

# SUNSET ADVISORY COMMISSION

## *Final Results of Sunset Reviews 2014-2015*

JULY 2015



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*Cover Photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the north facade of the Capitol. The gardens in the foreground sit atop a 667,000 square foot underground structure, the Capitol Extension, which houses many legislators’ offices and committee rooms. Photo Credit: Janet Wood*

**FINAL RESULTS OF SUNSET REVIEWS  
2014-2015**

**JULY 2015**



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# SUMMARY



# SUMMARY

Over the last two years, Sunset faced a challenging review cycle dominated by Texas' extensive health and human services system. In the end, the 84th Legislature adopted the vast majority of changes recommended by the Sunset Commission, including the consolidation of two major health and human services agencies into a functionally reorganized Health and Human Services Commission (HHSC). These changes will have long-term positive impacts on the delivery of services statewide for years to come.

In all, the 84th Legislature enacted 14 Sunset bills, containing 134, or 72 percent, of the Sunset Commission's statutory recommendations to the Legislature. These statutory changes, along with the Sunset Commission's 138 management directives to the agencies, will result in more than \$34 million in savings and revenue gains over the next two years by eliminating waste, duplication, and inefficiency in state government.

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*The Legislature enacted 72 percent of the Sunset Commission's 185 statutory recommendations, resulting in \$34 million in savings and revenue gains.*

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This report summarizes the actions taken by the Sunset Commission and the 84th Legislature on each of the 20 entities reviewed this biennium. The individual agency sections in this report provide a brief analysis of both statutory and management directives adopted for implementation by each agency, including a discussion of the related fiscal impact. The table on page 3, *Sunset Legislation — 84th Legislature*, lists the Sunset bill number, authors, fiscal impact, and final action taken on each of the entities under review.

Major changes adopted through the Sunset process this biennium are highlighted below.

- This cycle's Sunset review of Texas' health and human services system was the first since its reorganization in 2003, resulting in numerous and significant changes to further reshape the system. The HHSC Sunset bill abolishes the Department of Assistive and Rehabilitative Services (DARS) in 2016 and the Department of Aging and Disability Services (DADS) in 2017, consolidating their functions into HHSC. Beyond these two agencies, the bill reorganizes all services within the system along functional lines to better address ongoing problems of fragmentation, misaligned or poorly focused programs, and blurred accountability — all of which have real significance for how Texas serves clients across the health and human services system.

The Sunset Commission also identified major problems with HHSC's Office of Inspector General (OIG) — the entity charged with detecting fraud, waste, and abuse within the system. The OIG Sunset bill provides a roadmap to fix this broken entity characterized by its lack of fair, defensible processes and demonstrated results. Changes include refocusing OIG on

its core mission, establishing clear criteria and timelines for OIG investigations and sanctions, and requiring a special purpose Sunset review of OIG in six years.

- The Legislature, through the Sunset review of the Department of State Health Services (DSHS), restructured the agency to focus on its primary public health responsibilities. Legislative changes streamline DSHS' role in occupational regulation by deregulating eight regulatory programs and transferring 17 others to the Texas Department of Licensing and Regulation and Texas Medical Board. Other provisions improve oversight and effectiveness of state mental health hospitals, community behavioral health programs, emergency services regulation, and the state's public health and vital statistics systems.
- The Sunset review of the Department of Family and Protective Services (DFPS) targeted improvements to DFPS' most basic, day-to-day aspects of protecting children and vulnerable adults. The DFPS Sunset bill removes unnecessary burdens on caseworkers to improve retention and increase the time they spend with children and families. These statutory changes, along with numerous Sunset Commission management directives, put the agency on a path toward correcting longstanding problems that impede its ability to effectively carry out its challenging and critical mission.
- A key change resulting from the Sunset review of the Texas Workforce Commission (TWC) is the transfer to TWC of services to help people with disabilities find jobs, a function currently housed at DARS. The Sunset Commission identified serious concerns with DARS' management and ability to help its consumers find work and, in contrast, found TWC to be a well-run agency more than capable of assisting people with a wide range of employment needs. Integrating these services into the state's workforce agency, while maintaining the expertise of the existing caseworkers, should significantly improve employment outcomes for Texans with disabilities.
- Another major accomplishment for Sunset this cycle is passage of Senate Bill 219, best known as the 2,276 page health and human services clarification bill. This bill repairs the archaic, inaccurate, ambiguous, and ultimately confusing statutes that remained in law after the major reorganization of the health and human services agencies in 2003.

The Legislature did not pass four Sunset bills this session. The Sunset bill for the Texas Education Agency failed passage for the second legislative session in a row; however, the Legislature continued the agency for 10 years in a separate bill. In addition, the Legislature could not agree on changes to Texas' state supported living centers in the DADS Sunset bill but, through the HHSC Sunset bill, did enact the Sunset recommendation to abolish DADS and transfer its functions to HHSC. Finally, the Sunset bills on the University Interscholastic League and criteria for becoming a self-directed semi-independent agency also failed passage.

Over the next two years, the Sunset Commission will review and make recommendations on 24 entities. Upcoming reviews include the Texas Department of Transportation, Railroad Commission, Employee Retirement System, and the State Bar, along with numerous health licensing agencies and four river authorities. The appendix to this report provides a complete list of agencies subject to Sunset review for the 85th Legislature.

**Sunset Legislation — 84th Legislature**

Agency	Bill Number	Bill Author		FYs 2016–17 Fiscal Impact	Final Action
		Senate	House		
Administrative Hearings, State Office of	H.B. 2154	Birdwell	Dutton	No Impact	Continued for 12 years
Aging and Disability Services, Department of	S.B. 204	Hinojosa	Raymond	(\$7,500,000)*	Failed to pass, but abolished with functions consolidated at HHSC
Assistive and Rehabilitative Services, Department of	H.B. 2463	Campbell	Raymond	\$406,134*	Abolished with functions consolidated at HHSC
Developmental Disabilities, Texas Council for	H.B. 1679	Birdwell	Raymond	No Impact	Continued for 12 years
Education Agency, Texas	S.B. 214	Campbell	Dutton	No Impact	Failed to pass, but continued for 10 years in H.B. 3123
Education Agency, Texas Driver Education Program Transfer	H.B. 1786	Campbell	Dutton	\$718,991	Transferred to TDLR
Facilities Commission, Texas	H.B. 3123	Nelson	Price	No Impact	Continued for six years
Family and Protective Services, Department of	S.B. 206	Schwertner	Burkett	(\$1,302,000)	Continued for eight years
Health and Human Services Commission	S.B. 200	Nelson	Price	No Impact	Continued for 12 years with a limited-scope Sunset review in 2023
Health Services, Department of State	S.B. 202	Nelson	Price	(\$1,266,462)	Continued for eight years
Health Services Authority, Texas	S.B. 203	Nelson	Raymond	No Impact	Removed from state statute in six years
Office of Inspector General, HHSC	S.B. 207	Hinojosa	Gonzales	No Impact	Special purpose Sunset review in six years
People with Disabilities, Governor's Committee on	H.B. 1678	Schwertner	Raymond	No Impact	Continued for 12 years
Purchasing from People with Disabilities, Texas Council on	S.B. 212	Birdwell	Burkett	No Impact	Abolished with State Use Program transferred to TWC
Self-Directed Semi-Independent Agencies, Entry Criteria for	S.B. 217	Hinojosa	Gonzales	No Impact	Failed to pass
University Interscholastic League	S.B. 213	Birdwell	Price	No Impact	Failed to pass
Workforce Commission, Texas	S.B. 208	Campbell	Burkett	\$43,000,000	Continued for 12 years
Workforce Investment Council, Texas	H.B. 1606	Hinojosa	Burkett	No Impact	Continued for 12 years
<b>Fiscal Impact Total</b>					<b>\$34,056,663</b>

\* The amount includes the federal fiscal impact.



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**AGENCIES**



# STATE OFFICE OF ADMINISTRATIVE HEARINGS

*H.B. 2154 Dutton (Birdwell)*

*Staff Contact: Eric Beverly*

The Sunset review of the State Office of Administrative Hearings (SOAH) found the agency provides a needed and independent venue for contested matters largely involving state agencies and members of the public. The Legislature's ongoing investment in SOAH as an independent hearing tribunal has improved fairness, reduced bias, and contained costs since the agency was last under Sunset review in 2002. However, the Sunset Commission and the Legislature identified the need to further strengthen SOAH's independence, improve its management of staff and diverse caseload, and stabilize its funding to make revenue and budgeting more predictable. House Bill 2154 clearly authorizes SOAH to adjust its hourly billing rate to recover the full cost of its services, continues and improves the independence of tax hearings at SOAH, provides clear authority for SOAH to schedule administrative license revocation (ALR) hearings, and helps streamline the agency's structure. SOAH is subject to Sunset review every 12 years, but not subject to abolishment.

The following material summarizes results of the Sunset review of SOAH, including management actions directed to SOAH that do not require statutory changes. For additional information see the *State Office of Administrative Hearings Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Billing Processes**

- Authorizes SOAH to adjust its hourly rate to recover the full cost of services.
- Authorizes agencies to pay SOAH annually or quarterly.
- Directs SOAH to require agencies to make payments upfront, either annually or quarterly. (management action – nonstatutory)

## **Caseload Projections**

- Requires agencies to send their caseload projections to SOAH and the Legislative Budget Board (LBB) each biennium.
- Directs SOAH to evaluate the effectiveness of its caseload projections to predict actual caseload and report this information to LBB. (management action – nonstatutory)

## **Tax Hearings**

- Continues tax hearings at SOAH and removes the separate Sunset date for the tax division.
- Removes outdated provisions that give the comptroller undue and unnecessary authority over tax cases and judges.

- Increases flexibility of statutory experience requirements for administrative tax law judges.

### **ALR Hearings**

- Requires SOAH and the Department of Public Safety to develop and adopt a memorandum of understanding establishing that SOAH has primary scheduling responsibility for ALR hearings.
- Directs SOAH to centralize or otherwise significantly improve its telephonic ALR hearings and take advantage of current technology for conference calls. (management action – nonstatutory)

### **Information for *Pro Se* Parties**

- Directs SOAH to develop and maintain a comprehensive, plain-language guide for *pro se* parties. (management action – nonstatutory)
- SOAH should require notices of hearing to include information about and a link to the *pro se* guide. (management action – nonstatutory)

### **Operational Improvements**

- Requires referring agencies to provide SOAH with a copy of their final orders.
- Authorizes SOAH to remand default cases back to the referring agencies for informal disposition.
- Removes the statutory requirements for SOAH to maintain separate tax, natural resource conservation, and utility divisions.
- Removes outdated statutory provisions requiring the Public Utility Commission (PUC) to pay SOAH a fixed annual fee for services and give SOAH access to PUC's hearing rooms and computers.
- Directs SOAH to evaluate and improve its budget control processes and policies. (management action – nonstatutory)
- Directs SOAH to improve its performance evaluation process. (management action – nonstatutory)
- Directs SOAH to improve and formalize certain management tools. (management action – nonstatutory)
- Directs SOAH to track and analyze informal complaints and improve its customer service survey. (management action – nonstatutory)

### **Fiscal Implication**

None of these provisions will have a significant fiscal impact to the State.

