

CHAPTER 619

S.B. No. 384

An Act relating to the continuation, composition, powers, and duties of the Texas Commission for the Deaf, to audit of the commission, to salaries of employees, and to the composition of the council on disabilities; making an appropriation; amending the Human Resources Code by amending Sections 81.004, 81.005, 81.007, 81.009, and 81.011 and Subsections (a) and (e) of Section 132.002; by adding Sections 81.0021, 81.0051, 81.0071, 81.0072, 81.0091, 81.014, 81.015, and 81.016; Chapter 113; and Subsections (c), (d), and (e) to Section 81.002; Subsections (c) through (f) to Section 81.006; and Subsections (d) and (e) to Section 81.008; and by repealing Sections 81.010 and 81.012.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 81.002, Human Resources Code, as amended, is amended by adding Subsections (c), (d), and (e) to read as follows:

“(c) Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

“(d) An officer, employee, or paid consultant of an association representing the interests of deaf or hearing-impaired persons may not be a member or employee of the commission, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of an association representing the interests of deaf or hearing-impaired persons be a member of the commission or an employee of the commission grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

“(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the commission, may not serve as a member of the commission or act as the general counsel to the commission.”

SECTION 2. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.0021 to read as follows:

“Section 81.0021. REMOVAL OF COMMISSION MEMBERS. (a) It is a ground for removal from the commission if a member:

"(1) does not have at the time of appointment the qualifications required by Subsection (b) of Section 81.002 of this code for appointment to the commission;

"(2) does not maintain during the service on the commission the qualifications required by Subsection (b) of Section 81.002 of this code for appointment to the commission;

"(3) violates a prohibition established by Subsection (d) or (e) of Section 81.002 of this code;

"(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

"(5) is absent from more than one-half of the regularly scheduled commission meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

"(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

"(c) If the executive director has knowledge that a potential ground for removal exists, he shall notify the chairman of the commission of such ground. The chairman of the commission shall then notify the governor that a potential ground for removal exists."

SECTION 3. Section 81.004, Human Resources Code, as amended, is amended to read as follows:

"Section 81.004. **APPLICATION OF SUNSET ACT.** The Texas Commission for the Deaf is subject to the Texas Sunset Act [~~as amended~~] (Article 5429k, Vernon's Texas Civil Statutes). Unless the commission is continued in existence as provided by that Act, the commission is abolished and this chapter expires [~~effective~~] September 1, 1987 [~~1985~~]."

SECTION 4. Section 81.005, Human Resources Code, as amended, is amended to read as follows:

"Section 81.005. **CHAIRMAN; MEETINGS; EXPENSES.** (a) The governor [~~commission~~] shall designate [~~elect~~] a chairman of the commission from among the [~~its~~] members. A member holds the position of [~~The~~] chairman at the pleasure of the governor [~~serves for a term of one year~~].

"(b) The commission shall hold at least six meetings a year. During at least one of those meetings, the commission shall receive public comment on the operations of the commission and the concerns of the deaf community. The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

"(c) Five members of the commission constitute a quorum for the transaction of business.

"(d) Members of the commission are entitled to reimbursement for their actual and necessary expenses in attending meetings of the commission and in carrying out official duties."

SECTION 5. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.0051 to read as follows:

"Section 81.0051. **ANNUAL AUDIT.** The State Auditor shall audit the financial transactions of the commission at least once during each biennium."

SECTION 6. Section 81.006, Human Resources Code, as amended, is amended by adding Subsections (c) through (f) to read as follows:

"(c) The commission may charge and collect fees for training interpreters under Subdivision (5) of Subsection (a) of this section. The commission shall set the fees in an amount reasonable to defray the costs of conducting the training sessions.

"(d) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

"(e) The commission shall provide to its members and employees as often as is necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

"(f) The commission shall develop and implement policies that clearly define the respective responsibilities of the governing body of the commission and the staff of the commission."

