

BILL ANALYSIS

C.S.H.B. 2683
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A number of years ago, the Texas Legislature created a licensing program within the Department of State Health Services (DSHS) for dyslexia therapists and practitioners that provided a regulatory framework for such professionals. Informed parties note that the Sunset Advisory Commission, as part of its review of DSHS, has recommended the abolishment of the license for dyslexia therapists and practitioners. Recognizing that the license establishes state-recognized standards for professionals who treat individuals with dyslexia and related disorders, C.S.H.B. 2683 seeks to transfer the regulation of these licenses to the Texas Department of Licensing and Regulation.

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 SECTIONS 6 and 10 of this bill. It is the committee's opinion that rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is transferred to the Texas Commission of Licensing and Regulation in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2683 requires the Department of State Health Services (DSHS) and the Texas Department of Licensing and Regulation (TDLR), as soon as practicable after the bill's effective date, to adopt a transition plan to provide for the transfer, not later than January 1, 2016, of personnel, equipment, files, records, and money appropriated for the fiscal biennium ending August 31, 2017, from DSHS to TDLR to the extent necessary for the exercise of powers and duties related to licensing dyslexia practitioners and dyslexia therapists. The bill establishes that a rule or fee relating to that licensing in effect on the bill's effective date remains in effect until changed by the Texas Commission of Licensing and Regulation.

C.S.H.B. 2683 amends the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to provide for the transfer of powers and duties relating to the regulation of dyslexia practitioners and dyslexia therapists from DSHS to TDLR and to require the executive director of TDLR to administer and enforce statutory provisions governing the licensing of dyslexia practitioners and dyslexia therapists. The bill requires the Licensed Dyslexia Practitioner and Licensed Dyslexia Therapist Advisory Board to provide advice and recommendations to TDLR on technical matters relevant to the administration of statutory provisions governing dyslexia practitioners and dyslexia therapists and sets out provisions relating to the composition of the board, board member terms, a board vacancy, the

board's presiding officer, compensation and reimbursement of board members, meetings of the board, and removal of a board member. The bill requires the commission, not later than March 1, 2016, to adopt rules necessary to administer and enforce statutory provisions governing the licensing of dyslexia practitioners and dyslexia therapists and requires those rules to establish requirements for continuing education, including the minimum number of hours of continuing education required to renew such a license. The bill requires the commission by rule to specify the information and documentation required to be submitted in an application for each dyslexia practitioner or dyslexia therapist license and requires that application to be accompanied by the fees required by commission rule.

C.S.H.B. 2683 establishes that such a license is valid for one year from the date of issuance and requires the commission by rule to establish the requirements for renewing the license, including the payment of applicable fees. The bill removes the requirement for consultation with an advisory committee before determinations relating to a training program, a competency examination, or a waiver of an examination requirement can be made. The bill authorizes the commission or the executive director of TDLR, in addition to other disciplinary actions currently applicable to a license holder, to refuse to issue a license if the applicant for the license violates statutory provisions governing the licensing of dyslexia practitioners and dyslexia therapists or a rule or order adopted or issued under those provisions. The bill authorizes the commission or the executive director to impose an administrative penalty against a person who violates a statutory provision governing the licensing of dyslexia practitioners and dyslexia therapists or a rule adopted or issued under those provisions.

C.S.H.B. 2683 repeals the following Occupations Code provisions, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015:

- Section 403.002
- Section 403.109
- Section 403.152
- Section 403.201
- Section 403.204
- Section 403.205
- Section 403.207
- Section 403.208
- Section 403.209
- Section 403.210
- Section 403.211
- Section 403.212
- Section 403.252

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. 2683 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 and does not indicate differences relating to changes made by S.B. 219, Acts of the 84th Legislature, Regular

Session, 2015, which became effective April 2, 2015.

INTRODUCED

SECTION 1. Section 403.001, Occupations Code, is amended to read as follows:

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Advisory Board" means the Licensed Dyslexia Practitioner and Licensed Dyslexia Therapist Advisory Board.