# DEPARTMENT OF AGING AND DISABILITY SERVICES

*S.B. 204 Hinojosa (Raymond) — Department of Aging and Disability Services (Not Enacted)*

*S.B. 200 Nelson (Price) — Health and Human Services Commission*

*Staff Contact: Amy Trost*

Among many other issues, the Sunset review of the Department of Aging and Disability Services (DADS) tackled a highly controversial and longstanding problem in health and human services — the future of state supported living centers (SSLCs). DADS has struggled to both operate these aging facilities for people with intellectual and developmental disabilities (IDD) — currently subject to oversight by the U.S. Department of Justice for alleged civil rights violations — and meet the tremendous demand by people with IDD and their families for services in the community. The Sunset Commission sought to begin right-sizing the state's 13 SSLCs, but fierce disagreement about the ongoing need for these facilities, despite significant declines in population, made passage of the recommendations anything but certain.

The Sunset Commission's statutory recommendations regarding SSLCs and other programs at DADS were incorporated into Senate Bill 204. The bill passed the Senate with a few changes, but after lengthy discussion on the House floor, the House of Representatives stripped the bill's recommendations to close the Austin State Supported Living Center and establish the SSLC Restructuring Commission. Members of the conference committee could not come to agreement on the bill's content, and the bill died in the last days of the session. However, with passage of the Health and Human Services Commission (HHSC) Sunset bill, S.B. 200, oversight of SSLCs and DADS' other programs will fall to HHSC, since the bill consolidates DADS with the larger agency by 2017.

Although S.B. 204 failed passage, the Legislature did adopt a major Sunset Commission recommendation requiring revocation of nursing home licenses in certain cases, as well as several recommendations regarding services for people with IDD, as described below. The following material also lists management actions recommended by the Sunset Commission for implementation by DADS that do not require statutory changes. For additional information see the *Department of Aging and Disability Services Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Transfer Functions and Abolish**

- Transfers DADS' functions to the Health and Human Services Commission by September 1, 2017, and abolishes the agency. (S.B. 200)

## **Long-Term Care Facility Regulation**

- Requires the HHSC executive commissioner to revoke the license of a nursing home found to have three or more serious violations related to abuse or neglect in a two-year period. (S.B. 304)

- Requires DADS to identify inconsistencies across the state in the interpretation and application of statutes and regulations against long-term care facilities. (management action – nonstatutory)
- Directs DADS to refer appeals of enforcement actions to the State Office of Administrative Hearings (SOAH) within 60 days of receiving a request for a hearing, directing SOAH to set a timely hearing date. (management action – nonstatutory)
- Directs DADS to improve tracking of all provider violations to ensure the agency can appropriately apply progressive sanctions for repeated and serious violations and to identify enforcement trends. (management action – nonstatutory)

### **Services for People with Intellectual and Developmental Disabilities**

- Expands crisis intervention teams to provide increased supports to people with IDD living in the community. (H.B. 1)
- DADS should strengthen partnerships with local authorities statewide to improve the number and speed of transitions to the community. (management action – nonstatutory)
- DADS should leverage expertise at SSLCs to support providers in the community. (management action – nonstatutory)
- Adds a rider to DADS’ bill pattern authorizing SSLCs to retain fees collected for providing services to eligible community clients to cover the cost of these services. (H.B. 1)
- Directs DADS to develop, in rule, requirements for contract provisions regarding basic safety and service requirements that its community-based IDD waiver and intermediate care facility providers should include in their contracts with day habilitation facilities. (management action – nonstatutory)

### **Contracting**

The Sunset bill on HHSC, Senate Bill 200, requires consolidation of DADS’ administrative functions, including its contracting functions, into HHSC and requires a transition plan by March 2016. That plan should incorporate consideration of the intent of the following management recommendations.

- Directs DADS to strengthen and consolidate contract management under a new Contract Management Division. (management action – nonstatutory)
- Directs the Contract Management Division to review and approve contract planning during the early stages of procurement. (management action – nonstatutory)
- Directs the Contract Management Division to develop policies for risk-based monitoring of contracts. (management action – nonstatutory)

### **Consumer Information Website**

- Directs DADS to improve the quality and consistency of information available on the Quality Reporting System (QRS) for all providers. (management action – nonstatutory)
- Directs QRS staff to coordinate with the Communications Office, and other divisions as needed, to ensure QRS more effectively meets consumer needs and is more visible on the Internet. (management action – nonstatutory)

- Directs DADS to ensure compliance with person-first, respectful language requirements on the QRS website. (management action – nonstatutory)

### **Fiscal Implication**

While the Sunset legislation did not pass, in response to DADS' request to expand crisis intervention teams to provide increased supports to people with IDD living in the community, the Appropriations Act provides an additional \$18 million in state and federal funds over the 2016–17 biennium. This provides funding well in excess of the \$7.5 million recommended by the Sunset Commission for 10 additional teams. Sunset provisions can be implemented within existing resources.



# DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

*H.B. 2463 Raymond (Campbell) — Department of Assistive and Rehabilitative Services*

*S.B. 208 Campbell (Burkett) — Texas Workforce Commission*

*S.B. 200 Nelson (Price) — Health and Human Services Commission*

*Staff Contact: Sean Shurtleff*

Many factors came together to result in the Legislature abolishing the Department of Assistive and Rehabilitative Services (DARS). After reviewing the agency, the Sunset Commission had serious concerns about the agency's programs that continue to operate in silos 12 years after the Legislature consolidated four agencies to create DARS. The Sunset Commission was also frustrated by DARS' history of poor management, planning, and financial controls and its lack of progress in improving the employment outcomes of its consumers. In its subsequent review of the entire health and human services system, the Sunset Commission concluded that consolidating DARS and three other agencies into the Health and Human Services Commission (HHSC) would improve the overall management of the system. While the Legislature ultimately decided to take a slower approach to the health and human services consolidation than the Sunset Commission recommended, it still chose to move forward with merging DARS into HHSC on September 1, 2016.

At the same time, the Sunset Commission reviewed the Texas Workforce Commission (TWC). TWC's history of successfully integrating other employment services presented a clear opportunity to merge DARS' vocational rehabilitation services with other workforce-related services in a more proactively managed agency. The Sunset Commission recommended transferring the vocational rehabilitation services and other related programs to TWC, and the Legislature agreed. As a result, a significant portion of DARS' functions will transfer to TWC on September 1, 2016, including the Vocational Rehabilitation, Business Enterprises of Texas, and Older Blind Independent Living programs, as well as the Criss Cole Rehabilitation Center.

The Sunset bill for DARS includes provisions aimed at addressing specific concerns with, and ensuring better oversight of, the programs remaining at DARS until September 2016. These programs would be part of the health and human services consolidation and include the following: Children's Autism; Blind Children's Vocational Discovery and Development; Blindness Education, Screening, and Treatment; Independent Living Services; Comprehensive Rehabilitation Services; Deaf and Hard of Hearing Services; Early Childhood Intervention; and Disability Determination Services.

The following material summarizes results of the Sunset review of DARS, including management actions directed to DARS that do not require statutory changes. For additional information see the *Department of Assistive and Rehabilitative Services Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Abolish and Transfer**

- Abolishes DARS and transfers its functions to the Health and Human Services Commission on September 1, 2016. (S.B. 200)
- Transfers Vocational Rehabilitation and other related programs to the Texas Workforce Commission on September 1, 2016. (S.B. 208)

## **Independent Living Services**

- Requires DARS to integrate its Independent Living Program for people with visual impairments with its Independent Living Program for people with other disabilities into a single program.
- DARS should develop a transition plan for the integration of the administration, management, and oversight of its separate Independent Living programs no later than March 1, 2016. (management action – nonstatutory)
- Redirects independent living funding to the network of centers for independent living and focuses DARS on monitoring the services provided by the centers rather than providing services directly with its own case workers.
- DARS should evaluate independent living services available in communities throughout the state. (management action – nonstatutory)

## **Case Worker Oversight**

- Requires DARS to create clear, validated guidelines for case workers to ensure better decision making.
- Directs DARS to immediately start the process of creating guidelines for case workers. (management action – nonstatutory)
- Requires DARS to create a robust and consistent case review system for all direct services programs.
- Requires DARS to designate staff to monitor performance across programs and regions.

## **Employer Services**

- Directs DARS to consolidate its employer relations staff and give them responsibility over workforce system coordination and employer initiatives. (management action – nonstatutory)
- Directs DARS to develop a strategy for assisting federal contractors to hire individuals with disabilities, and to task its employer relations staff with researching and anticipating similar federal or state initiatives in the future. (management action – nonstatutory)

## **Structure for Existing Programs**

- Establishes two existing DARS programs — the Comprehensive Rehabilitation Services and Children’s Autism programs — in statute by defining their basic duties and authorizing HHSC to adopt rules for services.

### **More Effective Management**

- Directs DARS to develop mechanisms to more effectively plan for, track, and evaluate the performance of its programs and staff. (management action – nonstatutory)
- Directs DARS to report on its progress in implementing the recommendation above to legislative leadership every six months, with the first report due in June 2015 and the last report due in December 2016. (management action – nonstatutory)
- DARS should determine whether the services it currently provides through the Office of Deaf and Hard of Hearing Services could be better provided through the centers for independent living. (management action – nonstatutory)
- DARS should take immediate steps to ensure access to services for people with multiple disabilities. (management action – nonstatutory)

### **Durable Medical Equipment**

- Directs HHSC and DARS to report on their inability to meet statutory requirements to establish programs for the reuse of durable medical equipment. (management action – nonstatutory)

### **Fiscal Implication**

House Bill 2463 will reduce the number of DARS independent living services staff by 24 beginning in fiscal year 2017, which will result in net savings to General Revenue of \$70,177 and to federal funds of \$335,957 over the biennium from no longer paying benefits for those employees.



# TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES

*H.B. 1679 Raymond (Birdwell)*

*Staff Contact: Erick Fajardo*

Beginning in the 1960s, the federal government and, soon thereafter, state governments recognized that people with disabilities faced exclusion from many areas of public and private life because services at that time were predominantly oriented towards institutionalization. The federal government established state councils for developmental disabilities to explore a broader range of services beyond institutionalization, and to provide people with disabilities and their families access to the decision-making process on these services.

Today, Texas, like every U.S. state and territory, receives federal funding to maintain a state council for developmental disabilities. The Texas Council for Developmental Disabilities (TCDD) develops a state plan to identify and address the need for and availability of services for people with developmental disabilities; grants funds to projects that address these needs or demonstrate different ways to provide services; and educates the public and policymakers about disability issues. While the Sunset review of TCDD determined it should be continued, it found changes were needed to increase the effectiveness of TCDD's grant program. As a result of the Sunset review, House Bill 1679 continues TCDD for 12 years to enable the state to continue to receive federal funds to identify and address the most pressing needs of Texans with developmental disabilities to allow them to gain more control over their lives.

The following material summarizes results of the Sunset review of the Texas Council for Developmental Disabilities, including a management action that does not require a statutory change. For additional information see the *Texas Council for Developmental Disabilities Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Continuation**

- Continues the Texas Council for Developmental Disabilities for 12 years, until 2027.

## **TCDD Grants**

- Directs TCDD to track the five-year outcomes of grant projects designed to continue beyond the grant funding period and compare actual outcomes to intended outcomes. (management action – nonstatutory)

## **Fiscal Implication**

These provisions will not have a significant fiscal impact to the State.



