HOUSE
RESEARCH
ORGANIZATION bill analysis | 5/14/2013 | SB 217
Patrick, et al.
(Anchia)

SUBJECT: Continuing and managing the state employee charitable campaign

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 11 ayes — Cook, Giddings, Craddick, Farrar, Frullo, Geren, Harless, Hilderbran, Huberty, Smithee, Sylvester Turner

0 nays

2 absent — Menéndez, Oliveira

SENATE VOTE: On final passage, April 11 — 31-0

WITNESSES: (*On House companion, HB 2510:*)
For — (*Registered, but did not testify:* David Power, Public Citizen)

Against — None

On — Joseph Reed, Sunset Advisory Commission; (*Registered, but did not testify:* Roxanne Jones, State Employee Charitable Campaign)

BACKGROUND: In 1993, the 73rd Legislature created the annual State Employee Charitable Campaign, which allows state employees to contribute to eligible charitable organizations through automatic payroll deductions.

The State Policy Committee (SPC) manages the campaign and is responsible for ensuring the eligibility of participating statewide charities. The SPC is made up of 13 state employees, of whom seven are appointed by the governor and three each are appointed by the lieutenant governor and the comptroller. Committee members receive neither compensation nor reimbursement for expenses. A State Advisory Committee advises the SPC and the comptroller on adopting rules and procedures for the management of the campaign.

The SPC hires a charity operating statewide as the State Campaign Manager to administer the campaign and approve its plan, budget, and the charities that are eligible to participate. The manager also establishes local campaign areas and appoints a state employee as the chair of each local employee committee. The presiding officer of each local employee committee recruits from five to 10 state employees to serve on the committee, who represent different levels of employee classifications. These local committees oversee local campaigns and hire charities as local campaign managers to run campaigns, approve plans and budgets, and determine which charities can participate.

The State Employee Charitable Campaign does not receive a state appropriation. Campaign costs are covered by a percentage of donations made by state employees, capped in statute at 10 percent. In 2011, the SECC used about $876,000 to fund campaign administration costs.

Government Code, sec. 659.140 makes the State Employee Charitable Campaign policy committee subject to the Texas Sunset Act. Unless continued, the committee's authority will expire September 1, 2013, along with Government Code, ch. 659, subch. I, which governs charitable contributions for state officers and employees.

DIGEST:

SB 217 would continue indefinitely the State Employee Charitable Campaign (SECC) and remove the campaign from future Sunset reviews by repealing Government Code, sec. 659.140.

The bill would place the SECC under the guidance of the State Policy Committee (SPC), restructure the composition and terms of the SPC and the State Advisory Committee (SAC), require the comptroller to provide administrative support to the SPC, and require that a participating charity spend no more than 25 percent of its annual revenue on administrative and fund-raising expenses.

Oversight and duties. The bill would require the SPC to establish the organization and structure of the campaign at the state and local levels, which would include establishing local campaign areas. SB 217 also would require the SPC to develop the campaign's strategy and to ensure that donations were appropriately distributed by any charitable organization, fund, or federation that received money from the campaign.

The SPC would be required to contract with a state campaign manager to administer the campaign. Together, the SPC and campaign manager annually would review and approve a plan and budget for the campaign and post online a summary of the campaign's costs and its performance. The summary would include data about state employee participation, the amount of donations pledged and collected, the amount received by each charitable organization, the cost of administering the campaign, and the balance of any surplus account maintained by the campaign.

SB 217 also would require the SPC to develop guidelines for the evaluation of charity applications and to make those guidelines public.

Eligibility of charities to participate. SB 217 would require that any charity or federation participating in the SECC spend no more than 25 percent of its annual revenue on administrative and fund-raising expenses.

Administrative support: The comptroller would be required to provide the SPC administrative support, including assistance in :

- developing and overseeing contracts;
- developing the campaign's budget; and
- any other administrative function the SPC determined was necessary.

Upon the SPC's request, the comptroller would be required to audit a local campaign manager appointed by the SPC or the distributions of money received from the campaign by a participating charity.

