

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 177
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Finance
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Committee Report (Substituted)

DIGEST

Currently, legislative riders exist in the General Appropriations Act that pertain to multiple subjects. This existence is in contradiction to Article III, Section 35 of the Texas Constitution, which states that “No bill (except general appropriations bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated), shall contain more than one subject.” The General Appropriations Act itself must contain more than one subject because it aggregates all subjects on which the state spends money. However, the General Appropriations Act must be limited to the subjects and accounts of money.

Nevertheless, riders are introduced in the General Appropriations Act that violate the one-subject rule by attempting to amend general law, contrary to the purposes of a budget rider to do no more than “detail, limit, or restrict the use of the funds or otherwise insure that the money is spent for the required activity for which it is therein appropriated.” Op. Tex. Att’y Gen. No. V-1254 at 17 (1951). C.S.S.B. 177 takes certain riders from within Article IX of the General Appropriations Act and codifies them into general law.

PURPOSE

As proposed, C.S.S.B. 177 codifies certain provisions in the General Appropriations Act that authorize or prohibit expenditures by public entities.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the General Services Commission in SECTION 3 (Section 2113.103(c), Title 10C, Government Code) and to the comptroller in SECTION 3 (Section 2113.205, Government Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 556, Government Code, as follows:

CHAPTER 556. New heading: POLITICAL ACTIVITIES BY CERTAIN PUBLIC ENTITIES AND INDIVIDUALS

Sec. 556.001. DEFINITIONS. Defines “appropriated money” and “state officer” and redefines “state agency” and “state employee.” Makes conforming changes.

Sec. 556.002. New heading: APPLICATION TO CERTAIN ENTITIES AND INDIVIDUALS. Provides that this chapter applies to certain public entities and their employees using appropriated money, including certain regional planning commissions, local workforce development boards, and community centers. Provides that this chapter does not prohibit the payment of reasonable dues to an organization representing student interests from a mandatory student service fees allocated to a student government organization at a higher education institution. Prohibits student fees from influencing the outcome of an election. Deletes a provision citing an exemption for a person employed by the Department of Public Safety.

Sec. 556.003. STATE EMPLOYEES’ RIGHTS. Makes no change.

Sec. 556.004. New heading: PROHIBITED ACTS OF AGENCIES AND INDIVIDUALS. Prohibits any state agency from supporting, with any money under its control, a candidate for federal or state public office. Provides that this prohibition includes direct and indirect employment

of a person. Prohibits a state officer from using state-owned or state-leased motor vehicles. Prohibits a state officer or employee to from influencing an election. Prohibits a state employee from using any kind of influential force to alter in any way a contribution to a person or political organization. Makes conforming and nonsubstantive changes.

Sec. 556.005. New heading: EMPLOYMENT OF LOBBYIST. Prohibits a state agency from using appropriated money to employ a lobbyist or a part-time employee as a lobbyist who has certain trade relations with the state agency. Requires a state agency to notify the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee of a payment of membership dues to an organization that pays all or part of the salary of a person registered under Chapter 305. Deletes a requirement that a state employee who violates Section 556.004, Government Code, is subject to immediate termination.

Sec. 556.006. LEGISLATIVE LOBBYING. Makes no change.

Sec. 556.007. TERMINATION OF EMPLOYMENT. Subjects a state employee who negatively discriminates in any way against an employee furnishing information under Section 556.006(b), Government Code, or violates Section 556.004(c) or (d), Government Code, to immediate termination.

Sec. 556.008. COMPENSATION PROHIBITION. Prohibits a state agency from compensating with appropriated money a state officer or employee who violated Sections 556.004(a)-(c), 556.005, 556.006, Government Code, or who is subject to termination under Section 556.007, Government Code.

Sec. 556.009. NOTICE OF PROHIBITIONS. Requires a state agency to provide each officer and employee of the agency a registered delivered copy of Sections 556.004-556.008, Government Code. Provides that a new copy and receipt are required if one of those provisions is changed. Requires a state agency to maintain the delivery receipts and make them accessible to the public.

SECTION 2. Amends Section 653.009, Government Code, to make a nonsubstantive change.

