondence from the TBVME on behalf of the facility.   The bill requires a veterinary medical facility whose designated medical director ceases to be affiliated with the facility to designate a new medical director within 30 days of the change. The bill requires the term of a registration issued under these provisions and the process for renewal of a registration to be provided by TBVME rule.  S.B. 2155 requires the TBVME to adopt and enforce rules relating to standards of operation of veterinary medical facilities. The rules must include standards regarding the following:   * safety and sanitation; * storage and security of pharmaceuticals and controlled substances; * patient care; * retention of documentation, including medical records, controlled substance logs, and employment records; and * compliance with other state laws related to health and safety.   The bill requires the rules to distinguish between categories of veterinary facilities, including mobile facilities that are not affiliated with another registered veterinary facility, to ensure that appropriate standards are established for each category of facility.  S.B. 2155 subjects the owner or owners of a business entity that provides services at a veterinary medical facility, or a management services organization that provides services to such a facility, to administrative penalties, license sanctions, or both, under the following circumstances:   * the facility does not hold a current registration; * the facility violates a TBVME standard for the operation of a veterinary medical facility; * facility personnel deny access to the TBVME or its agents to conduct an inspection or investigation; or * the facility fails to comply with a TBVME order.   S.B. 2155 establishes that its provisions relating to veterinary medical facilities take effect September 1, 2026.  S.B. 2155 requires the TBVME, as soon as practicable after the bill's effective date, to adopt the rules and procedures necessary to implement the bill's provisions other than those provisions relating to veterinary medical facilities. The bill requires the TBVME, no later than March 1, 2027, to adopt the rules and procedures necessary to implement the bill's provisions relating to veterinary medical facilities. The bill requires a veterinary medical facility to register with the TBVME not later than September 1, 2027.  S.B. 2155 repeals the following provisions of Chapter 801, Occupations Code:   * Section 801.206; * Section 801.253(a) as amended by Acts 2011, 82nd Leg., R.S., Ch. 411 (S.B. 811), Sec. 3; * Section 801.307(a-1) as added by Acts 2019, 86th Leg., R.S., Ch. 449 (S.B. 1947), Sec. 2; * Section 801.459; * Section 801.461; and * Section 801.505. |
| **EFFECTIVE DATE**  Except as otherwise provided, September 1, 2025. |