

BILL ANALYSIS

Senate Research Center
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S.B. 308
By: Zaffirini
Natural Resources
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DIGEST AND PURPOSE

The Texas Legislature created the State Soil and Water Conservation Board (board) to protect the state's soil and water resources through voluntary and non-voluntary programs. The board provides technical and financial assistance to agricultural landowners and will be abolished on September 1, 2001, unless the legislature continues it. As proposed, S.B. 308 continues the board until 2013 and implements the Sunset Advisory Commission's recommendations regarding local district elections and nonpoint source pollution.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to local soil and water conservation districts in SECTION 13 (Section 201.073, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.004(a), Agriculture Code, to make a conforming change.

SECTION 2. Amends Section 201.0141, Agriculture Code, as follows:

Sec. 201.0141. INELIGIBILITY TO SERVE ON BOARD. Defines "Texas trade association." Prohibits a person from being, rather than serving as, a member of or acting as the general counsel to the State Soil and Water Conservation Board (state board) if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyist), Government Code, because, rather than by virtue, of the person's activities for compensation on behalf of a profession related to the operation of the state board. Prohibits a person from being, rather than serving as, a member of the state board and or from being a state board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if the person meets certain criteria. Deletes text regarding the person's status as an officer, employee, or paid consultant. Deletes text regarding a person may not serve as a member of the state board.

SECTION 3. Amends Chapter 201B, Agriculture Code, by adding Section 201.0142, as follows:

Sec. 201.0142. TRAINING PROGRAM FOR MEMBERS OF STATE BOARD. Prohibits a person who is elected and qualifies for office as a member of the state board from voting, deliberating, or being counted as a member in attendance at a meeting of the state board until the person completes a training program that complies with this section. Requires the training program to provide the person with information regarding certain criteria, other laws relating to public officials, including conflict-of-interest laws, and any applicable ethics policies adopted by the state board or the Texas Ethics Commission. Provides that a person appointed to the state board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program, regardless of whether attendance at

the program occurs before or after the person qualifies for office.

SECTION 4. Amends Section 201.0151, Agriculture Code, to provide that it is a ground for removal from the state board that, rather than if, a member meets certain conditions. Provides that the validity of an action of the state board is not affected by the fact that the action was taken when a ground for removal of a state board member exists. Deletes text regarding “existed,” and “of the state board.” Requires the executive director, if the executive director has knowledge, rather than knows, that a potential ground for removal exists, to notify certain persons that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the chairman, to notify the next highest ranking officer of the state board, who is required to then notify certain persons that a potential ground for removal exists.

SECTION 5. Amends Section 201.019(f), Agriculture Code, to require the executive director or the executive director’s designee, rather than state board, to provide to members of the state board and state board employees, as often as necessary, information regarding the requirements for office or employment, rather than their qualifications, under this chapter, including information regarding a person’s responsibilities under applicable laws relating to standards of conduct for state officers and employees. Makes conforming changes.

SECTION 6. Amends Section 201.0191, Agriculture Code, to require the executive director or the executive director’s designee to prepare and maintain a written policy statement that implements, rather than to assure implementation of, a program of equal employment opportunity to ensure that all personnel decisions, rather than transactions, are made without regard to certain factors. Requires the policy statement to include certain information and meet certain criteria.

SECTION 7. Amends Chapter 201B, Agriculture Code, by adding Section 201.0192, as follows:

Sec. 201.0192. STATE EMPLOYEE INCENTIVE INFORMATION. Requires the executive director or the executive director’s designee to provide to state board employees information and training on the benefits and methods of participating in the state employee incentive program under Chapter 2108B (State Employee Incentive Program), Government Code.

SECTION 8. Amends Section 201.023(a), Agriculture Code, to require the state board, except as provided by Section 201.081, rather than 201.080 of this code, to deposit all money and securities received by it in the state treasury to the credit of a special fund known as the state soil conservation fund.

SECTION 9. Amends Section 201.0231, Agriculture Code, to require the state board to maintain a file, rather than keep an information file, on each written complaint filed with the state board. Requires the file to include certain information. Requires the state board to provide to the person filing the complaint and to each person who is subject of the complaint a copy of the state board’s policies and procedures relating to complaint investigation and resolution. Requires the state board, at least quarterly until the final disposition of the complaint, rather than board, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation, rather than complaint. Deletes text regarding a written complaint. Deletes text regarding “parties” and “at least quarterly.”

