

BILL ANALYSIS

C.S.H.B. 2164
By: White, James
Government Transparency & Operation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that unfunded mandates imposed on political subdivisions by the state are burdensome and that legislation is needed to prevent future unfunded mandates. These parties suggest that a work group could be tasked with finding and addressing these state-created mandates. Among other related issues, C.S.H.B. 2164 seeks to create this work group.

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. 2164 amends the Government Code to change the body of requirements included in the term "mandate" for purposes of statutory provisions governing unfunded mandates on political subdivisions by changing from on or after January 1, 1997, to on or after January 1, 2015, the date after which certain requirements made by a statute enacted by the legislature are considered a mandate.

C.S.H.B. 2164 establishes the unfunded mandates interagency work group consisting of the state auditor, the director of the Legislative Budget Board, the comptroller of public accounts, a senator appointed by the lieutenant governor, a member of the house of representatives appointed by the speaker of the house, and four elected local government officials appointed by the governor. The bill requires the governor to designate a member appointed by the governor as the chair of the interagency work group. The bill establishes that a member of the work group is not entitled to additional compensation for service on the group and authorizes a member of the work group to use any person employed by the member's agency to complete the member's work on the group. The bill authorizes the members of the work group to enter into an interagency memorandum of understanding regarding the completion of the group's required work.

C.S.H.B. 2164 requires the interagency work group, on or before the September 1 that follows a regular session of the legislature and on or before the 90th day after the last day of a special session of the legislature, to publish an advisory list of unfunded mandates enacted by the legislature during that legislative session for which the legislature has not provided reimbursement. The bill requires the work group, by that same date, to remove from the advisory list of unfunded mandates for a previous legislative session those mandates for which the legislature has provided reimbursement, those that are no longer subject to reimbursement, and those that are no longer in effect and to add to the advisory list a mandate from a previous

legislative session for which reimbursement was provided in the previous session but for which reimbursement was not provided in the most recent regular session or in any subsequent special sessions.

C.S.H.B. 2164 expressly considers a mandate to be a mandate for which the legislature has provided reimbursement if the legislature, by statute enacted by a record vote of two-thirds of the members elected to each house, expressly provides that the mandate is not subject to reimbursement or if the legislature appropriates or otherwise provides for the payment or reimbursement, from a source other than revenue of the political subdivision, of the costs incurred in the calendar year by the political subdivision in complying with the mandate. The bill's provisions relating to the work group do not apply to a mandate imposed by the legislature or a state agency to comply with a requirement of the Texas Constitution, federal law, or a court order or to maximize the receipt of federal funds by the state in areas such as education, health and human services, and criminal justice, a mandate approved by the voters of Texas at a general election, or a mandate affecting employee pensions and benefits.

C.S.H.B. 2164 requires a political subdivision to only comply with a mandate for which the legislature has provided reimbursement. The bill authorizes a political subdivision, for purposes of determining compliance with a mandate, to act in reliance on the published advisory list of unfunded mandates.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2164 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 320.001, Government Code, is amended.

SECTION 2. Chapter 320, Government Code, is amended by adding Sections 320.002, 320.003, and 320.004 to read as follows:

Sec. 320.002. UNFUNDED MANDATES INTERAGENCY WORK GROUP. (a) The unfunded mandates interagency work group consists of:

- (1) the state auditor;
- (2) the director of the Legislative Budget Board;
- (3) the comptroller;
- (4) a senator appointed by the lieutenant governor; and
- (5) a member of the house of representatives appointed by the speaker of the house of representatives.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Chapter 320, Government Code, is amended by adding Sections 320.002, 320.003, and 320.004 to read as follows:

Sec. 320.002. UNFUNDED MANDATES INTERAGENCY WORK GROUP. (a) The unfunded mandates interagency work group consists of:

- (1) the state auditor;
- (2) the director of the Legislative Budget Board;
- (3) the comptroller;
- (4) a senator appointed by the lieutenant governor;
- (5) a member of the house of representatives appointed by the speaker of the house of representatives; and
- (6) four elected local government officials appointed by the governor.