SECTION 7. Section 81.007, Human Resources Code, as amended, is amended to read as follows:

"Section 81.007. **BOARD FOR EVALUATION OF INTERPRETERS.** (a) The commission may establish a program in accordance with this section for the certification of interpreters who have reached varying levels of proficiency in [~~manual~~] communication skills necessary to communicate with deaf and hearing-impaired individuals.

“(b) The commission shall appoint a board of five persons to administer the certification program.

“(c) Subject to approval of the commission, the board shall prescribe qualifications for each of several levels of certification based on proficiency and shall evaluate and certify interpreters using these qualifications.

“(d) The commission shall use the recommendations of the board in compiling a statewide registry of interpreters by skill level. The registry must, in addition to other pertinent information, include recommendations relating to the appropriate selection and utilization of [sign language] interpreters for the deaf. The registry must be made available to and recommended for adoption by state commissions, departments, and agencies.

“(e) The commission may charge a reasonable fee for the administration of an examination or other requirements for certification of an applicant.

“(f) Based on the board's recommendations, the commission may waive any certification requirement for an applicant with a valid certificate from another state having certification requirements substantially equivalent to those of this state.

“(g) The commission may recognize, prepare, or administer continuing education programs for interpreters. Participation in the programs is voluntary.

“(h) The commission by rule may adopt a system under which certificates expire on various dates during the year.

“(i) The commission shall adopt rules specifying the grounds for denying, suspending, or revoking an interpreter's certificate.”

SECTION 8. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.0071 to read as follows:

“Section 81.0071. **EXAMINATION RESULTS.** (a) Not later than the 60th day after the day on which a certification examination is administered under this chapter, the commission shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the commission shall notify examinees of the results of the examination not later than the 14th day after the day on which the commission receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify each examinee of the reason for the delay before the 90th day.

“(b) If requested in writing by a person who fails the certification examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination.”

SECTION 9. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.0072 to read as follows:

“Section 81.0072. **REVOCAION OR SUSPENSION OF CERTIFICATE.** (a) The commission shall revoke or suspend a certificate, place on probation a person whose certificate has been suspended, or reprimand an interpreter certified by the commission for a violation of a rule of the commission. If a certificate suspension is probated, the commission may require the practitioner:

“(1) to report regularly to the commission on matters that are the basis of the probation;

“(2) to limit practice to those areas prescribed by the commission; or

“(3) to continue or renew professional education until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

“(b) If the commission proposes to suspend or revoke a person's certificate, the person is entitled to a hearing before the commission or a hearings officer appointed by the commission. All final decisions to suspend or revoke shall be made by the commission.”

SECTION 10. Section 81.008, Human Resources Code, as amended, is amended by adding Subsections (d) and (e) to read as follows:

“(d) The executive director or his or her designee shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The plan shall include:

“(1) a comprehensive analysis which meets federal and state guidelines of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wages;

“(2) plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

“(3) procedures by which a determination can be made of significant underutilization in the agency work force of all persons for whom federal and state guidelines encourage a more equitable balance and steps reasonably designed to overcome any identified underutilization; and

"(4) objectives and goals, with appropriate timetables for the achievement of the objectives and goals, assignments of responsibility for their achievement, and an appropriate program for reviewing and maintaining these goals and objectives once achieved.

"(e) The plan shall be filed with the governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. Such report may be made separately or as a part of other biennial reports made to the legislature."

SECTION 11. Section 81.009, Human Resources Code, is amended to read as follows:

"Section 81.009. **EMPLOYEES.** (a) The commission may hire employees it considers necessary to carry out the purposes of this chapter.

"(b) The executive director or his designee shall develop an intraagency career ladder program, one part of which shall require the intraagency posting of all nonentry level positions concurrently with any public posting.

"(c) The executive director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection."