# TEXAS EDUCATION AGENCY

*S.B. 214 Campbell (Dutton) — Texas Education Agency (Not Enacted)*

*H.B. 1786 Dutton (Campbell) — TEA Driver Training*

*Staff Contact: Skylar Wilk*

For the second consecutive legislative session, the Legislature did not pass the Sunset bill for the Texas Education Agency (TEA), instead continuing the agency for 10 years through separate legislation. The Legislature did adopt a separate Sunset bill containing the Commission's recommendations on transferring TEA's driver training program to the Texas Department of Licensing and Regulation (TDLR).

Initially reviewed in 2013, TEA's Sunset bill did not pass and the 83rd Legislature continued TEA for two years and focused this current Sunset review on evaluating the ongoing appropriateness of the original recommendations. Based on the re-examination, the Sunset Commission concluded that most of the previous recommendations were appropriate, and TEA continued to need statutory authority and direction to implement them. Sunset found that Texas clearly needs a state-level agency to oversee public education, but that changes are still needed to allow TEA to focus on its key duties and improve its effectiveness. To focus more on the agency's mission of ensuring the delivery of quality primary and secondary education, the Sunset Commission recommended moving regulation of the private driver training industry to a more appropriate agency and eliminating a variety of outdated and unnecessary statutory requirements. Sunset also found that the remaining duties of the State Board for Education Certification could be performed by the Commissioner of Education without the need for a separate governor-appointed board.

Thirty-four of the Sunset Commission's statutory recommendations were incorporated into Senate Bill 214, which was referred to the Senate Education Committee but never received a hearing. While S.B. 214 did not pass, the Legislature continued TEA for 10 years through separate legislation. Another seven Sunset Commission recommendations related to transferring the driver training program to TDLR were incorporated in House Bill 1786, which the Legislature did pass. The Legislature also adopted several Sunset Commission recommendations related to educator certification and educator preparation program regulation in other legislation.

The 83rd Legislature also directed the Sunset Commission to evaluate the contracting procedures used by TEA to enter into a contract with a provider to develop or administer student assessment instruments and present recommendations to the 84th Legislature. The Sunset Commission conducted this evaluation in conjunction with the limited scope review of TEA and made three nonstatutory recommendations directing TEA to address concerns about the oversight and transparency of the student assessment and other large contracts. These recommendations are intended to help ensure confidence that the State gets what it pays for and that the agency maintains an arms-length relationship with its vendors.

The following material summarizes results of the Sunset review of TEA, including management actions directed to the agency that do not require statutory change. For additional information see the *Texas Education Agency Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

### **Continuation**

- Continues TEA until 2025. (H.B. 3123)

### **Driver Training**

- Transfers the regulation of private driver training from TEA to the Texas Department of Licensing and Regulation. (H.B. 1786)
- Transfers the parent-taught driver education program from the Department of Public Safety to TDLR. (H.B. 1786)
- Requires the Commission of Licensing and Regulation to establish an advisory committee to provide technical expertise from the driver training industry. (H.B. 1786)
- Removes the statutory requirement to license driver training school directors, assistant directors, and administrative staff. (H.B. 1786)
- Removes fixed driver training fee amounts and fee caps from statute. (H.B. 1786)
- Requires TDLR to maintain information on driver training complaints. (H.B. 1786)
- Increases the driver training program's maximum administrative penalty from \$1,000 to \$5,000 per day, per violation. (H.B. 1786)
- Requires TDLR to use the State Office of Administrative Hearings to conduct hearings on driver training enforcement cases. (H.B. 1786)
- TEA and TDLR should develop a transition plan for the transfer of driver training regulation. (management action – nonstatutory)
- TDLR should develop performance measures that help ensure driver training complaint investigations are resolved in a timely manner. (management action – nonstatutory)
- TDLR should make public final driver training school disciplinary orders and sanctions on its website. (management action – nonstatutory)

### **Educator Certification**

- Requires charter school directors to meet the same certified educator misconduct reporting and investigation requirements as superintendents. (H.B. 1783)
- Requires superintendents and charter school directors to report any termination or resignation based on evidence that the certified educator solicited or engaged in sexual conduct or was involved in a romantic relationship with a student or minor. (H.B. 1783)
- Grants the commissioner administrative subpoena power to fully investigate certified educator misconduct cases. (H.B. 2205)

### **Educator Preparation Program Regulation**

- Establishes a five-year renewal process for educator preparation programs (EPPs) in statute. (H.B. 2205)
- Requires the State Board for Educator Certification to adopt rules to make information about how to file a complaint about an EPP accessible to EPP students and the public. (H.B. 2205)
- Requires the State Board for Educator Certification to establish a comprehensive risk-assessment model to guide the monitoring of EPPs. (H.B. 2205)
- Strengthens and clarifies the State Board for Educator Certification's authority to sanction EPPs for violations of laws or rules. (H.B. 2205)

### **Contracting**

- TEA should provide comprehensive information online about the student assessment procurement process and contracts to improve transparency. (management action – nonstatutory)
- TEA should allow sufficient time for vendors to submit proposals for major contracts. (management action – nonstatutory)
- TEA should provide more centralized contract oversight and develop monitoring plans for all major contracts. (management action – nonstatutory)

### **Fiscal Implication**

House Bill 1786 will result in a positive fiscal impact to the State of an estimated \$718,991 for the 2016–2017 biennium due to the lower cost of program operation for the driver training program at TDLR.



# TEXAS FACILITIES COMMISSION

*H.B. 3123 Price (Nelson)*

*Staff Contact: Steven Ogle*

In 2013, the 83rd Legislature passed Senate Bill 211 containing the Sunset Commission's recommendations on the Texas Facilities Commission (TFC), but separate legislation only continued TFC for two years and directed the Sunset Commission to evaluate the ongoing appropriateness of the original recommendations adopted by the Sunset Commission.

The Sunset Commission concluded that all of its previous recommendations remained appropriate and recommended continuing TFC for six years to align its review date with the Sunset reviews of the Department of Information Resources and Comptroller of Public Accounts' Texas Procurement and Support Services Division, the other state agencies that provide administrative support services.

The following material summarizes results of the Sunset review of TFC. For additional information see the *Texas Facilities Commission Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Continuation**

- Continues the Texas Facilities Commission for six years, until 2021.

## **Fiscal Implication**

This provision will not have a significant fiscal impact to the State.



# DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

*S.B. 206 Schwertner (Burkett) — Department of Family and Protective Services*

*S.B. 200 Nelson (Price) — Health and Human Services Commission*

*Staff Contact: Amy Tripp*

Aside from law enforcement, no other government agency is more directly involved in life-and-death decisions affecting Texans than the Department of Family and Protective Services (DFPS). Its responsibility to protect society's most vulnerable — children, elderly, and persons with disabilities — is as immensely challenging as it is important.

Child Protective Services (CPS), by far the largest and most visible DFPS program, operates in an uncertain, chaotic environment in which child deaths and other tragic events unfortunately happen. Despite the inherent difficulty of its protective mission, DFPS is expected to answer for every bad outcome. As a result, the agency frequently finds itself on the defensive and in a constant state of putting out fires and responding to crisis and criticism, creating a continual cycle of both legislative and self-imposed change in which outside pressures dominate its agenda.

Given the unique nature of this agency and its history of continual change and reform, the Sunset review's primary objective was to help DFPS better focus on and improve the more day-to-day aspects of managing its challenging work. To this end, the review resulted in a series of improvements to correct poor management practices that contribute to high CPS caseworker turnover, a problem that has long plagued the agency. Other action aims to improve overall CPS management, in areas such as planning, policy making and implementation, data analysis, and performance management. The Sunset review also resulted in changes designed to mitigate the risks of reforming the State's foster care system; strengthen enforcement of child care laws and regulations to better protect children in care, including foster care; and develop a more thoughtful approach to DFPS' prevention programs and provide a more robust continuum of services for children and families.

The primary goal of the agency's Sunset legislation is to provide DFPS with needed flexibility to remove unnecessary burdens on caseworkers and increase the time they spend with children and families, as separately addressed by a CPS operational assessment that coincided with the Sunset review. Senate Bill 206 contains many separate provisions that, taken together, further this goal by reducing unnecessary workload for caseworkers and the agency as a whole; providing DFPS with flexibility needed to make its processes more efficient; improving safety, permanency, and well-being of children in CPS cases; updating and eliminating archaic and unnecessary statutes; and conforming state law with federal law. S.B. 206 creates efficiencies and allows DFPS room to innovate in a variety of areas instead of being hemmed in by overly prescriptive statutes. The bill also includes various planning requirements to ensure DFPS has a long-term vision for future improvement that includes clear priorities, paths for implementation, and accountability for achieving results.

The following material summarizes results of the Sunset review of DFPS, including management actions directed to DFPS that do not require statutory changes. For additional information see the *Department of Family and Protective Services Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

### **Statutory Barriers to Improving Child Protective Services**

- Reduces unnecessary caseworker and overall agency workload.
  - Changes mandated timeline for DFPS to facilitate parent-child visitation after a removal from three days to five days to make this requirement feasible for caseworkers.
  - Authorizes DFPS to modify the form and contents of the health, social, educational, and genetic history report for a child, and provide this report to adoptive parents in lieu of the entire redacted case record under certain circumstances.
  - Allows flexibility in the method caseworkers use in providing notification of a permanency hearing to required parties.
  - Limits a requirement that DFPS provide a copy of a school investigation report to several specific parties, instead making this report available upon request.
  - Allows caseworkers to provide information on changes to a child's education decision maker, or the person authorized to make educational decisions on behalf of a child, through the permanency progress report instead of through a separate report.
  - Clarifies that an underlying CPS suit does not need to be transferred to the county in which an adoption petition is filed to save time and reduce administrative burden on caseworkers and the courts.
  - Eliminates a separate staffing and workload distribution plan, instead requiring DFPS to consider the goals of this plan, such as improving investigation quality, in developing the CPS business plan required elsewhere in the bill.
  - Provides a clear procedure for new trials in a CPS suit to avoid the need to file a new removal and promote efficiency for the agency and the courts.
- Provides DFPS with additional flexibility to make its processes more efficient by streamlining statute and removing overly prescriptive provisions.
  - Eliminates or modifies statutes mandating specific staffing and training requirements for CPS caseworkers and managers, including the content of caseworker training.
  - Eliminates specific casework documentation and management mandates.
  - Eliminates statutes requiring specific technology projects and systems and specific organizational or administrative structures.
  - Condenses and updates statutes governing permanency hearings and permanency progress reports before and after the final order.
  - Updates DFPS' required reporting statute, repealing other law that overly prescribes specific, and in some cases outdated, measures.

