

SUBJECT: Texas Legislative Council study of statutory interpretation

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Wolens, Bailey, Brimer, Counts, Danburg, Hunter, Longoria,
McCall, McClendon

0 nays

6 absent — S. Turner, Craddick, Hilbert, D. Jones, Marchant, Merritt

WITNESSES: For — None

Against — None

On — Steve Collins, Texas Legislative Council

BACKGROUND: During the interim following the 76th legislative session, Speaker Laney appointed the House Select Committee on Judicial Interpretations of Law. The speaker charged the committee to identify decisions in which courts have interpreted legislative enactments or suggested legislative action. The committee also was directed to suggest corrective legislation based on its findings.

The committee found that the Texas Legislative Council had the resources to review appellate decisions interpreting statutes and make a report prior to each legislative session. The committee recommended that the report only inform the committees and their leadership of the existence of such decisions, without making specific recommendations for statutory change. The committee report identified such cases and made general recommendations to each committee.

Government Code, sec. 323.019(c) permits the Legislative Council to gather and analyze data regarding public education and other public services to conduct statistical and demographic research and produce reports. Council employees are considered state school officials for the limited purpose of collecting and matching data, subject to 20 U.S.C. section 1232g, a federal statute delineating school-records privacy requirements and withholding

federal funds from states that distribute information in violation of those requirements.

DIGEST: HB 2853 would amend the Government Code to require the Texas Legislative Council to conduct a continuing study of judicial decisions. Prior to each legislative session, the council would be required to prepare a report identifying recent decisions in which courts have:

- ! clearly failed to implement legislative purposes;
- ! found two or more statutes to be in conflict;
- ! held a statute unconstitutional;
- ! expressly found a statute to be ambiguous;
- ! expressly suggested legislative action; or
- ! changed a common law doctrine.

The council would be required to deliver the report to the appropriate standing committees in each house.

HB 2853 also would amend Government Code, sec. 323.019(c) to consider council employees to be state school officials for purposes of evaluating federally and state-supported education programs or other appropriate purposes authorized by federal law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 27, 2001.

NOTES: The companion bill, SB 1364 by Cain, has been referred to the Senate Administration Committee.