

SUBJECT: Appropriations-related changes to Article 1 agencies

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 18 ayes — Heflin, Luna, Berman, Branch, B. Brown, F. Brown, Crownover, J. Davis, Deshotel, Ellis, Hamric, Hope, Hupp, Isett, Pickett, Pitts, Stick, Wohlgemuth

0 nays

11 absent — Dukes, Eiland, Gutierrez, E. Jones, Kolkhorst, McClendon, Menendez, Raymond, Solis, Truitt, Turner

WITNESSES: For — None

Against — Erin Boade; Michelle Cooper; Michael Martin; Shirley Nichols; Caroline O'Connor, Texas State Employees Union

On — Richard Moore, Texas Community College Teachers Association

BACKGROUND: Texas Constitution, Art. 3, sec. 35 limits bills to one subject, except for general appropriations bills, which can include various subjects and accounts. However, this provision has been interpreted as prohibiting the general appropriations bill from changing substantive law. In other words, appropriations bills deal only with spending. Because the levels of funding in an appropriations bill assume certain programmatic changes, the statutory changes required to meet that funding level are contained in other legislation.

On April 17, the House passed HB 1 by Heflin, the House version of the general appropriations bill for fiscal 2004-2005. The Senate passed its version of the bill on April 29, and the bill now is in conference committee.

The statutory changes required to implement the final version of the state budget will be contained in a series of bills, all of which have been reported favorably by the House Appropriations Committee.

For further discussion of issues in the state budget, see HRO State Finance Report Number 78-2, *CSHB 1: The House Appropriations Committee's Proposed Budget for Fiscal 2004-05*, April 9, 2003.

DIGEST:

HB 3441 would specify that, notwithstanding any other statute, each state agency that receives an appropriation under Article 1 of the general appropriations act could reduce or recover expenditures by adopting and collecting fees or charges to cover the agency's costs.

Human Rights Commission. The bill would transfer the Commission on Human Rights to the civil rights division of the Office of the Attorney General (OAG). As an independent division within the OAG, governed by a seven-member commission appointed by the governor, the division would be responsible for administering laws prohibiting discrimination in employment and housing. The commission would be the state's fair employment practice agency and could grant relief, seek relief, or initiate criminal proceedings for an unlawful employment practice.

The commission would have to include one representative of industry, one representative of labor, and five public representatives. The governor would appoint the public representatives from a list of names suggested by civil rights organizations and groups. The commission would have to appoint an executive director, who should have experience with housing or employment discrimination claims. In addition, the director would have to have experience in working to prevent the types of discrimination the division would be charged with preventing and would have to demonstrate a commitment to equal opportunity for minorities, women, and the disabled.

An investigator could not conduct an investigation without having completed a training and education program. The training would have to provide information on the Americans with Disabilities Act, types of disabilities and accommodations appropriate in an employment setting, and fair employment and housing practices. Investigators would have to complete an annual continuing education program.

The division would collect and report statewide information on employment and housing discrimination complaints. Information collected by the division

on complaints filed with the division, federal agencies, or local commissions would have to include:

- an analysis of employment or housing complaints by basis of the complaint;
- an analysis of employment or housing complaints by issue;
- an analysis of employment or housing cases closed; and
- the average processing time for complaints resolved by the division.

Preservation Board. Money or securities donated to the State Preservation Board would be held in the Capitol trust fund outside the treasury by the comptroller as a trustee on behalf of the public. Money other than donated funds would have to be deposited in general revenue in the Capitol account. The capital renewal trust fund authorized under current law would become the capital renewal account, a dedicated account in general revenue. The board could transfer money from the Capitol account to the capital renewal account, except donations or interest earned on donations.

Employee benefits. The bill would establish a 90-day waiting period after a person began employment with an agency before the person could participate in the group health benefits program as an employee. The waiting period would not apply in determining eligibility to participate in optional or voluntary insurance coverages under the group benefits program. An employee of a higher education institution would not be eligible unless the employee was eligible to be a member of the Teacher Retirement System. A graduate student employed by a higher education institution would not be eligible.

A person who did not retire at the end of the last month in which the person was on the state payroll would be eligible to enroll in the group benefits program as an annuitant on the first day of the calendar month beginning 90 days after retirement. A person would be eligible to participate in the group benefits program if the person retired under the jurisdiction of the Employees Retirement System and received or was eligible to receive an annuity. A person also could participate in the group benefits program if the person retired under the jurisdiction of the Teacher Retirement System, had at least 10 years of service, and was at least 65 years old or had accumulated enough years of service credit that, when added to the person's age, would equal at

least 80.

A current or former member of a governing body of a state agency or of the State Board of Education participating in the group benefits program on August 31, 2003, would remain eligible to participate in a health benefit plan. The bill would impose restrictions, including the 90-day waiting period, on employees or officers of the Texas Municipal Retirement System and the Texas County and District Retirement System participating in the group benefits program.

The requirement that an employee work at least 40 hours per week to be designated as a full-time employee (FTE) would not apply to certain employees of the Texas School for the Blind and Visually Impaired or of the Texas School for the Deaf.

Miscellaneous. The bill would specify that if the Legislature did not appropriate money to the Crime Victims' Institute, the attorney general could determine whether the institute would perform its statutorily required duties. The Bob Bullock Texas State History Museum fund, currently held outside the treasury by the comptroller, would become an account in general revenue. The premarital education handbook no longer would have to be distributed to an applicant for a marriage license.

The bill would repeal requirements that the Texas Ethics Commission prepare and provide certain forms.

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 September 1, 2003.

NOTES:

The fiscal note for CSHB 3441 projects that it would save \$70.5 million in general revenue during fiscal 2004-05.

The companion bill, SB 1866 by Bivins, has been referred to the Senate Finance Committee.

HB 2933 by Flores, which also would abolish the Commission on Human Rights and transfer its functions to the Attorney General's Office, is on today's General State Calendar.

Other bills that would make statutory revisions to implement HB 1 are:

- HB 3306 by Berman, relating to appropriations for the judiciary in Article 4;
- HB 3443 by Pickett, relating to appropriations for business and economic development agencies in Article 7;
- HB 3519 by Wohlgemuth, relating to appropriations for health and human services agencies in Article 2;
- HB 3459 by Pitts, relating to appropriations for agencies of public education and higher education in Article 3;
- HB 3305 by Berman, relating to appropriations for criminal justice agencies in Article 5;
- HB 3378 by Hope, relating to appropriations for Article 8 regulatory agencies; and
- HB 3442 by Pickett, relating to natural resources agency appropriations in Article 6.