

**SUBJECT:** Abolishing Anatomical Board and transferring duties to TFSC

**COMMITTEE:** Public Health — committee substitute recommended

**VOTE:** 11 ayes — Klick, Guerra, Allison, Campos, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

**WITNESSES:** For — John Hubbard, Anatomical Board of the State of Texas

Against — None

On — Tricia Hammett, Science Care, Inc.; Glenn Bower, Texas Funeral Service Commission; (*Registered, but did not testify:* Darren McDivitt, Sunset Advisory Commission)

**BACKGROUND:** The Anatomical Board of the State of the Texas, established in 1907, oversees the distribution of cadavers for use in medical or forensic science education and research. The board sets standards for, approves, and may investigate Texas' willed body programs, which are operated by certain colleges and universities and allow adults to donate their deceased bodies for the advancement of medical science and education. The board also inspects and approves certain anatomical facilities that request deceased human bodies and anatomical specimens for use in teaching or research.

Currently, the board oversees 13 willed body programs. These programs may transfer donated bodies to other facilities inspected and approved by the State Anatomical Board, including medical training facilities, medical device companies, search and rescue organizations, and other higher educational institutions that do not operate their own willed body programs. The board also collects data from these programs to ensure they meet education and research needs.

**Governing structure.** The board's membership includes one representative each from 16 Texas colleges and universities. Members are

surgical or anatomical science professors appointed by the chief executive of each school or college of chiropractic, dentistry, medicine, or osteopathy in the state, and they serve two-year terms. The board typically meets annually and elects a chair, vice chair, and secretary-treasurer who serve two-year terms.

**Funding.** The board receives no state appropriations but does collect fees from the registration of each body donated to willied body programs and the transfer of those bodies and anatomical specimens to approved facilities. In 2019, the board collected \$48,700 from registration and transfer fees and spent \$19,250 on its website, records storage fees, and travel reimbursement. The board may manage its funds through a local bank, and in 2019 the board's ending fund balance was \$290,784.

**Staffing.** The board has no staff, and the board members conduct all of the board's activities.

**Sunset date.** The State Anatomical Board would be discontinued on September 1, 2021, unless continued in statute.

The board last underwent Sunset review in 1984, and in 1985 the Legislature reauthorized the board with several changes, including authorizing the board to collect fees, reducing its size, and clarifying the board's authority to inspect and approve facilities.

DIGEST:

CSHB 1565 would abolish the Anatomical Board of the State of Texas, transfer certain functions of the board to the Texas Funeral Service Commission (TFSC), and reconstitute the State Anatomical Board as an advisory committee to the commission. The bill would make related conforming changes, provide for the transition of the board's duties to TFSC, and repeal the board's Sunset date.

**Transferring regulations to TFSC.** The bill would transfer the regulation of willied body programs from the State Anatomical Board to TFSC. "Willied body program" would mean a program operated at an institution of higher education and approved by the commission or a

program operated by an organization accredited by the American Association of Tissue Banks (AATB) that allowed a living individual to donate the individual's body or anatomical specimen for educational or research purposes.

*Exemptions.* A willed body program that was operated by an organization accredited by the American Association of Tissue Banks could not be regulated by TFSC but would be required to register with the commission. The bill would require TFSC by rule to develop a registration process for those AATB-accredited organizations operating willed body programs.

The bill also would exempt AATB-accredited tissue banks from coordinating whole body donations through the Funeral Service Commission.

**Duties of TFSC.** Under the bill, TFSC would assume certain duties and administrative responsibilities of the State Anatomical Board. These would include responsibilities for:

- the distribution of donated bodies and anatomical specimens to certain institutions of higher education, forensic science programs, search and rescue organizations, physicians, and other authorized persons;
- certain procedures related to unclaimed bodies and autopsies for such bodies;
- receiving bodies from out-of-state;
- properly transporting bodies or specimens received by the commission;
- record keeping related to the donation of bodies and anatomical specimens; and
- public interest and complaint procedures.

The bill also would require TFSC to inspect and allow the commission to approve institutions and other persons for the receipt and use of bodies and anatomical specimens.

The commission would be allowed to set and collect certain fees, including for conducting required inspections of institutions or other authorized persons receiving and using bodies or anatomical specimens.

**Advisory committee.** The bill would reconstitute the State Anatomical Board as the State Anatomical Advisory Committee, which would advise the Funeral Service Commission on the regulation and operation of willed body programs in this state. The advisory committee would include representatives appointed by the commission from institutions of higher education that operated willed body programs. Members of the committee would serve two-year terms. The required composition and duration of advisory committees under current law would not apply to the State Anatomical Advisory Committee.

