

BILL ANALYSIS

Senate Research Center

S.B. 358
By: Brown
State Affairs
4-8-97
Committee Report (Amended)

DIGEST

The Credit Union Commission (commission) was created by the 61st Legislature in 1969. The commission adopted rules regarding the chartering, examining, and supervision of state-chartered credit unions under the authority of the Texas Credit Union Act. Additionally, the commission acts as an appeal board for the decisions and orders so the credit union commissioner, may oversee the daily activities of the Credit Union Department.

The Credit Union Commission is subject to the Sunset Act and will be abolished September 1, 1997, unless continued by legislation. This bill provides for the constitution of the commission for four years as recommended by the Sunset Advisory Commission.

PURPOSE

As proposed, S.B. 358 provides for the continuation of the Credit Union Commission for a four-year period and makes statutory modification recommendations by the Sunset Commission.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Credit Union Commission in SECTIONS 3, 9, 10, 13, and 17 (Sections 10.03(g), 11.06(e), 11.061(b), 11.10(i), and 12.03(b), Article 2461.1.01 et seq., V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.03, Article 2461-1.01 et seq., V.T.C.S. (Texas Credit Union Act), to delete a provision requiring the Credit Union Commission (commission) to adopt rules establishing procedures concerning notice of application to incorporate and conditions under which a hearing may be available. Authorizes the credit union commissioner (commissioner) to consider the availability and adequacy of financial services in the local community and the effect that the incorporation of the credit union would have on the local community. Deletes the time frame in which the commissioner is required to approve an application and report the findings. Makes conforming changes.

SECTION 2. Amends Section 2.06(b), Article 2461-1.01 et seq., V.T.C.S., to delete the time frame in which the commissioner is required to approve or disapprove an amendment in writing. Deletes Subsection (e) from a list of subsections of Section 2.03 under which the commissioner is required to make certain findings and may take certain actions.

SECTION 3. Amends Section 10.03, Article 2461-1.01 et seq., V.T.C.S., by adding Subsections (g) and (h), to require the commissioner to consider the availability and adequacy of financial services in the local community and the effect that the merger or consolidation would have on the local community. Requires the commission, by rule, to establish other appropriate criteria that the commissioner must consider in making the determination. Requires the rules adopted under this section to specify in detail certain procedures.

SECTION 4. Amends Sections 11.01(b) and (c), Article 2461-1.01 et seq., V.T.C.S., to update standard language developed by the Sunset Commission regarding annual financial reports. Updates the Credit Union Commission's sunset date to September 1, 2009.

SECTION 5. Amends Section 11.02, Article 2461-1.01 et seq., V.T.C.S., to provide that four, rather than six, members of the commission must be individuals who meet certain requirements. Provides that five, rather than three, members of the commission are representatives of the general public. Updates standard language developed by the Sunset Commission prohibiting appointment as a public member under certain conditions. Updates standard language developed by the Sunset Commission prohibiting commission members or their spouses from being compensated under certain conditions. Defines "Texas trade association." Prohibits a person from serving as a member of the commission or acting as the general counsel to the commission or the Credit Union Department (department) if the person is required to register as a lobbyist under Chapter 305, Government Code. Makes conforming changes.

SECTION 6. Amends Section 11.03(a), Article 2461-1.01 et seq., V.T.C.S., to update standard language developed by the Sunset Commission regarding the appointment of commission members.

SECTION 7. Amends Chapter 11, Article 2461-1.01 et seq., V.T.C.S., by adding Section 11.031, to add standard language developed by the Sunset Commission regarding training requirements for commission members.

SECTION 8. Amends Section 11.04, Article 2461-1.01 et seq., V.T.C.S., to delete language providing that an office of the commission becomes vacant under certain circumstances. Updates standard language developed by the Sunset Commission regarding removal of a commission member. Makes conforming changes.

SECTION 9. Amends Sections 11.06(a), (c), and (e), Article 2461-1.01 et seq., V.T.C.S., to update standard language developed by the Sunset Commission regarding open meeting and administrative procedure laws. Adds standard language developed by the Sunset Commission regarding a presiding officer. Deletes a provision requiring the commission to annually elect a chairman and vice chairmen from among its members. Requires the commission to adopt rules relating to recusal of members, requiring a member who has a personal or private interest in a measure, proposal, or decision pending before the commission to publicly disclose the date to the commission at a meeting held in compliance with Chapter 551, Government Code. Prohibits a member from voting or otherwise participating in the decision. Requires the disclosure to be entered into the minutes of the meeting. Makes nonsubstantive changes.

