

BILL ANALYSIS

Senate Research Center
87R24186 EAS-D

C.S.H.B. 1565
By: Paddie (Buckingham)
Business & Commerce
5/18/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to enact the statutory recommendations of the Sunset Advisory Commission on the Anatomical Board of the State of Texas (SAB). Willed body programs (WBPs) allow adults to donate their deceased bodies to further education and research, and serve as a primary resource for higher education institutions and other health professions by ensuring affordable access to cadavers, which are essential for teaching and training. SAB oversees the distribution of these donated or unclaimed deceased bodies to board-approved higher education institutions for use in medical or forensic science education and research.

SAB is subject to abolishment under the Sunset Act on September 1, 2021, unless continued by the legislature. In its first review of SAB since 1984, the Sunset Advisory Commission voted to abolish the standalone board and transfer its functions to the Texas Funeral Service Commission (TFSC). The board would be reconstituted as an advisory committee composed of higher education institutions with WBPs, which would provide expertise to TFSC and have direct input on TFSC rulemaking that affects WBPs and other anatomical facilities. TFSC staff would carry out SAB functions, including inspections and administrative work previously performed by board members.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1565 amends current law relating to the continuation and transfer of the regulation of willed body programs to the Texas Funeral Service Commission, the regulation of willed body programs and non-transplant anatomical donation organizations, and to the creation of the State Anatomical Advisory Committee and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Anatomical Board of the State of Texas is transferred to the Texas Funeral Service Commission in SECTION 1.07 (Section 691.010, Health and Safety Code), SECTION 1.08 (Section 691.022, Health and Safety Code), SECTION 1.17 (Section 691.031, Health and Safety Code), and SECTION 1.19 (Section 691.033, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the Texas Funeral Service Commission in SECTION 1.08 (Section 691.022, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Anatomical Board of the State of Texas is rescinded in SECTION 1.22 (Section 691.007, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. STATE ANATOMICAL ADVISORY COMMITTEE; TEXAS FUNERAL SERVICE COMMISSION

SECTION 1.01. Amends the heading to Chapter 691, Health and Safety Code, to read as follows:

CHAPTER 691. DONATION OF BODIES AND ANATOMICAL SPECIMENS

SECTION 1.02. Amends the heading to Subchapter A, Chapter 691, Health and Safety Code, to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; STATE ANATOMICAL ADVISORY
COMMITTEE

SECTION 1.03. Amends Section 691.001, Health and Safety Code, by amending Subdivision (1) and adding Subdivisions (4), (5), and (6), to define "advisory committee," "commission," "non-transplant anatomical donation organization," and "willed body program" and to delete existing text defining "board" for Chapter 691.

SECTION 1.04. Amends Section 691.002, Health and Safety Code, as follows:

Sec. 691.002. New heading: ADVISORY COMMITTEE. (a) Provides that the State Anatomical Advisory Committee (advisory committee) is established to advise the Texas Funeral Service Commission (TFSC) on matters related to the regulation and operation of willed body programs and non-transplant anatomical donation organizations in this state.

(b) Provides that the advisory committee is composed of representatives appointed by TFSC from institutions of higher education that operate willed body programs and at least one non-transplant anatomical donation organization. Requires that the majority of the members of the advisory committee be representatives from institutions of higher education that operate willed body programs. Deletes existing text relating to the composition of the Anatomical Board of the State of Texas (board).

(c) Provides that members of the advisory committee serve two-year terms. Deletes existing text relating to appointees of the board.

(d) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

(e) Provides that Sections 2110.002 (Composition of Advisory Committees) and 2110.008 (Duration of Advisory Committees), Government Code, do not apply to the advisory committee.

SECTION 1.05. Redesignates Section 691.007(c), Health and Safety Code, as Section 691.011, Health and Safety Code, and amends it, as follows:

Sec. 691.011. RECORDS. Makes conforming changes to this section.

SECTION 1.06. Redesignates Section 691.008(a), Health and Safety Code, as Section 691.012, Health and Safety Code, and amends it, as follows:

Sec. 691.012. FEES. Authorizes TFSC to set and collect reasonable and necessary fees for the cost of administering Chapter 691, including:

(1) creates this subdivision from existing text and makes a nonsubstantive change;

(2) transferring bodies and anatomical specimens between institutions, organizations, or other persons authorized to transfer or receive bodies or anatomical specimens under Chapter 691; and

(3) conducting inspections of institutions, organizations, or other persons authorized to receive and use bodies or anatomical specimens under Chapter 691.

Makes conforming and nonsubstantive changes.