**Rulemaking authority.** TFSC would have to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce the bill's provisions. To aid certain prosecutions under current law, the commission would have to adopt rules that clearly stated the authorized use or dissection of a body.

Rules regarding standards of practice, ethics, qualifications, or disciplinary sanctions for certain regulated institutions or persons could not be adopted by TFSC unless those rules had first been proposed by the advisory committee and authorized under current law. The commission could not modify a proposed rule by the advisory committee but could decline to adopt it.

**Transition.** Under the bill, the State Anatomical Board would be abolished but continue in existence until September 1, 2022, for the sole purpose of transferring obligations, property, rights, powers, and duties to the Texas Funeral Service Commission. The transfer would have to be completed by September 1, 2022. The commission would assume all of the board's obligations, property, rights, powers, and duties as they existed immediately before the bill's effective date.

By the 60th day after the bill's effective date, TFSC would have to appoint

members to the State Anatomical Advisory Committee. Members of the anatomical board whose terms expired when the board was abolished would have to continue providing advice to the commission until a majority of members were appointed to the advisory committee. Current board members could be appointed to the advisory committee if they met eligibility requirements.

All rules of the State Anatomical Board would continue in effect as rules of the Texas Funeral Service Commission until superseded by a rule of the commission.

All unexpended and unobligated funds under the board's secretary-treasurer would transfer to the general revenue fund so the commission could administer duties as amended by the bill.

**Effective date.** The bill would take effect September 1, 2021.

SUPPORTERS  
SAY:

CSHB 1565 would clarify and improve the efficiency of regulation of willed body programs in Texas by abolishing the State Anatomical Board, transferring its functions to the Texas Funeral Service Commission, and reconstituting the board as an advisory committee to the commission. Texas has a continuing need to regulate the use of donated cadavers for education and research, and the bill would ensure that this regulation was conducted efficiently and effectively.

While the Anatomical Board's mission is to facilitate the distribution of human cadavers for teaching and research, higher education institutions and their willed body programs are the entities that actually receive and distribute the deceased bodies with minimal board involvement. The board's primary role is to inspect willed body programs; however, inspections occur infrequently, and the board takes few enforcement actions. Also, board members cannot conduct objective inspections while inspecting other members' facilities, placing them at risk of potentially making anticompetitive and unfair decisions. In addition, the Anatomical Board cannot provide effective oversight or adhere to regulatory best practices because it does not employ staff or receive appropriations. The

board's statute and other state regulations have not kept up with the evolution of the whole body donation industry, resulting in significant regulatory gaps.

By abolishing the board, transferring its duties to the Texas Funeral Service Commission, and establishing an advisory committee to advise the commission about the regulation of willed body programs, CSHB 1565 would address these concerns and ensure that willed body programs and related facilities were subject to effective oversight. Concerns about regulating commercial and for-profit body donation companies that have emerged since the board's last Sunset review, in addition to providing appropriations and staffing, are decisions best left up to the Legislature and addressed in a separate bill.

Exemptions for organizations accredited by the American Association of Tissue Banks (AATB) that operated willed body programs would provide flexibility for certain tissue banks currently operating willed body programs in Texas. While not subject to regulation by the Texas Funeral Service Commission under the bill, AATB-accredited organizations would still have to register their willed body program with the commission, which would provide accountability.

**CRITICS  
SAY:**

CSHB 1565 should include provisions that would appropriate funds to the Texas Funeral Service Commission (TFSC) so the commission could hire additional employees when it assumed the State Anatomical Board's duties. Transferring the board's duties to the commission could increase TFSC personnel costs as employees undergo training to get accustomed to their newly acquired duties.

In addition, the bill would exempt organizations that were accredited by the American Association of Tissue Banks from regulation by the Texas Funeral Service Commission. These exemptions would allow commercial and private entities to operate willed body programs without state oversight, leading to potential unethical business practices for obtaining human cadavers for medical education and research purposes. Regardless of an entity's accreditation status, the bill should require all commercial

and private entities that operated willd body programs to follow state regulation just as institutions of higher education do. This would ensure uniform, statewide regulation of the donation, distribution, and use of cadavers and anatomical specimen.

**OTHER  
CRITICS  
SAY:**

CSHB 1565 would inappropriately abolish the Anatomical Board of the State of Texas, which effectively oversees the regulation and stewardship of donations through willd body programs. While the statutes governing the board need to be updated, the board should not be abolished but instead should be allowed to continue.

**NOTES:**

According to the Legislative Budget Board, CSHB 1565 would have a positive impact of about \$358,896 to general revenue related funds through fiscal 2022-23.