Composition of the SPC. The bill would reduce the size of the SPC to nine members from 13. It would lower to two members from four the number of state employees appointed to the committee by the governor and reduce to one from three the number of retired employees the governor would appoint to the panel. The lieutenant governor and comptroller each would be required to appoint three members to the committee. The bill would require that appointees to the SPC come from institutions of higher education and a range of small, medium, and large state agencies.

Terms of the SPC members. SB 217 would require that all members of the SPC serve staggered two-year terms that expire September 1, and that all terms for current SPC members expire September 1, 2013.

By September 2, 2013, the governor would appoint one state employee and one state retiree to the SPC, and the lieutenant governor and comptroller each would appoint one person to the panel. The terms for these four members of the SPC would expire September 1, 2014.

Also by September 2, 2013, the governor would appoint one state employee and the lieutenant governor and comptroller each would appoint two members to the panel. The terms for these five members of the SPC would expire September 1, 2015.

The bill would set grounds for removal of a member of the SPC if certain requirements and qualifications were not met.

SPC member training. A member appointed to the SPC could not vote, deliberate, or be counted for attendance at a meeting without completing a training program that provided the panelist with information about the:

- legislation that created the campaign;
- programs, functions, rules, and budget of the campaign;
- results of the most recent formal audit of the campaign;
- requirements of laws related to open meetings, public information, administrative procedure, and conflicts of interest; and
- any applicable ethics policies adopted by the Texas Ethics Commission or adopted by the campaign or the SPC.

Changing the role of the SAC. SB 217 would require the SAC to provide input to the SPC from participating charitable organizations. It also would remove from the SAC any oversight or review of plans, budgets, and materials used by local campaign managers.

Removing requirements for local employee committees and local campaign managers. The bill would eliminate requirements that specify the use of local employee committees and local campaign managers to help administer the campaign. The SPC could establish local employee committees to assist in evaluating charities that had applied to participate in the program for a local area. The SPC also would be allowed to appoint a local campaign manager, who could charge a fee for services.

Effective date. The bill would take effect September 1, 2013. The comptroller would be required to adopt rules to implement SB 217 by December 31, 2013. Any changes made by the SPC to the operation of the SECC would apply beginning January 1, 2014.

SUPPORTERS SAY:

SB 271 would provide the leadership structure and statutory direction necessary for the SECC to function effectively and efficiently.

Currently, no single entity is tasked with determining strategy, setting budgets, and providing proper oversight to ensure that money donated by state employees for charity is properly used. The bill would give these responsibilities to the campaign's SPC and make clear its role in making decisions and operating the program at the state and local levels. This would increase the efficiency of a campaign that currently has a decentralized structure and suffers from inconsistent policies for determining which charities can participate.

It also would allow the campaign the proper oversight to enable retirees to also direct money to a charity they preferred. Moving away from this structure would not harm the campaign's ability to gather local feedback and input about the campaign and the charities to which it distributes money because the bill would provide a mechanism to harness valuable assistance through the formation of local committees and managers.

The bill also would ensure that appointees to the SPC came from higher education institutions and a range of agencies from which the campaign draws membership. Additionally, it would stagger and define term limits to protect against long-standing vacancies that can delay key decisions or make it difficult to reach a quorum.

Finally, the bill would level the playing field for charities participating in the campaign by excluding those with excessively high administrative expenses. This would ensure that donations to eligible charities were being used for the purpose intended by the state employee making the contribution.

OPPONENTS SAY:

SB 271 would eliminate many worthy charities from eligibility in the state campaign simply because their administrative costs exceeded 25 percent of annual revenue. This requirement would punish a charity that typically runs lean but saw its costs rise briefly due to unforeseen circumstances. Instead, the campaign should provide information about the administrative costs of each participating charity, which would allow employees to make a choice about whether to donate to a particular organization.

OTHER OPPONENTS SAY:

Removing local employee committees and local managers from some of the campaign's decision-making processes could have a detrimental effect on employee participation and giving. State employees who serve in these roles promote participation within their workplaces.

NOTES: On March 27, the House State Affairs Committee recommended a committee substitute of the companion bill, HB 2510 by Anchia, following a public hearing.