

BILL ANALYSIS

Senate Research Center

H.B. 1386
By: Gray (Brown)
Criminal Justice
4-29-97
Committee Report (Amended)

DIGEST

The Board of Pardons and Paroles (board) was created by constitutional amendment in 1936. The board determines which state prisoners are to be released on parole, and in some cases, on mandatory supervision, and sets the conditions for their supervision in the community. The board also decides whether parolees who fail to comply with release conditions should be revoked and sent back to prison and makes recommendations to the governor on executive clemency matters. To carry out these programs, the board had a budget of \$6.3 million and 155 employees for fiscal year 1996. The board's headquarters is located in Austin and satellite offices are located in 18 other Texas cities. The board is administratively attached to the Texas Department of Criminal Justice as a separate strategy in the appropriation to the department.

The board is subject to review under the Texas Sunset Act, but is not abolished under that chapter. As a result of its review of the board, the Sunset Advisory Commission recommended continuation and several statutory modifications that are contained in this legislation.

This bill would continue to provide for review of the board under the Sunset Act and make statutory modifications recommended by the Sunset Advisory Commission.

PURPOSE

As proposed, H.B. 1386 provides for the continuation of review of the Board of Pardons and Paroles under the Sunset Act and makes statutory modifications recommended by the Sunset Advisory Commission. The modifications proposed by this bill:

- 1) restructure the board to create a Parole Policy Board with rulemaking, policymaking, and administrative authority;
- 2) strengthen training and technical support for parole revocation officers;
- 3) provide for restudying the board in two years in conjunction with the Sunset review of the Texas Department of Criminal Justice; and
- 4) provide for other changes as recommended by the Sunset Commission.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Board of Pardons and Paroles Policy Board under SECTION 5 (Section 6A(c), Article 42.18, Code of Criminal Procedure), SECTION 8 (Section 8(g), Article 42.18, Code of Criminal Procedure), SECTION 9 (Section 11(a), Article 42.18, Code of Criminal Procedure), and SECTION 10 (Section 14(a), Article 42.18, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2, Article 42.18, Code of Criminal Procedure, by adding Subdivision (10), to define "policy board."

SECTION 2. Amends Section 4, Article 42.18, Code of Criminal Procedure, as follows:

(b)-(c) Sets forth standard sunset language regarding regarding exemptions from the state's position classification plan and a registered lobbyist serving as a member of the Board of Pardons and Parole (board).

(f) Sets forth standard sunset language regarding grounds for removal.

(g) Sets forth standard sunset language regarding the qualifications for office or employment.

(h)-(i) Sets forth standard sunset language regarding the validity of an action and notification regarding grounds for removal.

SECTION 3. Amends Section 5, Article 42.18, Code of Criminal Procedure, to require the board to be reviewed during the period in which the Texas Department of Criminal Justice is reviewed. Deletes text regarding the review of the board in a timely manner.

SECTION 4. Amends Section 6, Article 42.18, Code of Criminal Procedure, to require the governor to designate one member to serve as the presiding officer, rather than chairman of the board, and requires the presiding officer to serve in that capacity at the pleasure of the governor. Deletes existing Subsection (c). Sets forth provisions regarding the Board of Pardons and Paroles Policy Board (policy board). Deletes text regarding the parole process.

SECTION 5. Amends Section 6A, Article 42.18, Code of Criminal Procedure, as follows:

Sec. 6A. New heading: POLICY BOARD: COMPOSITION; GENERAL DUTIES. Sets forth provisions regarding the designation of members of the board to serve as the Board of Pardons and Paroles Policy Board. Sets forth requirements for the policy board regarding rules, caseloads, guidelines, and reports. Requires the policy board to employ and supervise a board administrator to manage the day-to-day activities of the board. Deletes text requiring the board to develop and implement personnel policies.

SECTION 6. Amends Chapter 42.18, Code of Criminal Procedure, by adding Sections 6C and 6D, as follows:

Sec. 6C. POLICY BOARD: GENERAL ADMINISTRATIVE PROVISIONS. (a) Sets forth standard sunset language regarding the separation of responsibilities, the preparation and distribution of information to the public, compliance with state and federal programs, and annual financial reports.

(b) Sets forth standard sunset language regarding a plan for non-English speaking persons.

(c) Sets forth standard sunset language regarding compliance with the open meetings and administrative procedures laws.

(d) Authorizes the members of the board who are not members of the policy board to participate in policy board meetings, but shall have no vote.

Sec. 6D. BOARD PERSONNEL. (a)-(c) Sets forth standard sunset language regarding equal employment policy.

(d) Sets forth standard sunset language regarding an intra-agency career ladder program.

(e) Sets forth standard sunset language regarding the development of a system of annual performance evaluations.

SECTION 7. Amends Section 7, Article 42.18, Code of Criminal Procedure, by amending Subsections (c), (d), (f), and (h), and by adding Subsection (i), to set forth standard sunset language regarding a training program. Makes conforming changes.

SECTION 8. Amends Section 8(g), Article 42.18, Code of Criminal Procedure, as amended by

Chapters 397 and 988, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes.

SECTION 9. Amends Section 11(a), Article 42.18, Code of Criminal Procedure, to make conforming changes.

SECTION 10. Amends Section 14, Article 42.18, Code of Criminal Procedure, to delete Subsection (b) regarding the adoption of a training program. Makes conforming changes.

SECTION 11. Amends Article 42.18, Code of Criminal Procedure, by adding Section 14A, as follows:

Sec. 14A. DESIGNEE TRAINING; HANDBOOK. Requires the policy board to develop and implement a training program for newly hired employees of the board. Requires the policy board to develop and implement a training program to provide an annual update to designees of the board regarding the revocation process. Requires the policy board to prepare and biennially update a procedure manual to be used by designees of the board and sets forth requirements for the manual. Sets forth provisions regarding the preparation and updating a certain handbook.

SECTION 12. Provides that the initial designations of the members of the Board of Pardons and Paroles Policy Board, as required by Section 6A, Article 42.18, Code of Criminal Procedure, as amended by this Act, are as provided by this section. Requires the governor, on or before January 1, 1998, to designate two members of the Board of Pardons and Paroles with terms expiring in February 1, 1999, to serve on the policy board expiring on February 1, 1999, two members of the board with terms expiring February 1, 2001, to serve terms on the policy board expiring on February 1, 2001, and two members of the board with terms expiring February 1, 2003, to serve terms on the policy board expiring on February 1, 2003. Provides that on expiration of those terms, the term of a member of the policy board is six years, to be served concurrently with the member's term on the board.

SECTION 13. (a) Requires the Board of Pardons and Paroles Policy Board to develop and implement the training programs described by Subsections (a)(1) and (2), Section 14A, Article 42.18, Code of Criminal Procedure, as added by this Act, not later than June 1, 1998. Provides that the requirement that a newly hired employee of the board complete a training program described under Subsection (a)(1), Section 14A, before conducting a hearing without assistance applies only to an employee hired on or after June 1, 1998.

(b) Requires the policy board to prepare and make available the procedural manual and the handbook described by Subsections (b) and (c), Section 14A, Article 42.18, Code of Criminal Procedure, as added by this Act, not later than June 1, 1998.

SECTION 14. Establishes that on January 1, 1998, a rule, form, or policy adopted by the Board of Pardons and Paroles is a rule, form, or policy of the Board of Pardons and Paroles Policy Board.

SECTION 15. Effective date: September 1, 1997.

SECTION 16. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 9, line 8, adds new Subsection (d), as follows:

(d) Members of the board who are not members of the policy board may participate in policy board meetings, but shall have no vote.