

BILL ANALYSIS

Senate Research Center
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S.B. 712
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 712 applies good government standards, previously adopted and applied by the Sunset Advisory Commission, to state agencies subject to Sunset review through the Sunset Act. Currently, the Sunset Commission reviews, applies, and updates these same standards through each individual agency's Sunset bill, which sometimes results in inconsistencies between agencies. Standardizing this language in the Sunset Act would ensure open, responsive, and effective government across all state agencies under Sunset review.

As proposed, S.B. 712 amends current law relating to certain provisions applicable to state agencies subject to review by the Sunset Advisory Commission.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 325, Government Code, by designating Sections 325.001 through 325.025 as Subchapter A and adding a subchapter heading, to read as follows:

SUBCHAPTER A. SUNSET ADVISORY COMMISSION AND SUNSET REVIEW PROCESS

SECTION 2. Amends Chapter 325, Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. GENERAL PROVISIONS FOR STATE AGENCIES

Sec. 325.051. **APPLICABILITY; CONFLICTS.** (a) Provides that this subchapter applies to a state agency subject to review by the Sunset Advisory Commission (Sunset) under Chapter 325 (Sunset Law).

(b) Provides that, to the extent of any conflict between this subchapter and any law relating to a state agency subject to review by Sunset under Chapter 325, this subchapter controls.

Sec. 325.052. **PUBLIC MEMBERSHIP ON STATE AGENCY POLICYMAKING BODY.** Prohibits a person from being a public member of the policymaking body of a state agency if the person or the person's spouse:

- (1) is registered, certified, or licensed by a regulatory agency in a field regulated by the state agency;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the state agency;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the state agency; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the state agency other than compensation or reimbursement authorized by law for the state agency's policymaking body membership, attendance, or expenses.

Sec. 325.053. PROVISIONS RELATING TO CONFLICTS OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a member of the policymaking body of a state agency and from being an employee of the state agency 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.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the state agency; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the state agency.

(c) Prohibits a person from being a member of a state agency's policymaking body or acting as the general counsel to the state agency's policymaking body or the state agency if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists) because of the person's activities for compensation on behalf of a profession related to the operation of the state agency.

Sec. 325.054. GOVERNOR DESIGNATES PRESIDING OFFICER. Requires the governor to designate a member of a state agency's policymaking body as the presiding officer of the policymaking body to serve in that capacity at the pleasure of the governor.

Sec. 325.055. GROUNDS FOR REMOVAL OF MEMBERS FROM POLICYMAKING BODIES. (a) Provides that it is a ground for removal from a state agency's policymaking body that a member:

(1) does not have at the time of taking office the qualifications required by law to be a member of the policymaking body;

(2) does not maintain during service on the policymaking body the qualifications required by law to be a member of the policymaking body;

(3) is ineligible for membership on the policymaking body under law, including provisions relating to public membership, conflicts of interest, and lobbying;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled meetings of the policymaking body that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the policymaking body.

(b) Provides that the validity of an action of a state agency's policymaking body is not affected by the fact that it is taken when a ground for removal of a member of the policymaking body exists.

(c) Requires the executive head of a state agency, if the executive head has knowledge that a potential ground for removal exists, to notify the presiding officer of the state agency's policymaking body of the potential ground. Requires

the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive head, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the policymaking body, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 325.056. TRAINING FOR MEMBERS OF POLICYMAKING BODIES. (a) Prohibits a person who is appointed to and qualifies for office as a member of the policymaking body of a state agency from voting, deliberating, or being counted as a member in attendance at a meeting of the policymaking body until the person completes a training program that complies with this section.

(b) Requires that the training program provide the person with information regarding

(1) the law governing the state agency's operations;

(2) the programs, functions, rules, and budget of the state agency;

(3) the scope of and limitations on the rulemaking authority of the policymaking body;

(4) the results of the most recent formal audit of the state agency;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and

(B) other laws applicable to members of a state agency policymaking body in performing their duties; and

(6) any applicable ethics policies adopted by the state agency or the Texas Ethics Commission.

(c) Provides that a person appointed to the state agency's policymaking body is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) Requires the executive head of a state agency to create a training manual that includes the information required by Subsection (b). Requires the executive head to distribute a copy of the training manual annually to each member of the policymaking body. Requires each member of the policymaking body to sign and submit to the executive head a statement acknowledging that the member received and reviewed the training manual.

Sec. 325.057. POLICIES TO SEPARATE POLICYMAKING AND STAFF FUNCTIONS. Requires the policymaking body of a state agency to develop and implement policies that clearly separate the policymaking responsibilities of the policymaking body and the management responsibilities of the executive head and the staff of the state agency.

Sec. 325.058. PUBLIC TESTIMONY AT MEETINGS OF POLICYMAKING BODIES. Requires the policymaking body of a state agency to develop and implement policies that provide the public with a reasonable opportunity to appear before the policymaking body and to speak on any issue under the jurisdiction of the state agency.

Sec. 325.059. COMPLAINT INFORMATION REQUIREMENTS. (a) Requires a state agency to maintain a system to promptly and efficiently act on complaints filed with the state agency. Requires the state agency to maintain information about parties to and the subject matter of the complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) Requires the state agency to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the state agency to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize the investigation.

SECTION 3. Effective date: September 1, 2021.