

SUBJECT: Applying across-the-board standards to agencies subject to Sunset review

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Steven Ogle, Sunset Advisory Commission; Thomas Parkinson)

DIGEST: HB 1575 would add to the Texas Sunset Act general provisions applicable to state agencies subject to review by the Sunset Advisory Commission, including provisions related to state agency policymaking bodies, training and meetings requirements, and information on complaints.

To the extent of any conflict between the bill and any law relating to a state agency subject to review by the commission, the bill would control.

State agency policymaking bodies. The bill would include several provisions related to membership of state agency policymaking bodies.

Public membership. A person could not be a public member of a state agency policymaking body if the person or the person's spouse:

- was registered, certified, or licensed in a field regulated by the agency;
- was employed by, participated in the management of, or directly or indirectly owned or controlled more than 10 percent interest in an organization regulated by or receiving money from the agency; or
- received a substantial amount of goods, services, or money from

the agency, other than compensation related to the agency's policymaking body as authorized by law.

Conflicts of interest. A person could not be a member of a policymaking body or an employee of the state agency in a certain capacity if the person or the person's spouse was an officer, employee, or paid consultant of a Texas trade association in a field regulated by the agency.

A person required to register as a lobbyist because of activities on behalf of a profession related to the state agency's operations could not be a member of the agency's policymaking body or act as the general counsel to the policymaking body or agency.

Presiding officer. The governor would be required to designate a member of the policymaking body as the presiding officer to serve at the pleasure of the governor.

Grounds for removal. It would be grounds for removal from an agency policymaking body that a member:

- did not have the qualifications to be a member of the body or did not maintain the qualifications during service on the body;
- was ineligible for membership under law;
- could not discharge duties for a substantial part of the member's term due to illness or disability; or
- was absent from more than half of the regularly scheduled meetings during a calendar year without an excuse approved by a majority vote of the body.

The validity of an action of a policymaking body would not be affected by the fact that it was taken when a ground for removal of a member existed.

If the executive head of an agency had knowledge that a potential ground for removal existed, the head would have to notify the presiding officer of the body, who then would have to notify the governor and attorney general.

Training for members of policymaking bodies. The training program for policymaking body members would have to provide a member with information on:

- the law governing the state agency's operations;
- the programs, functions, rules, and budget of the agency;
- the scope of and limitations on the body's rulemaking authority;
- the results of the most recent audit of the agency;
- the requirements of open government laws, administrative procedure, disclosure of conflicts, and other laws applicable to body members; and
- any applicable ethics policies adopted by the agency or the Texas Ethics Commission.

A person who was appointed to office as a member of an agency policymaking body could not vote, deliberate, or be counted in attendance at a meeting until the person completed the training program. A member would be entitled to reimbursement for travel expenses incurred in attending the program.

The executive head of the state agency would have to create a training manual that included the above information and distribute a copy annually to each body member. Each member would have to sign and submit to the executive head a statement acknowledging that the member received and reviewed the manual.

Separation policies. A state agency policymaking body would have to develop and implement policies that separate policymaking responsibilities of the body and the management responsibilities of the executive head and staff of the agency.

Public testimony at meetings. A state agency policymaking body would have to develop and implement policies that provided the public with an opportunity to appear before the body and speak on any issue under the jurisdiction of the agency.

Complaint information requirements. A state agency would have to maintain a system to promptly and efficiently act on complaints filed with the agency, including maintaining information about parties to and the subject matter of the complaint and a summary of the results of the investigation and its disposition.

The agency would be required to notify periodically the complaint parties of the complaint's status until final disposition unless the notice would jeopardize the investigation. The agency also would have to make information available describing its procedures for complaint investigation and resolution.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

HB 1575 would ensure responsive and effective government across state agencies and streamline the Sunset review process by allowing the Sunset Advisory Commission to apply uniformly certain across-the-board recommendations (ATBs) to all state agencies subject to review. ATBs are standards of good governance the commission has established.

Currently, the commission reviews and updates ATBs through each individual agency's Sunset bill, which can result in inconsistencies between agencies, as they may be following different standards depending on when the agency last underwent review. Standardizing ATB language in the Texas Sunset Act would ensure any changes to the ATB provisions applied automatically and each agency's statute did not need to be updated.

The bill would broadly capture ATBs and codify concepts rather than prescriptive standards, allowing the ATBs under the bill to apply to any entity subject to Sunset review. To address unique circumstances, the commission would be able to customize ATBs through the review process.

CRITICS

HB 1575 should provide a mechanism to exempt certain entities subject to

SAY: Sunset review from all or certain ATB provisions. These unique entities, such as river authorities or advisory committees, are not state agencies and thus ATBs may not uniformly apply.