SECTION 1.07. Amends Section 691.010, Health and Safety Code, as follows:

Sec. 691.010. PUBLIC INFORMATION AND PARTICIPATION; COMPLAINTS. (a) Requires TFSC to prepare information of public interest describing the functions of TFSC under Chapter 691, rather than describing the functions of the board, and TFSC's procedures by which complaints are filed with and resolved by TFSC. Makes conforming changes.

(b) Makes conforming changes to this subsection.

(c) Requires TFSC, if a written complaint is filed with TFSC relating to a person or an entity regulated by TFSC under Chapter 691, to periodically, rather than at least as frequently as quarterly and until final disposition of the complaint, notify the parties to the complaint of the status of the complaint until final disposition unless notice would jeopardize an undercover investigation. Makes conforming changes.

(d) Makes conforming changes to this subsection.

SECTION 1.08. Amends Section 691.022, Health and Safety Code, as follows:

Sec. 691.022. GENERAL DUTIES. (a) Requires TFSC to distribute bodies and anatomical specimens to institutions of higher education that operate willed body programs and other institutions and persons authorized to receive a body or specimen under this chapter, rather than to institutions and other persons authorized to receive them. Makes a conforming change.

(b) Requires TFSC to adopt rules to ensure that each body and anatomical specimen is treated with respect while in the custody of TFSC or an institution or person authorized to receive the body or specimen, including an institution of higher education that operates a willed body program and a non-transplant anatomical donation organization. Makes conforming changes.

(c) Prohibits TFSC, except as provided by Subsection (b), from adopting a rule related to standards of practice, ethics, qualifications, or disciplinary sanctions for institutions or persons regulated under Chapter 691 unless the advisory committee first proposes the rule and the proposed rule is authorized by Chapter 691. Prohibits TFSC from modifying a rule described by this subsection that is proposed by the advisory committee. Requires TFSC, if TFSC declines to adopt a rule proposed by the advisory committee, to return the rule to the advisory committee with an explanation of the reasons TFSC declined to adopt the rule.

(d) Provides that TFSC is authorized, but is not required, to coordinate with the advisory committee to adopt rules regarding non-transplant anatomical donation organizations.

(e) Requires TFSC to adopt rules, establish procedures, and prescribe forms necessary to administer and enforce this chapter.

SECTION 1.09. Amends Section 691.0225, Health and Safety Code, to make conforming changes.

SECTION 1.10. Amends Section 691.023, Health and Safety Code, as follows:

Sec. 691.023. New heading: DUTY TO DELIVER CERTAIN BODIES TO COMMISSION. (a) and (b) Makes conforming changes to these subsections.

SECTION 1.11. Amends Section 691.025(c), Health and Safety Code, to make conforming changes.

SECTION 1.12. Amends Section 691.026, Health and Safety Code, to make a conforming change.

SECTION 1.13. Amends Section 691.027, Health and Safety Code, to make conforming changes.

SECTION 1.14. Amends Section 691.028(a), Health and Safety Code, as follows:

(a) Authorizes an adult living in this state who is of sound mind to donate the adult's body by will or other written instrument to TFSC, a medical or dental school, a non-transplant anatomical donation organization, or another donee authorized by TFSC, rather than to TFSC to be used for the advancement of medical or forensic science. Makes conforming changes.

SECTION 1.15. Amends Section 691.029, Health and Safety Code, as follows:

Sec. 691.029. New heading: AUTHORITY TO RECEIVE, DISTRIBUTE, AND TRANSFER BODIES OR ANATOMICAL SPECIMENS. Authorizes TFSC to receive, distribute, and transfer a body or anatomical specimen from inside or outside this state, rather than to receive a body transported to the board from outside this state. Makes a conforming change.

SECTION 1.16. Amends Section 691.030, Health and Safety Code, as follows:

Sec. 691.030. New heading: COMMISSION'S AUTHORITY TO DISTRIBUTE BODIES AND ANATOMICAL SPECIMENS. (a) Makes conforming changes to this subsection.

(b) Requires TFSC, in making the distribution, to give priority to the schools and colleges that need bodies for lectures, labs, and demonstrations, rather than for lectures and demonstrations. Makes conforming changes.

(c) Requires the president of each university or the dean of each school or college, rather than the dean of each school or college, to certify that number to TFSC when required by TFSC. Makes a conforming change.

(d) Makes conforming and nonsubstantive changes to this subsection.

(e) Provides that this section does not apply to a body donated to a non-transplant anatomical donation organization.

SECTION 1.17. Amends Sections 691.031(a), (b), and (f), Health and Safety Code, as follows:

(a) Requires TFSC to adopt rules to ensure that, among other standards, each body or anatomical specimen received or distributed under Chapter 691, rather than distributed by the board, is property transported. Makes a conforming change.