- Allows DFPS the flexibility to develop a new assessment tool for children placed in foster care and eliminates unnecessary detail regarding assessment of children for intellectual and development disabilities.
- Provides DFPS the flexibility to establish in rule a process for permanency planning meetings and eliminates overly prescriptive requirements in current law.
- Clarifies that DFPS must only establish multidisciplinary teams to provide services in CPS cases in jurisdictions in which a children's advocacy center has not been established.
- Consolidates and clarifies statutory requirements regarding notification of specific parties in a CPS suit of significant events affecting a child in conservatorship, such as a significant change in medical condition. Comprehensively lays out whom caseworkers must notify, notification timelines, and provides a definition of significant events.
- Provides DFPS with a good cause exception under limited circumstances to the current statutory requirement that all interviews with children in CPS investigations be recorded, including limiting this requirement to only interviews in which the allegations are discussed.
- Provides DFPS with a good cause exception to the current mandate of completing administrative reviews of investigative findings within 45 days.
- Eliminates a requirement that DFPS request a biological family pay for burial expenses of a child who dies in conservatorship.
- Eliminates overly prescriptive and outdated law regarding placement decisions.
- Eliminates a mandate that DFPS establish a county outreach program.
- Promotes child safety, permanency, and well-being.
  - Expands eligibility for the tuition and fee waiver for certain foster youth.
  - Requires sharing of juvenile probation information with DFPS regarding youth involved in both systems.
  - Ensures youth in foster care receive a copy and a certified copy of important records, such as a social security card, upon turning 16 years of age, and provides DFPS the flexibility to not provide certain records if the youth already has these upon turning 18.
  - Allows foster youth to stay in the same school despite placement changes.
  - Requires DFPS to conduct a criminal history check and complete a preliminary evaluation of a relative or designated caregiver's home before placing a child in the home. Requires DFPS to begin the full home study within 48 hours of placement, and complete the home study as soon as possible.
  - Requires DFPS to complete a home study of an adoptive home before placing a child in the home.
  - Requires schools to excuse a child's absence if an absence results from services or appointments required by the child's service plan.

- Broadens DFPS' background check authority to allow criminal background checks in any case DFPS determines necessary to ensure the safety and welfare of a child, elderly person, or person with a disability, instead of a specified list of parties as provided in current law.
- Updates and eliminates archaic and unnecessary statutes, and conforms state law with federal law.
  - Streamlines and updates statute governing the adoption assistance program, and eliminates outdated statute requiring DFPS to establish an adoptive parent registry.
  - Consolidates and clarifies DFPS' prevention and early intervention statutes.
  - Updates statute regarding a parent's service plan to reflect current best practice.
  - Eliminates an unnecessary process by which a court may declare a child "at-risk" since this process is not used by the courts and not needed by DFPS to provide services to children who need them.
  - Eliminates a process by which law enforcement can bypass CPS and place a child with a child-placing agency.
  - Clarifies DFPS' authority to consent to medical care for children in care regardless of the method of payment.
  - Clarifies DFPS' authority to pay for foster care to align with current practice.
  - Repeals several archaic provisions written at a time when CPS was not a state-level function and counties had more involvement in child protection.
  - Eliminates outdated and overly specific statutes regarding DFPS' duties and service delivery.
  - Repeals certain state statutes that duplicate the federal Multiethnic Placement Act to simplify the statute and reduce confusion.
  - Conforms state law to federal law regarding the criteria a court may use in making a finding of aggravated circumstances, in which a service plan and reasonable efforts at reunification are not required.
  - Eliminates a requirement duplicative of federal law that DFPS provide foster youth with their credit report on an annual basis.
  - Conforms state law to the federal Child Abuse Prevention and Treatment Act regarding grounds for termination of parental rights based on convictions of certain crimes.

### **Caseworker Retention**

- Directs DFPS to consolidate its existing workforce management functions under one operational unit and add additional critical functions to better support employees and systematically identify root causes of turnover. (management action – nonstatutory)
- Directs DFPS to dedicate certain existing caseworker positions to create a mentoring program to better support new CPS caseworkers. (management action – nonstatutory)
- DFPS should more clearly define its policy on the use of corrective performance actions, provide additional guidance to managers on appropriate use, and require centralized reporting of all level one actions. (management action – nonstatutory)

- DFPS should develop a systematic way of using turnover, when appropriate, as a tool for judging performance of CPS regional management. (management action – nonstatutory)
- CPS should revise its system for evaluating caseworker performance by better evaluating quality. (management action – nonstatutory)
- DFPS should provide guidance to managers on awarding merit pay to ensure transparency and consistent criteria for merit pay awards to foster increased morale and retention. (management action – nonstatutory)
- DFPS should establish a system for collecting confidential internal complaints. (management action – nonstatutory)
- DFPS should regularly do casework time studies to more accurately develop caseload goals and policies that are fair and attainable for caseworkers. (management action – nonstatutory)
- DFPS should develop a standardized and objective method for fairly and efficiently distributing cases. (management action – nonstatutory)

### **CPS Management**

- Requires DFPS to implement an annual CPS business planning process to prioritize activities and resources to improve the program and to coordinate with regional CPS staff in developing the plan. The bill requires the plan to include the following elements: long-term and short-term performance goals; identification of priority projects and ongoing initiatives that are clearly linked to these goals; and staff expectations, including specific tasks and resources needed and the expected outcome of each project and the process for measuring these outcomes.
- Directs DFPS to submit a progress report to the Sunset Commission in 2016 on changes made as a result of the CPS operational assessment. (management action – nonstatutory)
- Directs DFPS to comprehensively review and update the CPS policy and procedures handbook. (management action – nonstatutory)
- Directs CPS to develop a systematic approach to its policymaking process to ensure clear, updated policies and procedures that mitigate risk of noncompliance and staff confusion. (management action – nonstatutory)
- Directs DFPS to require CPS regions to fully document their protocols and practices, report these, and update them on a regular basis. (management action – nonstatutory)
- Directs CPS to develop a systematic, comprehensive approach to evaluating and monitoring regional performance, including a monitoring process to verify implementation. (management action – nonstatutory)
- CPS should develop a process to report results of staff surveys and other feedback mechanisms back to employees, including suggestions made and management actions taken. (management action – nonstatutory)
- Directs DFPS to ensure its planning efforts for IMPACT modernization support improvement and align with possible CPS operational changes. (management action – nonstatutory)

- Directs DFPS to develop a succession planning strategy, to prepare for impending retirements and provide opportunities for advancement to lower-level staff. (management action – nonstatutory)

### **Foster Care Redesign**

- Requires DFPS to develop and maintain a long-range foster care redesign implementation plan to guide the agency's transition efforts, and establishes the required contents of the plan. The Legislature added additional specificity to these requirements, such as requiring a contingency plan in case a contract ends prematurely.
- DFPS should thoroughly evaluate system data and cost before pursuing broad implementation of foster care redesign. (management action – nonstatutory)
- DFPS should develop a consistent approach to measuring and monitoring provider quality and identifying risk indicators in both the legacy and redesigned systems. (management action – nonstatutory)
- The executive commissioner of the Health and Human Services Commission (HHSC) should adopt rules for DFPS' use of foster care advisory committees, ensuring the groups meet the structural and operational needs for advancing the agency's goals. (management action – nonstatutory)

### **Child Care Licensing Enforcement and Fees**

- Authorizes DFPS to assess administrative penalties for high-risk child care licensing violations without first pursuing non-monetary administrative sanctions.
- Requires DFPS to develop an enforcement policy in rule to guide child care licensing enforcement efforts, and require a specific methodology to be publicly available.
- Grants cease-and-desist authority to DFPS limited to the unlicensed provision of child care in accordance with child care laws. The bill also authorizes DFPS to impose an administrative penalty for any person who violates a cease-and-desist order.
- Eliminates DFPS' statutory licensing and administrative fee caps and requires the executive commissioner to set fees in rule.
- Requires DFPS to implement a renewal process for child care licenses and registrations and requires the executive commissioner to adopt rules establishing a renewal process.
- Directs DFPS to develop a more robust quality assurance process for standards cited that directly relate to child safety. (management action – nonstatutory)
- Directs DFPS to transition to online child care licensing fee collections. (management action – nonstatutory)

### **Use of Data**

- DFPS should add an additional measure of recidivism linked to the alleged perpetrator. (management action – nonstatutory)
- The agency should clarify and standardize the use of unsure case findings. (management action – nonstatutory)

- DFPS should broaden its child fatality investigation review to include a sample of all fatality investigations. (management action – nonstatutory)
- The agency should develop a clear and consistent policy for referring families to services. (management action – nonstatutory)
- DFPS should develop more specific outcome measures for Family-Based Safety Services. (management action – nonstatutory)
- DFPS should monitor the use and evaluate the effectiveness of investigation resources. (management action – nonstatutory)

### **Prevention and Early Intervention**

- Requires DFPS to develop a five-year comprehensive strategic plan for its prevention and early intervention services and specifies the required contents of the plan and requirements DFPS is to follow in developing the plan.
- Transfers the Nurse Family Partnership from the Health and Human Services Commission to DFPS. (S.B. 200)
- Transfers the Texas Home Visiting Program from HHSC to DFPS. (S.B. 200)
- Transfers the Pregnant Post-Partum Intervention Program and the Parenting Awareness and Drug Risk Education Program from the Department of State Health Services to DFPS. (S.B. 200)
- Directs DFPS to develop a strategy to use existing data to better focus its prevention efforts and report the outcomes of its programs. (management action – nonstatutory)

### **Stakeholder Input**

- Requires the HHSC executive commissioner to adopt rules governing the use of advisory committees, ensuring committees meet standard structure and operating criteria.
- Removes DFPS' two advisory committees from statute, the Parental Advisory Committee and the Advisory Committee on Promoting the Adoption of Minority Children.
- Directs DFPS to clearly define in agency policy the appropriate use of advisory committees and informal workgroups.
- Directs DFPS to establish in rule the Advisory Committee on Promoting Adoption of Minority Children. (management action – nonstatutory)

### **Other**

- Requires DFPS to conduct a study by December 31, 2016 to determine whether authorization agreements should be expanded to include agreements between a parent of a child and a nonrelative.
- Requires DFPS to allow providers to home school children in substitute care unless a court determines home schooling is not in the child's best interest or has limited the right of DFPS to allow home schooling; or DFPS determines federal law requires another school setting.

- Requires DFPS' complaints division to conduct informal reviews requested by individuals subject to a CPS investigation, instead of CPS supervisors as provided by current law.

**Continuation**

- Continues DFPS as an independent agency under the HHSC umbrella until 2023. (S.B. 200)

**Fiscal Implication**

Fiscal implications for the DFPS review result from a combination of management actions and statutory changes made by S.B. 206. These recommendations have a cost of \$1.58 million in fiscal year 2016, as a result of a one-time expenditure of \$1.4 million needed to implement the child care license and registration renewal process required by the bill as well as the \$181,000 annual cost of hiring three additional full-time equivalent employees to resolve internal complaints and monitor employee retention issues. Beginning in fiscal year 2017, the recommendations will have a net positive impact of \$279,000 annually resulting from savings associated with DFPS moving to online child care license and registration fee collections.

# HEALTH AND HUMAN SERVICES COMMISSION AND SYSTEM ISSUES

*S.B. 200 Nelson (Price) — Health and Human Services Commission*

*S.B. 203 Nelson (Raymond) — Texas Health Services Authority*

*S.B. 207 Hinojosa (Gonzales) — Office of Inspector General*

*Staff Contact: Sarah Kinkle*

The Sunset review of health and human services in Texas showed a system fraught with problems ranging from duplicative services, to inefficient organization, to poor contracting practices. All of these problems affect the ability of Texans to receive needed and efficient services. The resulting Sunset legislation passed by the 84th Legislature addresses these concerns by consolidating and reorganizing the state's agencies and programs that deliver human services.