(b) A member of the interagency work group is not entitled to additional compensation for service on the work group.

(c) A member of the interagency work group may use any person employed by the member's agency to complete the member's work on the interagency work group.

(d) The members of the interagency work group may enter into an interagency memorandum of understanding regarding the completion of the work required by this chapter.

Sec. 320.003. ADVISORY LIST OF UNFUNDED MANDATES. (a) On or before the September 1 following a regular session of the legislature and on or before the 90th day after the last day of a special session of the legislature, the interagency work group shall publish an advisory list of mandates for which the legislature has not provided reimbursement under Subsection (b) and that were enacted by the legislature during that legislative session. By that same date the interagency work group shall:

(1) remove from the advisory list of mandates for a previous legislative session those mandates for which the legislature has provided reimbursement under Subsection (b), those that are no longer subject to reimbursement, and those that are no longer in effect; and

(2) add to the advisory list a mandate from a previous legislative session for which reimbursement was provided under Subsection (b) in the previous session but for which reimbursement was not provided in the most recent regular session or in any subsequent special sessions.

(b) A mandate is considered to be a mandate for which the legislature has provided reimbursement if the legislature:

(1) by statute enacted by a record vote of two-thirds of the members elected to each house expressly provides that the mandate is not subject to reimbursement under this section; or

(2) appropriates or otherwise provides for the payment or reimbursement, from a source other than revenue of the political subdivision, of the costs incurred in the calendar year by the political subdivision in

(b) The governor shall designate a member appointed by the governor as the chair of the interagency work group.

(c) A member of the interagency work group is not entitled to additional compensation for service on the work group.

(d) A member of the interagency work group may use any person employed by the member's agency to complete the member's work on the interagency work group.

(e) The members of the interagency work group may enter into an interagency memorandum of understanding regarding the completion of the work required by this chapter.

Sec. 320.003. ADVISORY LIST OF UNFUNDED MANDATES. (a) On or before the September 1 following a regular session of the legislature and on or before the 90th day after the last day of a special session of the legislature, the interagency work group shall publish an advisory list of unfunded mandates for which the legislature has not provided reimbursement under Subsection (b) and that were enacted by the legislature during that legislative session. By that same date the interagency work group shall:

(1) remove from the advisory list of unfunded mandates for a previous legislative session those mandates for which the legislature has provided reimbursement under Subsection (b), those that are no longer subject to reimbursement, and those that are no longer in effect; and

(2) add to the advisory list a mandate from a previous legislative session for which reimbursement was provided under Subsection (b) in the previous session but for which reimbursement was not provided in the most recent regular session or in any subsequent special sessions.

(b) A mandate is considered to be a mandate for which the legislature has provided reimbursement if the legislature:

(1) by statute enacted by a record vote of two-thirds of the members elected to each house expressly provides that the mandate is not subject to reimbursement under this section; or

(2) appropriates or otherwise provides for the payment or reimbursement, from a source other than revenue of the political subdivision, of the costs incurred in the calendar year by the political subdivision in

complying with the mandate.

(c) This section does not apply to a mandate:

(1) imposed by the legislature or a state agency to comply with a requirement of the Texas Constitution, federal law, or a court order or to maximize the receipt of federal funds by the state in areas such as education, health and human services, and criminal justice;

(2) approved by the voters of this state at a general election; or

(3) affecting employee pensions and benefits.

Sec. 320.004. APPLICABILITY OF MANDATES.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

complying with the mandate.

(c) This section does not apply to a mandate:

(1) imposed by the legislature or a state agency to comply with a requirement of the Texas Constitution, federal law, or a court order or to maximize the receipt of federal funds by the state in areas such as education, health and human services, and criminal justice;

(2) approved by the voters of this state at a general election; or

(3) affecting employee pensions and benefits.

Sec. 320.004. APPLICABILITY OF MANDATES.

SECTION 3. Same as introduced version.