(2) [(4)] "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of state health services~~].

(3) [(2)] "Department" means the Texas Department of Licensing and Regulation [~~Department of State Health Services~~].

(4) [(3)] "Executive Director" [~~"Executive commissioner"~~] means the executive director of the Texas Department of Licensing and Regulation [~~commissioner of the Health and Human Services Commission~~].

(5) [(4)] "License holder" means a person who holds a license issued under this chapter.

(6) [(5)] "Multisensory structured language education" means a program described by the International Multisensory Structured Language Education Council for the treatment of individuals with dyslexia and related disorders that provides instruction in the skills of reading, writing, and spelling:

(A) through program content that includes:

(i) phonology and phonological awareness;

(ii) sound and symbol association;

(iii) syllables;

(iv) morphology;

(v) syntax; and

(vi) semantics; and

(B) following principles of instruction that include:

(i) simultaneous multisensory instruction, including visual-auditory-kinesthetic-tactile instruction;

(ii) systematic and cumulative instruction;

(iii) explicit instruction;

(iv) diagnostic teaching to automaticity; and

(v) synthetic and analytic instruction.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 403.001, Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Subdivisions (1) and (1-a) and amending Subdivisions (2) and (3) to read as follows:

(1) "Advisory board" means the Licensed Dyslexia Practitioner and Licensed Dyslexia Therapist Advisory Board.

(1-a) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation [~~State Health Services~~].

(3) "Executive director" [~~commissioner"~~] means the executive director [~~commissioner~~] of the department [~~Health and Human Services Commission~~].

[(6) "Qualified instructor" means a person described by Section 403.110.]

SECTION 2. Subchapter B, Chapter 403, Occupations Code, is amended by adding new Section 403.049 as follows:

Sec. 403.049. FEES. The commission by rule shall establish reasonable and necessary fees in amounts sufficient to cover the costs of administering and enforcing this chapter.

SECTION 3. Subchapter B, Chapter 403, Occupations Code, is amended.

SECTION 4. Section 403.051, Occupations Code, is amended to read as follows:

Sec. 403.051. ADVISORY BOARD [COMMITTEE]. (a) The commission [department] shall appoint an advisory board [committee] to advise the department in administering this chapter.

(b) The Advisory board consists of 7 members appointed by the presiding officer of the commission with the approval of the commission as follows:

(1) 3 dyslexia therapists licensed under this Chapter;

(2) 2 dyslexia practitioner licensed under this Chapter; and

(3) 2 public members, one of whom must be a person with dyslexia or the parent of a person with dyslexia.

(c) Advisory board members serve terms of four years, with the terms of three members expiring on February 1 of each odd-numbered year.

(d) If a vacancy occurs during a term, the presiding officer of the commission, with the approval of the commission, shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

(e) The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of two years. The

SECTION 4. Section 403.053, Occupations Code, as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 403.053. FEES. The commission [executive commissioner] shall set fees for the issuance or renewal of a license under this chapter in amounts designed to allow the department to recover from the license holders all of the direct and indirect costs to the department in administering and enforcing this chapter.

SECTION 5. Substantially the same as introduced version.

SECTION 2. Section 403.051, Occupations Code, is amended to read as follows:

Sec. 403.051. ADVISORY BOARD [COMMITTEE]. (a) The [department shall appoint an] advisory board shall provide advice and recommendations [committee] to [advise] the department on technical matters relevant to the administration of [it administering] this chapter.

(b) The advisory board consists of seven members appointed by the commission as follows:

(1) three licensed dyslexia therapists;

(2) two licensed dyslexia practitioners; and

(3) two members representing the public, at least one of whom must be a person with dyslexia or a parent of a person with dyslexia.

(c) Advisory board members serve staggered four-year terms, with the terms of three or four members expiring on February 1 of each odd-numbered year.