Senate Bill 200, the Health and Human Services Commission (HHSC) Sunset bill, consolidates three of the five health and human services system agencies as well as other functions to create a more unified system organized along functional lines. Such reorganization of the system intends to help address the system's largest organizational problems, including blurred accountability, ongoing fragmentation of similar programs and services, and organizational misalignments, which have real significance for how these programs run and how clients are served.

Problems with performance of administrative support services — especially contracting — are emblematic of the challenges confronting the system. A high-profile contracting scandal at HHSC amply demonstrated the pitfalls of the current structure of the system, and led the Legislature to apply many of the Sunset Commission's fixes for contracting within the health and human services system to address statewide contracting reform through Senate Bill 20.

Other provisions in the HHSC Sunset bill made changes to administration of the Medicaid program, not only to improve the program's efficiency and effectiveness, but to help ease the transition for the vulnerable populations scheduled to come into managed care. Provisions in the bill improve the state's oversight of managed care organizations, promote improved quality of care to clients, and finally implement efforts that have been delayed for years to fix the lengthy and burdensome provider enrollment process.

Regarding NorthSTAR, a program providing behavioral health services to both Medicaid and indigent clients in the Dallas area, the Sunset Commission recommended ending the model in favor of an updated approach to delivering behavioral health services that integrates behavioral and physical health and allows access to federal funds. In line with this recommendation, House Bill 1, the General Appropriations Act, provided for the model's funding to transition to new models that can accommodate the changed landscape in delivery of behavioral health services.

Beyond the larger agency consolidation, the Sunset Commission also recommended consolidation of two of the state's three women's health programs. For the first time ever, removal of federal restrictions this biennium freed the Legislature to address the patchwork of confusing services to clients and burdensome

administrative requirements on providers. House Bill 1 moved and consolidated women's health budget strategies under HHSC to help take advantage of this opportunity for streamlining and consolidation to benefit everyone involved: clients, providers, and the State.

Over the next few years, Senate Bill 200 also removes from statute most of HHSC's many advisory committees, instead requiring the HHSC executive commissioner to establish and maintain advisory committees across all major areas of the agency. Public and stakeholder input is critical to the proper functioning of the health and human services system. Streamlining the operations of HHSC advisory committees will help eliminate the crush of these bodies frequently meeting on the same topics, preventing efficient discussion of overlapping subject matters across multiple committees, confusing effective stakeholder input, and adding to the burdens of an overworked staff to manage so many committees and meetings.

In the first comprehensive evaluation of the Office of Inspector General (OIG) since its creation in 2003, the Sunset review of OIG provides a roadmap to fix this broken entity characterized by its lack of fair, defensible processes and demonstrated results, and of its lead role in the contracting scandal that shook HHSC. Senate Bill 207, OIG's Sunset bill, included a series of recommendations intended to focus OIG on its core responsibilities and strengthen and structure its processes, such as the credible allegation of fraud payment hold process, to dismantle the perception that OIG makes up the rules as it goes to back its "gotcha" approach.

The Sunset review also provided the opportunity to look at two other entities with their own Sunset dates, the Interagency Task Force for Children with Special Needs and the Texas Health Services Authority (THSA). Senate Bill 200 removed the Task Force, along with three similar children-related committees, from statute to enable HHSC to establish one committee to address the inter-related issues concerning children with special needs. Senate Bill 203, the separate Sunset bill for THSA, provided for THSA, currently a public nonprofit corporation, to take its market-based approach fully into the private marketplace in 2021 to assist in the development of health information exchanges in Texas.

The following material summarizes results of the Sunset review of the Health and Human Services Commission, including management actions directed to HHSC that do not require statutory changes. For additional information see the *Health and Human Services Commission and System Issues Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

### **Consolidation and Reorganization of the Health and Human Services System**

- Consolidates the functions of the Department of Assistive and Rehabilitative Services (DARS) and the Department of Aging and Disability Services (DADS) at HHSC in a phased, two-year approach to be completed by September 1, 2017.<sup>1</sup> Maintains the Department of State Health Services (DSHS) and the Department of Family and Protective Services (DFPS) as independent agencies within the health and human services system focused on their primary public health and protective services missions.
- Transfers to HHSC all client services, regulatory functions, state institutions from across the system, as well as administrative support services functions that can practicably be consolidated, by September 1, 2017.
- Requires an HHSC organizational structure along functional lines, including, at a minimum, Medical and Social Services, Regulatory, Facilities, Administrative, and Office of Inspector General Divisions.

- Creates a Transition Legislative Oversight Committee composed primarily of legislators to oversee the reorganization.
- Establishes an Office of Policy and Performance to serve as a “think tank” for improving performance, assisting in the reorganization, and managing change on an ongoing basis.
- Establishes an executive council composed of HHSC division directors and agency heads, as well as other individuals as determined by the executive commissioner, to take public input as well as input from the system’s advisory committees.

### **Oversight of System Administrative Support Functions**

- Establishes guiding principles in law to ensure accountability, workability, and clear communication in HHSC’s mandate to consolidate administrative support services.
- Requires HHSC to provide more high-level oversight of contracting throughout the system, formalize a reporting structure for penalties, and define a system to escalate attention on large, problematic contracts to HHSC executive management. (management action – nonstatutory)
- Gives clear authority to HHSC to oversee information technology (IT) throughout the system, to prepare and maintain a comprehensive IT plan, to consolidate authority for system networking and customer support, and to put in place an IT security system meeting minimum standards consistent across all agencies. (management action – nonstatutory)
- Consolidates rate setting for the health and human services (HHS) system at HHSC. (management action – nonstatutory)
- Elevates oversight and coordination of data to better manage, use, and share system data for improved service delivery. (management action – nonstatutory)

### **Medicaid**

- Requires HHSC to regularly evaluate the appropriateness of performance data requested of managed care organizations and to develop a dashboard identifying key performance data for agency leadership.
- Directs HHSC to comprehensively evaluate data and trends for Medicaid on an ongoing basis. (management action – nonstatutory)
- Directs HHSC to develop a system to automate data entry for data reported by managed care organizations. (management action – nonstatutory)
- Streamlines the Medicaid provider enrollment and credentialing processes by creating an enrollment portal and working toward consolidating both processes.
- Streamlines provider criminal history background checks by limiting OIG’s involvement to providers not already subject to fingerprint-based checks by state licensing boards, and requiring OIG background checks to be complete within ten business days.
- Requires OIG and HHSC to define in rule their respective roles and purpose of managed care audits and to coordinate all audit activities.

- Directs HHSC to redefine the role of its prescription drug program to provide better oversight of managed care organizations. (management action – nonstatutory)
- Eliminates the Pharmaceutical and Therapeutics Committee, transfers its functions to the Drug Utilization Review Committee, and expands and repurposes the board’s membership.
- Expands the Medical Care Advisory Committee’s membership to include managed care representation.
- Requires HHSC to study aspects of network adequacy for Medicaid managed care organizations, and to report on non-emergent use of emergency departments. (management action – nonstatutory)

### **Quality of Health Care**

- Requires HHSC to develop a comprehensive, coordinated operational plan to align HHSC’s initiatives to improve the quality of healthcare and specifically to coordinate efforts to ensure consistency across state contracts, oversight of managed care organizations, and other aspects related to the delivery of health and human services. (management action – nonstatutory)
- Requires HHSC to develop a pilot program to promote wider use of incentive-based payments to Medicaid providers.
- Directs HHSC to include a requirement for use of incentive-based payments in managed care requests for proposals. (management action – nonstatutory)

### **Women’s Health Programs**

- Directs HHSC and DSHS to consolidate the Texas Women’s Health and Expanded Primary Care programs at HHSC, while leaving the Family Planning program unchanged. Moves funding for all women’s health programs under a single budget strategy, allowing for implementation of a consolidated women’s health program. Creates a Women’s Health Advisory Committee to provide recommendations to HHSC on the consolidation of women’s health programs.
- Directs HHSC to study the feasibility of automatically transitioning new mothers in Medicaid who would otherwise not be eligible for Medicaid to the new women’s health program. (management action – nonstatutory)

### **Behavioral Health**

- Discontinues the NorthSTAR behavioral health services model on December 31, 2016, and reallocates funding to other models for integrating behavioral health services and primary care in the Dallas area.
- Requires the state to promote maintenance of Medicaid eligibility statewide.
- Requires HHSC to monitor contracts with managed care organizations to ensure that they are complying with requirements to integrate behavioral health.

## Office of Inspector General

- Clarifies the roles and relationships between the executive commissioner and inspector general of HHSC and requires quarterly reporting to the executive commissioner, governor, and the Legislature.
- Requires a special purpose Sunset review of OIG in 2021.
- Requires OIG to establish criteria for conducting its investigations and sanctioning providers and to complete investigations within certain timeframes.
- Requires OIG to conduct quality assurance reviews and request a peer review, by the Association of Inspectors General or an equivalent organization, of the sampling methodology used in its investigative process.
- Defines OIG's role in managed care, including strengthened oversight of special investigative units and increased training for OIG and HHSC staff.
- Repeals the prohibition on participation in both the Health Insurance Premium Payment Program and Medicaid managed care.
- Allows OIG to share confidential drafts of investigative reports concerning child fatalities with DFPS.
- Requires better communication and coordination between OIG and HHSC program staff to avoid duplication of efforts.
- Directs OIG to promptly notify any harmed providers upon finding that a state employee, including an OIG employee, is suspected to have committed fraud. (management action – nonstatutory)
- Directs OIG to limit the scope of its internal affairs investigations to those that are most serious and that create the most potential for harm. (management action – nonstatutory)
- Directs OIG and HHSC to work together to transfer programs from OIG that are better situated within HHSC. (management action – nonstatutory)
- Directs OIG to establish a formal plan for reducing its backlog and improving inefficiencies in its investigative process. Directs OIG to track basic performance measures needed to monitor the efficiency and effectiveness of its investigative processes. (management action – nonstatutory)
- Requires OIG, and any OIG contractor that performs coding services, to comply with federal coding guidelines, including for diagnosis-related group validation and related audits. Requires the executive commissioner to develop rules that require OIG to communicate with and educate providers about diagnosis-related group validation criteria used in utilization reviews and audits.
- Allows OIG to conduct a performance audit of any HHS program or project, including audits relating to contracting procedures of HHSC or any HHS agency. Allows OIG to issue subpoenas without the approval of the executive commissioner.

### **Credible Allegation of Fraud Appeals**

- Streamlines the credible allegation of fraud (CAF) hold appeal hearing process, to more quickly mitigate financial risks to the state.
- Clarifies good cause exceptions for OIG's application of a CAF payment hold.
- Clarifies circumstances in which OIG has authority to place payment holds on providers.
- Disallows CAF holds for services that have received prior authorization but lack additional evidence of fraud.
- Amends the statutory definition of fraud.
- Requires OIG to pay the costs of CAF hold and overpayment hearings at the State Office of Administrative Hearings.
- Requires OIG to include, with written notice of a proposed recoupment of overpayment, information relating to the extrapolation methodology used to determine the amount of the overpayment.
- Removes the statutory right to two informal resolution meetings before an overpayment hearing and provides that informal resolution meetings are confidential and not subject to disclosure. Extends the deadline to request a hearing on an overpayment to 30 days from 15 days.
- Provides pharmacies audited by OIG or a federal contractor and not accused of fraud a right to an informal hearing.