SECTION 10. Amends Section 201.025, Agriculture Code, to provide that unless continued in existence as provided by this chapter, the board is abolished and this chapter expires September 1, 2013, rather than 2001.

SECTION 11. Amends Section 210.026, Agriculture Code, to require the state board to have as a goal certain criteria and provide to the agricultural community information regarding the jurisdictions of the state board and the Texas Natural Resource Conservation Commission (TNRCC) related to

nonpoint source pollution. Requires the state board to certify a plan that satisfies the state board's rules and criteria and complies with state water quality standards established by the Texas Natural Resource Conservation Commission under the commission's exclusive authority to set water quality standards for all water in the state. Deletes text regarding the Texas Natural Resource Conservation Commission. Requires the state board to immediately notify the Texas Natural Resource Conservation Commission when the state board decertifies a water quality management plan for an animal feeding operation. Requires the state board to update the state board's identification of priority areas for the control of nonpoint source pollution at least every four years. Requires the state board, in considering changes to the identified priority areas, to consider certain information.

SECTION 12. Amends Chapter 201B, Agriculture Code, by adding Section 201.027, as follows:

Sec. 201.027. ENFORCEMENT REFERRALS RECORDS. Requires the state board to maintain detailed records about each state board referral of a farming operation to the Texas Natural Resource Conservation Commission for enforcement. Requires records maintained to include information regarding the final disposition of the referral by the Texas Natural Resource Conservation Commission, including any enforcement action taken against the farming operation.

SECTION 13. Amends Section 201.073, Agriculture Code, to require the eligible voters to meet each year on a date and at a time and place designated by the existing board of directors. Requires the directors, during July of each year, to designate a date, time, and place for that year's election of directors. Requires an individual, to be eligible for election under this section, to file a written notice of the individual's candidacy. Requires the individual to file the notice with certain guidelines. Requires the district to post a notice stating the requirements in a prominent place. Provides that if only one individual files a notice of candidacy for a director's office during the period an election to fill that position is not required, and on the established election date, the directors are required to perform certain procedures. Requires the election, if more than one individual files a notice of candidacy for a director's office during the period, to be held at a meeting of eligible voters scheduled under Subsection (a). Requires the district to print ballots with the names of the candidates for each director's office to be filled. Requires the district by rule to provide for allowing eligible voters to cast votes on printed ballots by personal appearance at the district's business office instead of at the meeting. Requires the rules to provide for votes to be accepted at the district's business office during regular business hours for a period beginning on the 17th day before the date of the meeting and continuing through the fourth day before the date of the meeting including at least one Saturday during that period. Requires the early voting period, if because of the date scheduled for the meeting it is not possible to begin early voting by personal appearance on the prescribed date, to begin on the earliest practicable date as set by the district. Deletes text regarding eligible voters meeting. Requires each eligible voter present at the scheduled meeting to cast a vote by ballots printed under this subsection, rather than written ballot. Provides that if after tabulation by the district of the votes cast at the district office and the votes cast at the meeting, rather than by tally clerks, no nominee has received a majority of the votes, the two candidates receiving the largest number of votes are required to be voted on in a second ballot, and the candidate receiving the largest number of those votes among those cast at the district office and those cast at the meeting in the second ballot is elected. Requires the district office by rule to provide for certifying eligible voters voting at the district office and at the meeting. Requires the directors, rather than secretary, to not later than the fifth day after the date, rather than day, of the election, certify to the state board the name and proper address of the person elected.

SECTION 14. Amends Section 201.303(d), Agriculture Code, to require the state board to perform certain procedures.

SECTION 15. Provides that the changes in law made by this Act in the qualifications of, and the prohibitions applying to, the members of the State Soil and Water Conservation Board, do not affect the entitlement of a person serving as a member of the board immediately before September 1, 2001, to continue to carry out the functions of the person's office for the remainder of the person's term.

Provides that the changes in law apply only to a person appointed on or after September 1, 2001. Provides that this Act does not prohibit a person who is a member of the State Soil and Water Conservation Board immediately before September 1, 2001, from being reappointed as a board member if the person has the qualifications required for the position under Chapter 201 (Soil and Water Conservation), Agriculture Code, as amended by this Act. Makes application of this Act prospective to an election to be held in 2002.

SECTION 16. Effective date: September 1, 2001.