(b) and (f) Makes conforming changes to these subsections.

SECTION 1.18. Amends Section 691.032, Health and Safety Code, to make a conforming change.

SECTION 1.19. Amends Sections 691.033(a), (b), and (d), Health and Safety Code, as follows:

(a) Authorizes a willed body program, non-transplant anatomical donation organization, or other person designated by TFSC, rather than a school, college, or person designated by the board, in order to further medical or forensic science, to use, dissect, operate on, examine, and experiment on a body or anatomical specimen distributed under Chapter 691. Makes conforming changes.

(b) and (d) Makes conforming changes to these subsections.

SECTION 1.20. Amends Section 691.034, Health and Safety Code, to make conforming changes.

SECTION 1.21. Amends Subchapter A, Chapter 651, Occupations Code, by adding Section 651.005, as follows:

Sec. 651.005. REGULATION OF WILLED BODY PROGRAMS AND NON-TRANSPLANT ANATOMICAL DONATION ORGANIZATIONS. Requires TFSC to regulate willed body programs and non-transplant anatomical donation organizations as provided by Chapter 691, Health and Safety Code, and in accordance with the powers and duties granted by Chapter 651 (Crematory Services, Funeral Directing, and Embalming) to the extent necessary to regulate the programs under that chapter.

SECTION 1.22. Repealer: Section 691.003 (Sunset Provision), Health and Safety Code.

Repealer: Section 691.004 (Lobbyist Restrictions), Health and Safety Code.

Repealer: Section 691.005 (Removal of Board Member), Health and Safety Code.

Repealer: Section 691.006 (Reimbursement), Health and Safety Code.

Repealers: Sections 691.007(a) (relating to the board's authority to adopt rules for its administration) and (b) (relating to the requirement that the board keep complete minutes of its transactions), Health and Safety Code.

Repealer: Section 691.007(d) (relating to certain actors' ability to inspect the minutes or records taken by the board), Health and Safety Code;

Repealers: Sections 691.008(b) (relating to the authority of the board's secretary-treasurer to deposit fees collected in certain local accounts) and (d) (relating to the board's financial transactions being subject to audit by the state auditor), Health and Safety Code.

Repealers: the headings to Sections 691.007 (Minutes; Records) and 691.008 (Fees; Audits), Health and Safety Code.

Repealer: Section 691.009 (Information to Members and Employees), Health and Safety Code.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Article 43.25, Code of Criminal Procedure, to make conforming changes.

SECTION 2.02. Amends Section 404.093(b), Government Code, to make conforming changes.

SECTION 2.03. Amends Sections 692A.011(a), (b), and (c), Health and Safety Code, to make conforming changes.

ARTICLE 3. TRANSITIONS AND EFFECTIVE DATE

SECTION 3.01. (a) Provides that the board is abolished but continues in existence until September 1, 2022, for the sole purpose of transferring obligations, property, rights, powers, and duties to TFSC. Provides that TFSC assumes all of the obligations, property, rights, powers, and duties of the board as they exist immediately before the effective date of this Act. Provides that all unexpended and unobligated funds under the management of the secretary-treasurer of the board, as provided by Section 691.008, Health and Safety Code, as that section existed immediately before the effective date of this Act, are transferred to the general revenue fund for the purpose of TFSC administering duties under Chapter 691, Health and Safety Code, as amended by this Act.

(b) Requires the board and TFSC, in consultation with appropriate state entities, to ensure that the transfer of the obligations, property, rights, powers, and duties of the board to TFSC is completed not later than September 1, 2022.

(c) Provides that all rules of the board are continued in effect as rules of TFSC until superseded by a rule of TFSC. Provides that an authorization issued by the board is continued in effect as provided by the law in effect immediately before the effective date of this Act. Provides that an authorization pending on the effective date of this Act is continued without change in status after the effective date of this Act. Provides that a complaint, investigation, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act.

(d) Provides that unless the context indicates otherwise, a reference to the board in a law or administrative rule means TFSC.

SECTION 3.02. (a) Requires TFSC, not later than the 60th day after the effective date of this Act, to appoint members to the advisory committee in accordance with Section 691.002, Health and Safety Code, as amended by this Act.

(b) Requires the members of the board whose terms expire under Section 3.01 of this Act to continue to provide advice to TFSC until a majority of the members of the advisory committee are appointed under Subsection (a) of this section and qualified. Authorizes a member of the board described by this subsection to be appointed to the advisory committee if the member is otherwise eligible for appointment under Section 691.002, Health and Safety Code, as amended by this Act.

SECTION 3.03. Effective date: September 1, 2021.