SECTION 12. Chapter 81, Human Resources Code, is amended by adding Section 81.0091 to read as follows:

"Section 81.0091. **SALARIES.** Not more than 25 percent of the total amount appropriated to the commission for each fiscal year, excluding an amount equal to the total amount of gifts, grants, and donations accepted by the commission to supplement salaries for that fiscal year, may be used for salaries of commission employees, including the executive director. However, the commission may accept private gifts, grants, and donations to supplement salaries of commission employees, including the executive director, and those amounts are not included in the 25-percent limitation imposed by this section."

SECTION 13. Section 81.011, Human Resources Code, as amended, is amended to read as follows:

"Section 81.011. **TELECOMMUNICATION DEVICES FOR THE DEAF IN STATE AGENCIES AND UNITS OF LOCAL GOVERNMENT.** (a) The commission shall [~~estab-~~lish and] administer a program for the [~~placement and~~] use of telecommunication devices for the deaf in selected state agencies and in emergency dispatch communication centers in selected units of local government, including counties, municipalities, and other political subdivisions that administer emergency response systems. The program shall cover the use of telecommunication devices for the deaf placed in selected state agencies and units of local government under prior law but may not authorize further initial placements.

"(b) The commission shall establish rules for the program, including rules requiring reports by state agencies and units of local government where a device has been placed [~~selected for placement of a device~~].

"(c) [~~The commission shall consult with other state agencies and with selected units of local government, as well as state organizations of and for the deaf, and shall determine:~~

"[(1) the state agencies and units of local government in which to place devices; and

"[(2) the number of devices to place with each agency or unit of local government.

"[(d) The commission, in consultation with the State Purchasing and General Services Commission, shall establish specifications for each device that must be met before the commission will consider its purchase, lease, rent, or acquisition. The devices shall be purchased, leased, rented, or otherwise acquired by the commission in accordance with the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes);

"[(e) The commission may place devices in selected state agencies and units of local government according to established guidelines, and the commission shall bear the costs of placement in accordance with legislative appropriations. The commission may accept grants, donations, or gifts of equipment for this purpose and may reassign a device if it determines that reassignment is necessary to maximize its use.

"[(f) After placement, a purchased device shall remain the property of the commission. The commission is responsible for the repair, upkeep, and proper functioning of all devices included in the commission's property inventory lists.

"[(g) The commission shall [~~develop and~~] administer training programs for personnel of state agencies and units of local government where [~~selected for placement of~~] a device has been placed to teach the use and general maintenance of the device.

"(e) ~~(h)~~ Each state agency or unit of local government in which a device is placed shall:

"(1) take all necessary actions to help ensure continued use of a device; and

"(2) file reports as required by the commission.

"(f) *The commission shall remove all telecommunication devices for the deaf placed in selected state agencies under prior law that have not been used to communicate with a deaf or hearing-impaired person in any six-month period after September 1, 1983. The commission shall reassign a device if it determines that reassignment is necessary to maximize its use. The commission may determine appropriate placements for those telecommunication devices removed from selected state agencies due to nonuse. The primary criteria for making these placements shall be a determination of where the greatest number of deaf and hearing-impaired persons will receive maximum benefits by the placement and may include placements in entities other than state agencies and units of local government.*"

SECTION 14. The Human Resources Code is amended by adding a new Chapter 113 to read as follows:

"CHAPTER 113. PROGRAMS FOR DEAF-BLIND MULTIHANDICAPPED INDIVIDUALS AND THEIR PARENTS

"Section 113.001. PROGRAMS FOR DEAF-BLIND MULTIHANDICAPPED INDIVIDUALS AND THEIR PARENTS. (a) *The commission shall establish programs to serve deaf-blind multihandicapped individuals by helping them attain self-sufficiency and independent living.*

"(b) *The commission shall establish a program of parental counseling for the parents of deaf-blind multihandicapped individuals. The counseling program may be provided on an individual or group basis and must include programs, activities, and services necessary to foster greater understanding and to improve relationships among professionals, parents, and deaf-blind multihandicapped individuals.*