SECTION 3. Amends Title 10C, Government Code, by adding Chapter 2113, as follows:

CHAPTER 2113. USE OF APPROPRIATED MONEY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2113.001. DEFINITIONS. Defines “appropriated money” and “state agency.”

SUBCHAPTER B. RESTRICTIONS ON OFFICERS AND EMPLOYEES

Sec. 2113.011. PUBLICITY. Prohibits a state agency from publicizing or directing attention to, with appropriated money, an individual officer or employee of state government. Prohibits a state agency from maintaining a publicity department, employing a person who has the title or duties of public relations, or paying a public relations agent or business. Authorizes an agency executive head to release information relating to the activities or legal responsibilities of the agency, subject to Section 2113.107(d). Requires the information to be issued in the name of the agency, and include the name of the individual authorized to issue the information. Authorizes a higher education institution to operate a news and information service for the benefit of the public, if the institution’s governing body has authorized the service. Provides that this section does not prohibit the use of appropriated money for publicity functions authorized under Article 6144e, V.T.C.S.

Sec. 2113.012. USE OF ALCOHOLIC BEVERAGES. Prohibits a state agency from compensating an employee who consumes alcoholic beverages on duty.

Sec. 2113.013. USE OF MOTOR VEHICLE. Prohibits an officer or employee not on official state business from using a state-owned or state-leased motor vehicle. Authorizes the administrative head of an agency to authorize a state vehicle to commute to and from work in order to ensure that the vital agency functions are performed. Requires certain information to be

included in the annual report. Prohibits a state agency from using appropriated money to compensate a violator of Subsection (a).

Sec. 2113.014. EMPLOYEE STANDARDS OF CONDUCT. Prohibits a state employee from compensating with appropriated money another employee who violates a standard of conduct described by Section 572.051, Government Code. Makes conforming changes.

SUBCHAPTER C. RESTRICTIONS ON GOODS AND SERVICES

Sec. 2113.101. ALCOHOLIC BEVERAGES. Prohibits a state agency from using appropriated money to purchase or reimburse a travel expense for an alcoholic beverage, except for authorized law enforcement purposes.

Sec. 2113.102. AUDITS. Prohibits a state agency from contracting with appropriated money an auditor for the agency's financial records or accounts, except as provided by Subsections (b)-(d). Authorizes a state agency to finance with appropriated money a supplemental audit of payments received from the U.S. government, if the audit is required as a condition of receipt of the money and an amount for the audit is provided by federal grant or other payment. Authorizes a state agency to require an annual audit as a condition for funds disbursed by that agency, and to send its own internal auditors to inspect the receipt of those funds. Requires the agency to take action within a certain time frame on exceptions noted in investigative audits and to provide copies of that action to the state auditor, Legislative Audit Committee, Legislative Budget Board, and governor's budget office. Provides that Subsection (a) does not apply to the appointment of an internal auditor under Section 2102.006 or to a contract with the state auditor.

Sec. 2113.103. POSTAGE AND POSTAL SERVICES. Requires a state agency to employ the most cost-effective means of postal service available, including using appropriated money to purchase comparable quality and service from the U.S. Postal Service (post office). Requires the General Services Commission (GSC) to assist state agencies in determining the types and comparability of postal services available from the post office. Authorizes a state agency to purchase postage or rent a post office box. Requires an agency, other than a higher education institution, to purchase or rent a postage meter from a GSC-approved company if the agency's postage expenditures are greater than the maximum set by the GSC. Requires the GSC to adopt, by rule, procedures for the renting entity to pay for postage. Sets forth certain instances in which Subsection (b) does not apply.

Sec. 2113.104. MEMBERSHIP IN AND DUES FOR PROFESSIONAL ORGANIZATIONS. Prohibits a state agency, other than a state library, from purchasing membership in a professional organization unless the administrative head of the agency reviews and approves the expenditure.

Sec. 2113.105. INDOOR PLANTS. Prohibits a state agency from expending appropriated money for an artificial indoor plant used only for esthetic purposes.

Sec. 2113.106. STATE FACILITIES FOR MEETINGS AND CONFERENCES. Provides that a state agency shall use state-owned or state-operated facilities for meetings and conferences, and may not use appropriated money to lease private facilities for these purposes unless state facilities are not available or adequate.