### **Websites and Hotlines**

- Coordinates and consolidates most ombudsman services across the HHS system at HHSC.<sup>2</sup>
- Requires HHSC to create an approval process and standard criteria for all system websites, consolidating websites when necessary.
- Requires HHSC to create policies governing hotlines and call centers throughout the HHS system, consolidating hotlines and call centers when necessary.

### **Advisory Committees**

- Removes most advisory committees from statute and requires the executive commissioner to, at a minimum, re-establish advisory committees in major areas of agency operation by rule.
- Removes the Task Force for Children with Special Needs, the Children's Policy Council, the Council on Children and Families, and the Texas System of Care Consortium from statute and requires the executive commissioner to establish a single advisory committee to improve services and better coordinate advisory efforts for children with special needs.
- Requires HHSC to create a master advisory committee calendar, stream advisory committee meetings, and provide Internet service in committee rooms to ensure access to online meeting materials.

## Studies and Plans

- Requires a study to examine transferring the operation of the Austin State Hospital to a new facility.
- Requires development of a one-time strategic plan to reduce mortality from chronic respiratory diseases.
- Requires development of a one-time strategic plan to reduce mortality from human papillomavirus-associated cancer.

## Texas Health Services Authority

- Removes THSA from statute on September 1, 2021, allowing its functions to continue only in the private sector.
- Changes THSA's current board to ensure broader representation.

## Other

- Requires the executive commissioner to appoint a licensed Texas dentist as the Medicaid dental director.
- Modifies Supplemental Nutrition Assistance Program (SNAP) eligibility requirements for persons with a felony drug conviction.

## Sunset Reviews of Health and Human Services Agencies and Entities

- Requires a limited-scope Sunset review of HHSC in the biennium ending August 31, 2023, but HHSC is not subject to abolishment as a part of this Sunset review.
- Continues HHSC for 12 years until September 1, 2027.
- Continues DSHS and DFPS for eight years until September 1, 2023, including continuing the Texas Health Care Information Collection Program, requiring its functions to be reviewed with all other functions of DSHS.

## Fiscal Implication

Overall, none of these provisions will have a significant fiscal impact to the State. Consolidating the health and human services system will result in potentially large savings over time from more accountable operations, reduced fragmentation of services, and increased consolidation of functions. However, a lack of specific timing of functions to be consolidated, because such decisions will be laid out in a transition plan, prevent a detailed assessment of or timeframe for the costs and savings that will result from consolidation.

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<sup>1</sup> Senate Bill 208, the Sunset Bill on the Texas Workforce Commission (TWC), transfers vocational rehabilitation programs from DARS to TWC on September 1, 2016. All programs remaining at DARS would then transfer to HHSC.

<sup>2</sup> Offices not abolished are the Office of Independent Ombudsman for state supported living centers, Office of the State Long-term Care Ombudsman, and any other ombudsman office that is required by federal law.



# DEPARTMENT OF STATE HEALTH SERVICES

*S.B. 202 Nelson (Price) — Department of State Health Services*

*S.B. 200 Nelson (Price) — Health and Human Services Commission*

*Staff Contact: Katharine Teleki*

Ultimately, all of the Sunset Commission's statutory recommendations on the Department of State Health Services (DSHS) passed and became law, but not without considerable deliberation and discussion by the 84th Legislature.

DSHS is one of the most complex agencies in Texas government, with responsibility for more than 200 diverse programs and an ambitious mission to improve the health and well-being of all Texans. The Legislature envisioned a truly integrated health services organization when it created DSHS in 2003 through the merger of four agencies as part of the initial consolidation of health and human services. However, the Sunset Commission concluded that DSHS has failed to achieve this goal due to its overly broad focus and siloed organizational structure, and the 84th Legislature significantly reorganized and directed improvements to the agency's programs in several bills as a result.

The Sunset Commission's statutory recommendations resulting from its review of DSHS were incorporated into House Bill 2510 and reflected an overall need for DSHS to simply do its job better, particularly in areas of longstanding legislative concern such as state mental health hospitals, community behavioral health programs, and oversight of the state's public health system. The Sunset Commission also paid special attention to DSHS' wide array of regulatory programs and identified many occupational programs that could be deregulated with little risk to the public, or that would be better placed at other regulatory agencies to allow DSHS to focus on its primary public health responsibilities.

However, H.B. 2510 stalled when controversial amendments relating to abortion regulation were added on the House floor and the threat of a point of order sent the bill back to committee. As a result, the companion bill, Senate Bill 202, was stripped down to include only the Sunset Commission's recommendations to reduce DSHS' role in occupational regulation. With this narrower scope, the Legislature passed S.B. 202 deregulating eight DSHS regulatory programs, and transferring 17 others to the Texas Department of Licensing and Regulation (TDLR) and Texas Medical Board. The remaining Sunset recommendations to improve other DSHS programs such as behavioral health and public health were placed in five additional bills that passed through close collaboration and cooperation between the bill authors, as described below.

Of note, the Health and Human Services Commission (HHSC) Sunset bill, S.B. 200, makes structural changes to the health and human services system overall, including transferring many DSHS functions to HHSC while continuing DSHS as an independent but significantly focused public health agency under the HHSC umbrella. S.B. 200 also continues the State's role in collecting health care data as a program within DSHS, implementing Sunset's conclusion that this information plays an important role in monitoring and improving public health in Texas. See the *Health and Human Services Commission and System Issues Sunset Staff Report with Final Results* for more information on how DSHS' current functions will fit into the reorganized health and human services system.

The following material summarizes results of the Sunset review of DSHS, including management actions directed to DSHS that do not require statutory changes. For additional information see the *Department of State Health Services Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

### **Deregulation and Transfers of Regulatory Programs**

- Discontinues the state licensure, certification, and registration related to bottled and vended water, contact lens dispensers, opticians, personal emergency response systems, bedding, indoor air quality in state buildings, rendering, and tanning bed facilities. (S.B. 202)
- Transfers the following 13 regulatory programs from DSHS to TDLR in two phases over four years, and reconstitutes associated independent boards as advisory boards: athletic trainers, dietitians, dyslexia therapists and practitioners, fitters and dispensers of hearing instruments, midwives, orthotists and prosthetists, speech-language pathologists and audiologists, code enforcement officers, laser hair removal, massage therapists, mold assessors and remediators, offender education providers, and sanitarians. (S.B. 202)
- Transfers the following four regulatory programs from DSHS to the Texas Medical Board, creates associated boards and committees, and requires fingerprint background checks: medical physicists, medical radiologic technologists, perfusionists, and respiratory care practitioners. (S.B. 202)

### **State Mental Health Hospital System**

- Requires an updated, locally driven process for allocating and reviewing utilization of state mental health hospital beds among regions, with input from key stakeholders. (S.B. 1507)
- Directs DSHS to review current methods for allocating regional mental health funding and determine whether allocations match the prevalence of mental illness in associated regional populations. (management action – nonstatutory)
- Requires DSHS to work with the Court of Criminal Appeals to develop training to inform the judiciary about alternatives to inpatient mental health treatment. (S.B. 1507)
- Directs DSHS to develop a guide for alternatives to inpatient mental health treatment in the state mental health hospital system. (management action – nonstatutory)
- Directs DSHS and HHSC to immediately review and streamline hiring processes and improve other personnel actions needed to ensure state mental health hospitals are appropriately staffed. (management action – nonstatutory)
- Directs DSHS to continue expanding state mental health hospital system capacity for both forensic and civil patients by contracting with mental health providers in local communities whenever possible. (management action – nonstatutory)

### **Community Behavioral Health Programs**

- Requires DSHS to integrate mental health and substance abuse hotline, screening, assessment, and referral functions, while allowing continued participation by existing providers. (S.B. 1507)

- Requires DSHS, in collaboration with HHSC, to conduct a review to identify improvements to performance measurement, contract processing, and payment mechanisms for behavioral health services contracts with DSHS, and authorizes the use of a third party with expertise in health purchasing. (H.B. 1 – DSHS Rider 82)
- Requires DSHS to conduct a comprehensive review of contract funding requirements and standards governing community-based crisis and treatment facilities for persons with mental health and substance abuse disorders. (H.B. 1 – DSHS Rider 80)
- Directs DSHS to examine certain services for homeless individuals with mental illness. (management action – nonstatutory)

### **Emergency Medical Services (EMS) Regulation**

- Requires an EMS provider to have a physical location for its business establishment to obtain a license. (S.B. 1899)
- Requires an EMS provider to provide proof of ownership or a long-term lease agreement for all equipment necessary for safe operation of an EMS company, such as ambulances, stretchers, and defibrillators. (S.B. 1899)
- Authorizes DSHS to require jurisprudence examinations for all EMS licensees. (S.B. 1899)
- Clearly authorizes DSHS to take disciplinary action against EMS providers or personnel based on findings by a governmental entity with delegated authority to conduct inspections. (S.B. 1899)
- Requires DSHS to develop a formal process to refer nonjurisdictional complaints relating to EMS to appropriate organizations. (S.B. 1899)
- Requires DSHS to collect, maintain, and make publicly available detailed statistical information on complaints regarding EMS licensees while protecting the privacy of individual licensees. (S.B. 1899)

### **Public Health System**

- Requires DSHS to develop a comprehensive inventory of the roles, responsibilities, and capacity relating to public health services delivered by DSHS and local health entities. Requires DSHS to establish statewide priorities for improving the state's public health system and to create a public health action plan to effectively use state funds to achieve these priorities. (H.B. 1 – DSHS Rider 81)
- Directs DSHS to develop a system to categorize different types of local health departments based on the services they provide. (management action – nonstatutory)

### **Vital Statistics**

- Requires all local registrars to submit a self-assessment report to DSHS annually. (S.B. 200)
- Directs DSHS to develop a formal desk audit policy and increase the use of desk audits in monitoring local registrars' offices. (management action – nonstatutory)
- Requires identity verification through notarization for all mail-in vital records orders. (S.B. 200)

- Expands DSHS' authority to require fingerprint-based criminal history background checks for anyone with access to the state's electronic registration system. (S.B. 200)
- Directs DSHS to prioritize and regularly report on its progress implementing the Texas Electronic Vital Events Registrar system. (management action – nonstatutory)
- Directs DSHS to conduct a feasibility study for creating a single registry for births, deaths, marriages, and divorces in Texas. (management action – nonstatutory)

### **Texas Health Care Information Collection Program**

- Continues the Texas Health Care Information Collection Program and aligns its future Sunset review with DSHS, scheduled for 2023. (S.B. 200)
- Directs DSHS to improve how healthcare data is used by the agency and displayed for consumers, particularly outpatient data. (management action – nonstatutory)
- Directs DSHS to replace the current data certification process with an optional data validation process. (management action – nonstatutory)
- Directs DSHS to provide data to the state's Medicaid External Quality Review Organization so that HHSC can expand the Medicaid evaluation system to include the healthcare data collected by DSHS no later than September 1, 2015. (management action – nonstatutory)

### **Advisory Committees**

- Removes eight DSHS advisory committees from statute. (S.B. 277)
- Directs DSHS to re-establish active committee functions in rule as needed. (management action – nonstatutory)
- Directs HHSC to establish an enterprise-wide behavioral health advisory committee to provide regular input and recommendations to the HHSC executive commissioner regarding behavioral health programs across the health and human services system. (management action – nonstatutory)
- Directs DSHS to review and revise its internal advisory committee policies and to regularly evaluate all of its advisory groups. (management action – nonstatutory)

### **Fiscal Implication**

Sunset's recommendations enacted in S.B. 202 to streamline DSHS' regulatory functions will result in a loss of approximately \$1.3 million to the General Revenue Fund and a net increase of about 22 full-time state employees during the upcoming biennium.