SECTION 10. Amends Chapter 11, Article 2461-1.01 et seq., V.T.C.S., by adding Section 11.061, to add standard language developed by the Sunset Commission regarding public appearance before the commission. Requires the commission to adopt rules providing for public notice of department activities.

SECTION 11. Amends Section 11.07, Article 2461-1.01 et seq., V.T.C.S., by adding Subsections (d) and (e), to add standard language developed by the Sunset Commission regarding competitive bidding or advertising by a credit union.

SECTION 12. Amends Chapter 11, Article 2461-1.01 et seq., V.T.C.S., by adding Section 11.071, to add standard language developed by the Sunset Commission regarding policy-making and management responsibilities of the commission.

SECTION 13. Amends Section 11.10, Article 2461-1.01 et seq., V.T.C.S., to update standard language developed by the Sunset Commission regarding the department's funds. Adds standard language developed by the Sunset Commission employment qualifications and responsibilities. Updates standard language developed by the Sunset Commission regarding complaint information, and the preparation and distribution of information to the public concerning department functions and complaint procedures. Adds standard language developed by the Sunset Commission regarding state and federal program and facility accessibility laws.

SECTION 14. Amends Section 11.18, Article 2461-1.01 et seq., V.T.C.S., to update the standard language developed by the Sunset Commission regarding career mobility and advancement and annual performance evaluations.

SECTION 15. Amends Chapter 11, Article 2461-1.01 et seq., V.T.C.S., by adding Section 11.19, to add standard language developed by the Sunset Commission regarding an equal employment opportunity policy.

SECTION 16. Amends Section 12.01, Article 2461-1.01 et seq., V.T.C.S., to update standard language developed by the Sunset Commission regarding credit union hearings before the State Office of Administrative Hearings.

SECTION 17. Amends Chapter 12, Article 2461-1.01 et seq., V.T.C.S., by adding Section 12.03, to provide that this section applies to a request for approval by the commissioner for certain matters. Requires the commissioner to submit a notice of the request to the secretary of state for publication in the Texas Register. Requires the commission, by rule, to provide for other appropriate public notice of the request. Sets forth the conditions for a public notice and any subsequent hearings resulting from the notice.

SECTION 18. Charges the Sunset Advisory Commission, in its reviews in 2001, to evaluate the structure of the state's financial regulatory agencies and to study the potential effects of placing the Credit Union Commission under the jurisdiction of the Finance Committee.

SECTION 19. Requires the Credit Union Commission and the Finance Commission of Texas to jointly review state law, including rules, governing financial institutions in this state. Requires the review to contain certain information and be submitted to the Sunset Advisory Commission before September 1, 1999.

SECTION 20. Provides that a vacancy which exists after the effective date of this Act is required to be filled by appointment of an individual described by Section 11.02(b) of this Act until the number of public members and members who represent credit unions are as prescribed by those sections.

SECTION 21. Effective date: September 1, 1997.

SECTION 22. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 6, strike lines 26-27, and Page 7, strike 1-7 and substitute identical language formatted in certain manner.

Page 7, lines 7 and 14, strike "the department" and replace with "any financial institution regulatory."

Page 7, lines 8 and 15, strike "the department" and replace with "such agency."

Amendment 2.

Strikes proposed SECTION 8 and substitute the following:

Sec. 11.04. VACANCIES; REMOVAL. Delete a provision relating to procedures regarding a vacant office of a member of the commission. Delete a provision relating to extended absences which constitute a ground for removal under this section. Delete proposed Subsection (d) and (e) relating to the validity of an action of the commission with regard to removal and notification of certain officials of a removal under this section.

Amendment 3.

Page 20, SECTION 17, strike proposed Subsection (c) and replace with a new Subsection (c), relating to commentary accepted by the commissioner and to approval or disapproval of

certain applications by the commissioner.

Amendment 4.

Page 12, line 23, strike "affect [and specifically relate to]" and replace with "and specifically relate to."

Amendment 5.

Page 5, lines 25-26, strike "September 1, 2001" and replace with "September 1, 2009."

Amendment 6.

Page 7, lines 15 and 25, strike "Texas."

Page 7, lines 18 and 25-26, strike "in the credit union industry" and replace with "representing or affiliated with a financial institution group or any entity affiliated with financial institutions."

Page 8, line 4, strike "Texas."

Page 8, line 6, strike "in this state."

Amendment 7.

Page 10, line 3, add "(10) the basic principles and responsibilities of credit union management."