(d) If a vacancy occurs during the term of an advisory board member, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

(e) The presiding officer of the commission shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a term of two years. The

presiding officer of the advisory board may vote on any matter before the advisory board.

(f) Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

(g) The advisory board shall meet at the call of the presiding officer of the commission or the executive director.

(h) The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter.

(i) A member of the advisory board may be removed from the advisory board as provided by Section 51.209, Occupations Code.

SECTION 5. Section 403.052, Occupations Code, is amended.

SECTION 6. Section 403.103, Occupations Code, is amended to read as follows:

Sec. 403.103. LICENSE APPLICATION.

(a) An application for a license under this chapter must be submitted in the manner and on a form prescribed by the executive director [~~A license applicant must apply to the department on a form and in the manner the department prescribes~~].

(b) The commission by rule shall determine the information and documentation required to be submitted as part of an application for each license under this chapter [~~application must be accompanied by a nonrefundable application fee~~].

(c) The commission by rule shall establish the appropriate fees required to be paid by the applicant to obtain a license under this chapter.

SECTION 7. Subchapter C, Chapter 403, Occupations Code, is amended to add Section 403.1035 to read as follows:

Sec. 403.1035. LICENSE RENEWAL.

(a) A license issued under this chapter is valid for one year.

(b) The commission by rule shall establish

presiding officer of the advisory board may vote on any matter before the advisory board.

(f) Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

(g) The advisory board shall meet at the call of the presiding officer of the commission or the executive director.

(See Sec. 403.051(a) above.)

(h) A member of the advisory board may be removed from the advisory board as provided by Section 51.209.

SECTION 3. Substantially the same as introduced version.

SECTION 6. Section 403.103, Occupations Code, is amended to read as follows:

Sec. 403.103. LICENSE APPLICATION.

(a)

A license applicant must apply to the department on a form and in the manner the executive director [~~department~~] prescribes.

(b) The commission by rule shall specify the information and documentation required to be submitted in an application.

(c) The application must be accompanied by the fees required by commission rule [~~a nonrefundable application fee~~].

SECTION 10. Subchapter C, Chapter 403, Occupations Code, is amended by adding Section 403.1081 to read as follows:

Sec. 403.1081. LICENSE TERM;

RENEWAL. (a) A license issued under this chapter is valid for one year from the date of issuance.

(b) The commission by rule shall establish

the requirements for renewing a license issued under this chapter, including the payment of applicable fees.

SECTION 8. Section 403.106, Occupations Code, is amended.

SECTION 10. Section 403.107, Occupations Code, is amended.

SECTION 11. Section 403.108, Occupations Code, is amended.

SECTION 12. Section 403.202, Occupations Code, is amended.

SECTION 13. Section 403.203, Occupations Code, is amended to read as follows:

Sec. 403.203. GROUNDS FOR LICENSE DENIAL AND DISCIPLINARY ACTION. The commission or executive director may refuse to issue or renew a license or registration, revoke or suspend a license or registration, place on probation a person whose license or registration has been suspended, or reprimand a license or registration holder who violates this chapter, a rule adopted under this chapter, or an order of the commission or executive director. [If a license holder violates this chapter or a rule or code of ethics adopted by the executive commissioner, the department shall:

- (1) revoke or suspend the license;
- (2) place on probation the person if the person's license has been suspended;
- (3) reprimand the license holder; or
- (4) refuse to renew the license.]

SECTION 14. Section 403.207, Occupations Code, is amended to read as follows:

Sec. 403.207. ADMINISTRATIVE PENALTY [SANCTIONS]. The commission or executive director may impose an administrative penalty against a person who violates a law establishing a regulatory program administered by the department or a rule adopted or issued by the commission or executive director as provided by Section 51.301, Occupations Code. [(a) The executive commissioner, in consultation with the advisory committee, by rule shall adopt a broad schedule of

requirements for renewing a license under this chapter, including the payment of applicable fees.