"(c) *The commission shall establish a summer outdoor training program for deaf-blind multihandicapped individuals. The outdoor training program must be designed to help meet the unique needs of deaf-blind multihandicapped individuals for the purpose of broadening their educational experiences and improving their ability to function more independently.*

"(d) *The commission shall establish regulations for implementing and administering the programs.*

"(e) *The commission may contract for services or goods with private or public entities for purposes of this section.*

"(f) *From information collected from the programs, the commission shall determine the need for related future services and the most efficient and effective method of delivering the future services.*"

SECTION 15. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.014 to read as follows:

"Section 81.014. INFORMING THE PUBLIC; COMPLAINTS. (a) *The commission shall prepare information of public interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.*

"(b) *The commission shall adopt rules establishing methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for such notification through inclusion of the information:*

"(1) *on each registration form, application, or written contract for services of a person or entity regulated or authorized by this chapter;*

"(2) *on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this chapter; or*

"(3) *in a bill for service provided by a person or entity regulated or authorized by this chapter.*

"(c) *If a written complaint is filed with the commission relating to a person or entity regulated by the commission, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.*

"(d) *The commission shall keep an information file about each complaint filed with the commission relating to a person or entity regulated by the commission.*"

SECTION 16. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.015 to read as follows:

“Section 81.015. ADVERTISEMENT. (a) The commission may not adopt rules restricting competitive bidding or advertising by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

“(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

“(1) restricts the person’s use of any medium for advertising;

“(2) restricts the person’s personal appearance or use of his voice in an advertisement;

“(3) relates to the size or duration of an advertisement by the person; or

“(4) restricts the person’s advertisement under a trade name.”

SECTION 17. Chapter 81, Human Resources Code, as amended, is amended by adding Section 81.016 to read as follows:

“Section 81.016. CONTRACTS FOR SERVICES. (a) Before the commission contracts with or provides a grant to an agency, organization, or individual to provide direct services to the deaf, the commission shall make reasonable efforts to notify all potential service providers of the availability and purpose of the contract or grant.

“(b) The notice shall include a request that all interested service providers submit within a specified period a contract or grant proposal for the commission’s consideration. The notice must also clearly state the criteria that the commission will consider in determining which applicant will be awarded the contract or grant.

“(c) The commission shall review all proposals submitted under this section and shall award the contract or grant to the applicant that the commission determines is best able to provide the needed services. The commission may not award contracts or grants to former employees of the commission.

“(d) To ensure an equitable distribution of contract or grant funds, the commission shall develop a formula to allocate those funds among the agencies, organizations, or individuals that are awarded the contracts or grants.

“(e) The commission shall adopt rules to implement this section.”

SECTION 18. Subsections (a) and (e), Section 132.002, Human Resources Code, are amended to read as follows:

“(a) The council on disabilities is established and is composed of 23 [~~21~~] members.”

“(e) The governing board of each of the following agencies shall appoint one person to represent that agency on the council:

“(1) the Texas Department of Human Resources;

“(2) the Texas Department of Mental Health and Mental Retardation;

“(3) the Texas Department of Health;

“(4) the Central Education Agency;

“(5) the Texas Rehabilitation Commission;

“(6) the Texas Commission for the Deaf;

“(7) the State Commission for the Blind;

“(8) the Texas Department on Aging;

“(9) the Texas Employment Commission;

“(10) the Texas School for the Deaf; and

“(11) [~~10~~] the Texas Commission on Alcoholism.”

SECTION 19. Sections 81.010 and 81.012, Human Resources Code, are repealed.

SECTION 20. The Texas Commission for the Deaf is hereby appropriated \$38,000 in FY 1986 and \$38,000 in FY 1987 to fund the outdoor training program for deaf individuals.

SECTION 21. This Act takes effect September 1, 1985.

SECTION 22. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 22, 1985, by a viva-voce vote; Senate concurred in House amendments on May 26, 1985, by a viva-voce vote; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas; passed the House, with amendments, on May 25, 1985, by a non-record vote; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Approved: June 14, 1985

Effective: September 1, 1985