The net loss of \$633,231 per fiscal year will result from the eight deregulated programs no longer collecting excess fees beyond the cost of regulation that are currently deposited into the General Revenue Fund. While deregulating eight programs will result in the elimination of about 12 state positions at DSHS, the overall net impact on state positions is positive because the Legislature appropriated about 34 more employees for the regulatory programs transferring to other agencies than DSHS currently uses to perform these functions. (The Legislature appropriated about 32 employees to TDLR and 29 to the

Texas Medical Board to support programs DSHS currently operates with about 27 staff). As required by law, all costs relating to the transfers, including funding for start-up costs and additional staff at the new agencies, must be covered by fee revenue collected from licensees.

The other provisions resulting from the Sunset review of DSHS, including those enacted by the Legislature in other bills, will not have a significant fiscal impact to the State.



# GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES

*H.B. 1678 Raymond (Schwertner)*

*Staff Contact: Erick Fajardo*

The Governor's Committee on People with Disabilities aims to further opportunities and full participation for Texans with disabilities. While the committee does not provide direct services, it has a limited but important role serving as a central source of information on a wide array of disability-related issues. The committee functions to influence state policy, educate people on disability-related laws, and raise awareness of the achievements of and barriers faced by people with disabilities, with the intention of enabling people with disabilities to achieve success and full integration into society.

Several of the committee's statutory requirements do not align with its primary purpose, duplicate the work of other governmental entities, are no longer necessary, or extend beyond what the committee can realistically accomplish. House Bill 1678, the committee's Sunset bill, removes these provisions to allow the committee to focus on its primary duties, including analyzing and identifying gaps in the state's various long-term plans for people with disabilities, rather than producing its own plan, and providing needed information about disability-related services and where to access them in a clear and user-friendly way.

The following material summarizes results of the Sunset review of the Governor's Committee on People with Disabilities, including management actions directed to the committee that do not require statutory change. For additional information see the *Governor's Committee on People with Disabilities Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Continuation**

- Continues the Governor's Committee on People with Disabilities for 12 years, until 2027.

## **Long-Range Plans for People with Disabilities**

- Requires the committee to identify certain long-range plans relating to persons with disabilities in this state, and to publish links to each long-range plan on the committee's website.
- Requires the committee to review and analyze these long-range plans to identify gaps in state laws and services for persons with disabilities and make recommendations in the committee's biennial report to address identified gaps.

## **Committee Functions and Funding**

- Removes statutory provisions that do not align with the committee's current purpose and resources.
- Directs the committee to provide information on disability-related services on its website. (management action – nonstatutory)

- Directs the Governor's Office and the committee to work together to re-evaluate the amount of funding necessary for the committee to carry out its functions, and to ensure its legislative appropriations request and budget reflect the actual fiscal needs of the committee. (management action – nonstatutory)

**Fiscal Implication**

None of these provisions will have a significant fiscal impact to the State.

# TEXAS COUNCIL ON PURCHASING FROM PEOPLE WITH DISABILITIES

*S.B. 212 Birdwell (Burkett)*

*Staff Contact: Erick Fajardo*

The Legislature established the State Use Program in 1975 as a partnership between state government and private nonprofit entities to promote employment opportunities for Texans with disabilities to allow them to achieve maximum independence. The Texas Council on Purchasing from People with Disabilities (TCPPD) serves as the oversight and policymaking body for the State Use Program and contracts with a central nonprofit agency to run the program's day-to-day operations. The central nonprofit agency, TIBH Industries, contracts with local Community Rehabilitation Programs (CRPs) that hire people with disabilities to provide goods and services for purchase through the program.

The Sunset Commission determined that despite the evolution of federal and state standards for employment services for people with disabilities, TCPPD and the State Use Program have not kept pace with these changes. TCPPD has not set meaningful goals or performance measures for the program and does not measure how people with disabilities actually benefit from the program. Without this information, it is unclear whether the supposed benefits the program provides outweigh the additional costs of the program to the State. Echoing the findings of four previous evaluations of TCPPD, Sunset also determined that contracting out all of the components of the program to the same contractor creates perceived conflicts of interest related to the pricing of goods and services and the oversight of CRPs. Senate Bill 212 remedies these problems by abolishing TCPPD, transferring oversight and administration of the State Use Program to the Texas Workforce Commission (TWC), and requiring TWC to establish an advisory committee to help set goals, objectives, and performance measures for the program.

The following material summarizes results of the Sunset review of TCPPD, including management actions now directed to TWC that do not require statutory changes. For additional information see the *Texas Council on Purchasing from People with Disabilities Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Abolishment and Transfer**

- Abolishes the Texas Council on Purchasing from People with Disabilities.
- Transfers oversight and administration of the State Use Program to TWC.
- Subjects TWC's administration of the program to Sunset review in 2021 to align its review with the Sunset reviews of the state's other purchasing programs.

## **Program Goals and Evaluation**

- Requires TWC to set goals, objectives, and specific performance measures for the program, as well as CRP certification standards.

- Directs TWC and the comptroller's office to work with the central nonprofit agency to study the cost to the State of continuing to administer the State Use Program. (management action – nonstatutory)
- Directs TWC to re-evaluate the process for conducting CRP compliance monitoring. (management action – nonstatutory)

### **Advisory Committee**

- Requires TWC to establish an advisory committee to help set program goals and CRP certification standards.
- Specifies the committee consists of 13 members appointed by TWC, including:
  - four representatives from participating CRPs;
  - four representatives from organizations that advocate for people with disabilities;
  - the executive commissioner of the Health and Human Services Commission or designee; and
  - four people with disabilities, two of whom are employed by a CRP that participates in the program.

### **Fiscal Implication**

None of these provisions will have a significant fiscal impact to the State. TWC will negotiate the program's management fee to incorporate and cover any additional costs of administering and overseeing the program, including costs associated with supporting the advisory committee. TWC will retain the program's current, one full-time employee and estimates the need for two additional full-time employees.

# SELF-DIRECTED SEMI-INDEPENDENT STATUS OF STATE AGENCIES

*S.B. 217 Hinojosa (Gonzales) — Not Enacted*

*Staff Contact: Steven Ogle*

Although the 83rd Legislature required the Sunset Commission to develop recommendations for the administration of the State's self-directed semi-independent (SDSI) process, the 84th Legislature did not pass the Sunset bill containing these recommendations. The eight state agencies that currently have SDSI status would have been affected by the Sunset Commission recommendations. However, since the agencies themselves and their SDSI status were not under Sunset review specifically, the agencies will continue to operate as SDSI agencies.

The Sunset Commission concluded the State lacks a comprehensive approach to granting, overseeing, and revoking SDSI status resulting in agencies being granted SDSI status in a haphazard way, with inconsistent ongoing oversight. The Commission recommended that the Legislative Budget Board develop and oversee an application process for all agencies seeking SDSI status, and provide ongoing monitoring for State agencies with SDSI status. In addition, the Commission found that having SDSI agencies operating under different SDSI statutes limits effective oversight of these agencies and recommended placing all the SDSI agencies under the SDSI Act.

The Sunset Commission's statutory recommendations were incorporated into Senate Bill 217. The Senate passed the bill, with changes made to accommodate each of the agencies that would have been placed under the SDSI Act, but in the end, Senate Bill 217 never passed out of the House State Affairs Committee. The Legislature did support the Sunset Commission's recommendation to establish a moratorium on expanding SDSI status during the 84th Legislative Session by not granting SDSI status to any new agencies.

For additional information see the *Self-Directed Semi-Independent Status of State Agencies Staff Study with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).



# UNIVERSITY INTERSCHOLASTIC LEAGUE

*S.B. 213 Birdwell (Price) — Not Enacted*

*Staff Contact: Emily Johnson*

Despite placing the University Interscholastic League (UIL) under Sunset review for the first time in the organization's over 100-year existence, the Legislature did not pass UIL's Sunset bill. However, UIL was not subject to abolishment under the Texas Sunset Act and will continue administering interscholastic competitions for primary and secondary students across Texas.

Through its review of UIL, the Sunset Commission concluded UIL generally does a good job performing its core function — administering state contests — but identified needed changes to clarify its status as a state agency that is part of the University of Texas at Austin and make its operations more transparent. Additionally, the Sunset Commission found the statewide steroid testing program is no longer effective and that additional measures are needed to promote the health and safety of student athletes. The Sunset Commission's statutory recommendations were incorporated into Senate Bill 213. The Senate passed the bill with minor modifications, but in the end, S.B. 213 was never considered in the House Public Education Committee.

The following material lists management actions recommended by the Sunset Commission for implementation by UIL that do not require statutory changes. These management actions address UIL's rules, budget process, and hearings procedures, and will help make the organization's operations more understandable and improve its accountability to member schools, participants, and the public. For additional information see the *University Interscholastic League Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## UIL Constitution and Contest Rules

- Directs UIL to rewrite and reorganize its *Constitution and Contest Rules*. (management action – nonstatutory)
- Directs the full Legislative Council to approve UIL's annual budget recommendations. (management action – nonstatutory)
- Directs UIL to improve how it tracks and reports all contest revenues and expenses. (management action – nonstatutory)

## Hearings Procedures

- Directs UIL to establish detailed procedural rules for its enforcement hearings. (management action – nonstatutory)
- Directs UIL to create penalty guidelines and a precedents manual for its enforcement and eligibility determination processes. (management action – nonstatutory)

**Health and Safety**

- Directs UIL to modify the makeup of its Medical Advisory Committee to include 11 voting and three non-voting members, and requires the committee to develop an information sheet about the dangers of human growth hormone and synthetic drugs. (management action – nonstatutory)
- Directs UIL to establish a collaborative relationship with the UT Southwestern Medical Center’s Texas Institute for Brain Injury and Repair. (management action – nonstatutory)

**Fiscal Implication**

None of these provisions will have a fiscal impact to the State.

# TEXAS WORKFORCE COMMISSION

*S.B. 208 Campbell (Burkett)*

*Staff Contact: Emily Johnson*

The most significant change resulting from the Sunset review of the Texas Workforce Commission (TWC) is the transfer to TWC of services to assist people with disabilities in finding jobs, currently provided through the Department of Assistive and Rehabilitative Services (DARS). With DARS also under review, the Sunset Commission identified serious concerns with DARS management and ability to assist its consumers in finding work. In contrast, TWC was well-managed, with strong ties to employers and an established system of local, one-stop centers to assist people with a wide range of employment needs. Thus, Senate Bill 208 transfers DARS' Vocational Rehabilitation Program, along with its funding and staff, to TWC to address the long-standing problems at DARS and improve employment outcomes for people with disabilities.

Other changes made through Senate Bill 208 improve existing programs at TWC. One of TWC's core functions involves administering the state's unemployment insurance (UI) program. The bill makes changes to enable TWC to use federal offsets to recover millions of dollars of unemployment compensation debt, helping to keep Texas' UI fund solvent and reduce or delay the need for future UI tax increases. The bill also streamlines oversight of the agency's Civil Rights Division, which investigates complaints of employment and housing discrimination, by eliminating its separate seven-member board, a holdover from when the division was a separate state agency. Going forward, the division will answer to the agency's three-member commission, as do all other divisions.