SECTION 7. Substantially the same as introduced version.

SECTION 8. Substantially the same as introduced version.

SECTION 9. Same as introduced version.

SECTION 11. Substantially the same as introduced version.

SECTION 12. Section 403.203, Occupations Code, is amended to read as follows:

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION.

If an applicant for or [a license] holder of a license violates this chapter or a rule [or code of ethics] adopted or order issued under this chapter [by the executive commissioner], the commission or executive director may [department shall]:

- (1) revoke or suspend the license;
- (2) place on probation the person if the person's license has been suspended;
- (3) reprimand the license holder; or
- (4) refuse to issue or renew the license.

SECTION 14. Subchapter F, Chapter 403, Occupations Code, is amended by adding Section 403.253 to read as follows:

Sec. 403.253. ADMINISTRATIVE PENALTY. The commission or executive director may impose an administrative penalty against a person who violates this chapter or a rule adopted or order issued under this chapter as provided by Subchapter F, Chapter 51.

~~sanctions for a violation of this chapter.~~

~~(b) The State Office of Administrative Hearings shall use the schedule of sanctions for a sanction imposed as the result of a hearing conducted by that office.]~~

SECTION 15. Section 403.251, Occupations Code, is amended to read as follows:

Sec. 403.251. CIVIL PENALTY. (a) A person who violates this chapter, a rule adopted by the commission [~~executive commissioner~~], or an order adopted by the commission or executive director [~~commissioner~~] under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

(b) At the request of the department, the attorney general shall bring an action to recover a civil penalty authorized under this section.

SECTION 16. REPEALERS. The following sections are repealed:

Section 403.002;
Section 403.109;
Section 403.152;
Section 403.201;
Section 403.204;
Section 403.205;

Section 403.208;
Section 403.209;
Section 403.210;
Section 403.211;
Section 403.212; and
Section 403.252.

SECTION 17. The commission shall adopt rules implementing Chapter 403, Occupations Code, as amended by this Act, no later than March 1, 2016.

SECTION 18. A rule or fee under Chapter 403, Occupations Code, in effect on the effective date of this Act remains in effect until changed by the Texas Commission of Licensing and Regulation.

SECTION 13. Section 403.251(a), Occupations Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) A person who violates this chapter or [;] a rule adopted [~~by the executive commissioner under this chapter,~~] or [~~an~~] order issued [~~adopted by the department~~] under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

SECTION 15. The following provisions of the Occupations Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

(1) Section 403.002;
(2) Section 403.109;
(3) Section 403.152;
(4) Section 403.201;
(5) Section 403.204;
(6) Section 403.205;
(7) Section 403.207;
(8) Section 403.208;
(9) Section 403.209;
(10) Section 403.210;
(11) Section 403.211;
(12) Section 403.212; and
(13) Section 403.252.

SECTION 16. Not later than March 1, 2016, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this Act to Chapter 403, Occupations Code.

SECTION 17. Same as introduced version.

SECTION 19. As soon as practicable after the effective date of this Act, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the transfer not later than January 1, 2016, of the following to the Texas Department of Licensing and Regulation to the extent necessary for the exercise of that department's powers and duties related to Chapter 403, Occupations Code, as amended by this Act:

- (1) personnel;
- (2) equipment; and
- (3) money appropriated for the fiscal biennium ending August 31, 2017.

SECTION 20. Effective Date. 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.

SECTION 18. As soon as practicable after the effective date of this Act, the Department of State Health Services and the Texas Department of Licensing and Regulation shall adopt a transition plan to provide for the transfer not later than January 1, 2016, of the following to the Texas Department of Licensing and Regulation to the extent necessary for the exercise of that department's powers and duties related to Chapter 403, Occupations Code, as amended by this Act:

- (1) personnel;
- (2) equipment, files, and records; and
- (3) money appropriated for the fiscal biennium ending August 31, 2017.

SECTION 19. Same as introduced version.