

SUBJECT: Adjusting salary level for former employee subject to revolving door limits

COMMITTEE: Elections — favorable, without amendment

VOTE: 7 ayes — Berman, Bohac, England, Anchia, Burnam, Farias, C. Howard
0 nays

WITNESSES: For — (*Registered, but did not testify*: Ken Bailey, Texas Democratic Party)

Against — None

On — (*Registered, but did not testify*: David Reisman, Texas Ethics Commission)

BACKGROUND: Under Government Code, sec. 572.054, the “revolving door” statute, a former state employee of a regulatory agency, at or above the amount prescribed by the general appropriations act for step 1, salary group 17 of the position salary schedule, including an employee exempt from the classification plan, may not represent any person before that state agency on a matter in which the former employee had personal involvement or because the case or proceeding was a matter within the employee's official responsibility. A violation of the statute is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: HB 2493 would amend Government Code, sec. 572.054(c) to change the specified salary of a former state employee of a regulatory agency prohibited from representation before that agency to compensation at or above the minimum amount prescribed by the general appropriations act for salary group B15 of the salary schedule, including an exempt employee.

The bill would take effect September 1, 2007, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY: HB 2493 would update the revolving door statute affecting former state employees of regulatory agencies to reflect changes to the position

classification salary schedules used in the current appropriations process. Under current law, former state employees of a regulatory agency whose last state salary was at or above a certain salary schedule are prohibited from lobbying their former agency on issues on which they worked or had responsibility. A former employee who violates this restriction commits a class A misdemeanor. Over time, the salary schedules have been updated, but the Government Code has not been amended to reflect the changes. HB 2493 would bring the salary classification current and would follow a recommendation in the Texas Ethics Commission's January 2007 "Recommendations for Statutory Changes."

OPPONENTS
SAY:

HB 2493 would raise significantly the salary minimum and thus increase the number of former state employees of regulatory agencies who could represent clients before or lobby their former agency. According to LBB, the state salary classifications changed to their current form in 1997. At the time of that change, the salary established for sec. 572.054(c), at or above step 1, salary group 17, was \$30,588 per year. The salary change offered in HB 2493 would be at or above the minimum for salary group B15, which would be \$51,225 for both fiscal 2008 and 2009. The minimum amount for salary group B9, which is \$35,337 per year, would seem more comparable with the statutory minimum (as of 1997) and more consistent with the original intent of the legislation while the recommended amount in HB 2493 would seem somewhat arbitrary and could lower standards.

OTHER
OPPONENTS
SAY:

The Legislature should consider modifying current law to base the revolving door standard for former state employees on job function rather than a minimum salary classification. State employees of regulatory agencies have the authority to make important decisions, including granting or revoking permits, performing functions that bestow benefits, and approving licensing applications. The revolving door statute should be examined in terms of a former state employee's value to a prospective employer who represents regulated entities before the former employee's regulatory agency and that former employee's specialized knowledge of processes and ability to exert influence.