Sec. 2113.107. PERIODICALS AND OTHER PUBLICATIONS. Prohibits a state agency from publishing with appropriated money certain periodicals or other publication, if the publication does not pay for itself. Sets forth those certain periodicals that may not be published. Prohibits a state agency from publishing a publication that prominently displays the name or picture of a person holding an office elected or appointed statewide. Defines "appointed officer." Provides that this subsection does not apply to the official state travel map published by the Texas Department of Transportation. Prohibits a state agency, with an elected executive head, from using appropriated money to publish a publication, within a certain time period, relating to the activities or legal responsibilities of the agency prior to an election of the executive head. Prohibits a state agency from using appropriated money to publish a publication on certain printing stocks or certain number of photos which do not recover the cost of the publication, except as provided by Subsection (f). Provides that Subsection (e) does not apply to a publication designed to promote tourism or economic development, a publication of the Texas School for the Deaf or the Texas

School for the Blind and Visually Impaired, or a publication of an institution of higher education. Requires a state agency or political subdivision that uses an appropriation to publish free periodicals at least quarterly to insert annually in three consecutive issues a notice asking whether the recipient wishes to continue receiving the publication. Requires the agency to provide future issues only to persons who request it.

SUBCHAPTER D. SPECIFICALLY AUTHORIZED USES OF GOODS AND SERVICES

Sec. 2113.201. EMPLOYEE AWARDS. Authorizes a state agency to purchase with appropriated money at a cost not to exceed \$50 various awards given to employees for professional achievement or outstanding service.

Sec. 2113.202. VOLUNTEER AWARDS. Authorizes a state agency to purchase with appropriate money at a cost not to exceed \$50 various engraved awards given to volunteers for special achievement or outstanding service, if the agency has established a volunteer program under Chapter 2109, Government Code, or other law.

Sec. 2113.203. EXAMINATION FEES. Requires a state agency that conducts examinations to collect all fees charged to the person being examined.

Sec. 2113.204. MOVING AND STORAGE EXPENSES OF STATE EMPLOYEES. Authorizes a state agency to pay with appropriated money moving and storage expenses for an employee's household property, under certain circumstances. Requires a state agency to use state-owned equipment for a move authorized by Subsection (a) if it is available to the agency. Authorizes the agency to pay for moving services or equipment if the state-owned equipment is not available. Authorizes a state employee to receive reimbursement at an approved rate for a move authorized under Subsection (a). Authorizes a state agency to reimburse an employee for storage costs if the employee is required to live in state-owned housing and the housing is not available at the time of the move. Conditions reimbursement or payments under this section on comptroller approval. Provides that this section does not authorize payment or reimbursement of a transaction fee or sales commission for the sale of real property.

Sec. 2113.205. CERTAIN EXPENDITURES INVOLVING TWO FISCAL YEARS. Requires the comptroller to adopt rules to permit state agencies to use money appropriated for a particular fiscal year to pay expenses related to conducting cost-effective seminars or paying expenses for billing or subscriptions in a period that would fall on the following fiscal year.

SECTION 4. Provides a derivation table for source provisions in Article IX of the General Appropriations Act divided by codified law and source provision.

SECTION 5. Provides that this Act does not affect a higher education institution's authority to collect, account for, and control local funds and institutional funds in the manner authorized by Chapter 51A, Education Code.

SECTION 6. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 7. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 556.005, Chapter 556, Government Code, by replacing Subsection (c), to require a state agency to notify the Legislative Budget Board, the Senate Finance Committee, and the House Appropriations Committee of a certain membership dues payment. Sets forth criteria requirements for the notification.

SECTION 2.

Amends Section 2113.011(c) and adds Section 2113.011(e), Government Code, by subjecting the state agency executive head to Section 2113.107(d), when issuing information through agency channels. Provides that this section does not prohibit the use of appropriated funds for publicity functions authorized under Article 6144e, V.T.C.S.

SECTION 3.

Amends Section 2113.107(c) and adds Section 2113.107(d), Government Code, to provide that this section does not apply to the official travel map of the Texas Department of Transportation. Prohibits a state agency, with an elected executive head, from using appropriated money to publish a publication, within a certain time period, relating to certain responsibilities of the agency prior to an election of the executive head. Makes conforming changes.

SECTION 4.

Makes a nonsubstantive addition.