Senate Bill 208 strengthens the accountability of TWC's \$489 million subsidized child care program, a workforce support for low-income parents. The changes improve the program's data collection and evaluation to better achieve employment goals for the parents receiving the assistance, while also ensuring quality care for their children. TWC also regulates privately owned career schools and colleges, and the bill ensures potential students' access to reliable information to gauge a school's performance. Other concerns addressed by the Sunset review of TWC involve ensuring better consistency in the agency's handling of wage complaints and better access to written materials discussed in the agency's open meetings. Finally, Senate Bill 208 continues TWC for 12 years.

The following material summarizes results of the Sunset review of TWC, including management actions directed to TWC that do not require statutory change. For additional information see the *Texas Workforce Commission Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Vocational Rehabilitation**

- Requires the transfer of responsibility for the Vocational Rehabilitation, Business Enterprises of Texas, and Older Blind Independent Living programs, as well as the Criss Cole Rehabilitation Center from DARS to TWC, subject to the necessary federal approval, on September 1, 2016. The Rehabilitation Council of Texas is also included in the transfer. The bill requires the Health and Human Services Transition Legislative Oversight Committee to oversee the transfer of the Vocational Rehabilitation and related programs from DARS to TWC. TWC, DARS, and the Health and Human Services Commission (HHSC) must work together to develop and submit

to the Legislative Oversight Committee a transition plan as soon as practicable after September 1, 2015, to ensure the transfer and integration is accomplished in a careful and deliberate manner with minimal disruption to consumers. The bill also requires TWC to integrate DARS' vocational rehabilitation staff into local workforce boards and centers no later than August 31, 2018.

- Directs TWC to work with DARS and HHSC to ensure the efficient transition of the Vocational Rehabilitation and related programs. (management action – nonstatutory)
- Directs TWC to integrate the newly transferred programs within the workforce system in a manner that minimizes any disruption in client services and satisfies federal requirements, so that federal funds are not jeopardized. (management action – nonstatutory)
- Requires TWC, in coordination with DARS, to integrate administration, management, and oversight of DARS' blind and general Vocational Rehabilitation programs by October 1, 2017, to eliminate administrative duplication and better serve consumers.
- Requires TWC to partner with the Texas Education Agency to develop a mechanism to target schools with the highest need for vocational rehabilitation services for students with disabilities who are transitioning from school to work.
- TWC, in conjunction with DARS, should develop a transition plan for the integration of the administration, management, and oversight of the blind and general Vocational Rehabilitation programs, no later than September 1, 2016. (management action – nonstatutory)
- Directs DARS to take immediate steps to ensure access to services for people with multiple disabilities, no matter which division offers the services. TWC should continue this responsibility once the transfer of vocational rehabilitation services occurs. (management action – nonstatutory)
- TWC should create clear, validated guidelines for vocational rehabilitation counselors to ensure better decision making for successful, cost-effective outcomes. (management action – nonstatutory)
- TWC should create a robust and consistent case review system for the Vocational Rehabilitation Program, no matter the nature of a person's disability. (management action – nonstatutory)
- TWC should designate staff to monitor performance of vocational rehabilitation services statewide and within each local board area. (management action – nonstatutory)
- Directs TWC and DARS to ensure employer relations staff from DARS' blind and general Vocational Rehabilitation programs are consolidated and work in tandem with their TWC counterparts to build and expand business relationships to increase employment opportunities for people with disabilities. (management action – nonstatutory)
- Directs DARS to develop a strategy for assisting federal contractors to hire individuals with disabilities, and to task its employer relations staff with researching and anticipating similar federal or state initiatives in the future. TWC would carry out this strategy after vocational rehabilitation functions are transferred. (management action – nonstatutory)

### **Treasury Offset**

- Authorizes TWC to participate in the federal treasury offset program to recover outstanding unemployment compensation debts.

## Civil Rights Division

- Transfers the powers and duties of the Human Rights Commission to the Texas Workforce Commission.
- Eliminates the requirement for the Civil Rights Division to review fire department exams for discriminatory factors.
- Requires TWC, as part of the division's annual report, to provide data on the number and type of state agency employment discrimination complaints with merit.
- Requires TWC to develop risk assessment criteria in rule for determining when an agency could be subject to review more frequently than the regular six-year schedule.
- Requires TWC to charge state agencies a rate that covers the costs of reviewing their personnel policies and procedures and annually reassess reimbursement rates to ensure true cost recovery.
- Directs TWC to assist the division in making improvements to electronically track data from state agency personnel policy reviews and use this data to better manage the review process. (management action – nonstatutory)

## Child Care

- Requires TWC to include more in-depth data on the effectiveness and outcomes of child care subsidies in its statutorily required report on the program.
- Directs TWC to study potential methods of providing incentives for parents participating in the child care subsidy program to choose providers with a Texas Rising Star quality designation and include the results in its 2017 report to the Legislature. (management action – nonstatutory)
- Requires TWC to establish a process in rule providing for regular review of the Texas Rising Star child care quality standards.
- Requires TWC to develop a policy on gathering and using stakeholder input regarding the child care program.
- Directs TWC to evaluate measures of the child care program's effectiveness in its internal monthly performance analysis. (management action – nonstatutory)
- Directs TWC to establish baseline board-level data on the Texas Rising Star program and evaluate impacts and trends as program changes progress. (management action – nonstatutory)
- Directs TWC to regularly gather feedback from boards on the quality of TWC's assistance in managing the child care program. (management action – nonstatutory)
- Directs TWC to establish and regularly update a consolidated policies and procedures manual for the child care program. (management action – nonstatutory)

## Career Schools

- Requires TWC to make information on career school enforcement actions available to the public on its website, including each school's administrative penalties, program revocations, and enrollment suspensions.

- Directs TWC to study the costs, benefits, and impact on employers of collecting employee occupational information as part of employers' quarterly wage reports, and report its findings to the Legislature by December 1, 2016. (management action – nonstatutory)
- Directs TWC to provide a link to its Reality Check tool on its career schools webpage. (management action – nonstatutory)

### **Appeals Process and Public Information**

- Directs TWC to create a searchable and publicly accessible precedent manual for wage disputes. (management action – nonstatutory)
- Directs TWC to establish procedures and criteria for determining when policies clarified through precedents would be more appropriate for rulemaking. (management action – nonstatutory)
- Directs TWC to provide greater public access to written materials up for discussion in its open public meetings to facilitate the public's ability to follow and understand deliberations. (management action – nonstatutory)
- Requires TWC to make wage claim notices available to employees in English and Spanish and ensure employees are notified of their ability to request notice in either language.

### **Continuation**

- Continues the Texas Workforce Commission for 12 years.

### **Fiscal Implication**

Overall, Senate Bill 208 would result in a positive fiscal impact to the State of \$43 million beginning in fiscal year 2017, decreasing to \$25.7 million by fiscal year 2020.

Authorizing TWC to participate in the federal treasury offset program comprises the largest portion of the overall positive fiscal impact, resulting in an estimated revenue gain to the State of approximately \$47.7 million in fiscal year 2017, the first year that collections would start, all of which would be a gain to Texas' UI Trust Fund. In later fiscal years, gains would continue but at decreasing amounts of \$39.1 million in 2018, \$32.4 million in 2019, and \$28.1 million in 2020.

Transferring vocational rehabilitation services from DARS to TWC would have an estimated net cost of \$4.6 million in fiscal year 2017, decreasing to \$2.4 million in following years. This amount includes a cost to HHSC of \$6.9 million to cover the loss of a major portion of DARS' share of administrative support costs shared across the health and human services system. These HHSC costs would be reduced by savings of \$2.2 million in fiscal year 2017 from consolidation of DARS two separate Vocational Rehabilitation programs. In later years, savings would increase to \$4.5 million from further consolidation of vocational rehabilitation staff and their integration into local workforce centers. The vocational rehabilitation changes would also result in a reduction of six state employees in fiscal year 2017, increasing to a reduction of 27 state employees.

# TEXAS WORKFORCE INVESTMENT COUNCIL

*H.B. 1606 Burkett (Hinojosa)*

*Staff Contact: Kay Hricik*

Texas serves as a national model for its workforce development system. Because states depend heavily on federal funding to maintain workforce programs, federal law sets parameters for how states structure their workforce development programs. All states must have a workforce investment board to plan, evaluate, and coordinate services. In Texas, the Texas Workforce Investment Council (council) has been serving this function since 1993. Because Texas was ahead of the game in developing an effective workforce system, the council is allowed to maintain its composition and duties under current federal law through a grandfather clause. The Sunset Commission determined that not maintaining the council, or a similar function, could result in the loss of about \$160 million in federal funding to Texas. House Bill 1606, the council's Sunset bill, continues the council for 12 years and aligns its Sunset review with that of the Texas Workforce Commission.

To improve efficiency, the bill also abolishes the Texas Skill Standards Board, an advisory board for the development of a statewide system of industry-defined and industry-recognized skill standards and credentials, and transfers its powers and duties to the council. The board has accomplished most of its key tasks and its remaining duties are easily assumed by the council, resulting in a more efficient administration of related workforce development functions under a single entity.

The following material summarizes results of the Sunset review of the council. For additional information see the *Texas Workforce Investment Council Staff Report with Final Results* available on the Sunset Commission website at [www.sunset.texas.gov](http://www.sunset.texas.gov).

## **Continuation**

- Continues the Texas Workforce Investment Council for 12 years.
- Aligns the council's Sunset review with that of the Texas Workforce Commission.

## **Transfer**

- Abolishes the Texas Skill Standards Board and transfers its powers and duties to the council.

## **Fiscal Implication**

None of these provisions will have a significant fiscal impact to the State.



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# APPENDIX



# APPENDIX

## *Sunset Review Schedule — 2017*

### **24 Reviews**

Bar of Texas, State

Chiropractic Examiners, Texas Board of

Counselors, Texas State Board of Examiners of Professional

Dental Examiners, State Board of

Employees Retirement System of Texas, Board of Trustees of

Law Examiners, Board of

Marriage and Family Therapists, Texas State Board of Examiners of

Medical Board, Texas

- Acupuncture Examiners, Texas State Board of
- Medical Physicist Licensure Advisory Committee
- Medical Radiologic Technology, Texas Board of
- Perfusionist Licensure Advisory Committee
- Physician Assistant Board, Texas
- Respiratory Care, Texas Board of
- Surgical Assistants Licensure Advisory Board

Nursing, Texas Board of

Occupational Therapy Examiners, Texas Board of

Optometry Board, Texas

Pharmacy, Texas State Board of

Physical Therapy and Occupational Therapy Examiners, Executive Council of

Physical Therapy Examiners, Texas Board of

Podiatric Medical Examiners, Texas State Board of

Psychologists, Texas State Board of Examiners of

## ***Appendix***

Railroad Commission of Texas

River Authorities

- Central Colorado River Authority
- Palo Duro River Authority
- Sulphur River Basin Authority
- Upper Colorado River Authority

Social Worker Examiners, Texas State Board of

Transportation, Texas Department of

Veterinary Medical Examiners, State Board of