

SUBJECT: Continuation of the Texas Commission for the Blind

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Naishtat, Maxey, Christian, J. Davis, Noriega, Telford, Truitt, Wohlgemuth

0 nays

1 absent — Chavez

WITNESSES: For — Tommy Craig, National Federation for the Blind of Texas; Edward Guerra, American Council for the Blind; Redge Westbrook, Coalition for Texans with Disabilities

Against — None

On — Terry Murphy, Texas Commission for the Blind

BACKGROUND: The Texas Commission for the Blind (TCB) was created in 1931 to be the primary state agency for the rehabilitation of people with visual impairments. Its goal is to provide services to persons with visual disabilities to ensure they become productive and independent. TCB provides such services as counseling and guidance, independent living skills, vocational training, and physical restoration and adaptive technology devices. The agency also operates the Criss Cole Rehabilitation Center, which is a 24-hour a day residential program in Austin that provides vocational and rehabilitation services and training.

Services are provided through programs such as Blind and Visually-Impaired Children, Independent Living, and Vocational Rehabilitation.

TCB administers the Business Enterprise Program, which is a federally-authorized program that provides management opportunities in the food services industry for persons who are legally blind. TCB selects and certifies blind persons to operate facilities on state and federal property. TCB funding mostly comes from federal funds. Other sources include state general revenue, fees and commissions from the Business Enterprise Program,

and smaller sources of revenue such as an endowment fund. The endowment fund was established to receive donations and gifts from individuals and private organizations and is considered state money subject to legislative direction. For fiscal 1998-99, TCB received a total appropriation of about \$84 million.

TCB is governed by a nine-member commission appointed by the governor with the advice and consent of the Senate. Two members must be blind, and seven must be members of the general public.

The Texas Commission for the Blind is subject to the Sunset Act and underwent Sunset Advisory Commission review during the past interim. The agency will be abolished September 1, 1999, unless continued by the Legislature.

DIGEST:

CSHB 1400 would continue the Texas Commission for the Blind until September, 2011. The bill would change the composition of the nine-member board by requiring five members to be blind or visually impaired and require one member to be a family member or relative of a blind or visually impaired person.

TCB would have to develop, by rule, a framework for basic services delivered by its programs. The framework would have to relate to oversight and monitoring of service delivery, guidance to counselors, case management benchmarks that would establish reasonable time frames for service delivery, and improved financial planning information. TCB would have to establish written procedures regarding the evaluation of client progress, service delivery effectiveness, and counselor performance.

CSHB 1400 would require TCB to verify the Medicaid eligibility of clients applying for children's services and to establish, by rule, the income level that would trigger the verification. Caseworkers would be required to access appropriate state or private Medicaid eligibility data bases and make a notation on the application that the eligibility was verified and the source and date of the verification. The commission would have 90 days to verify the eligibility.

The bill would require TCB to establish, with public input, its rate-setting methodology for payment for medical procedures and treatments. When

adopting a rate schedule, the commission would be required to compare the proposed rates to other cost-based rates for medical services, such as Medicare and Medicaid rates, document why any rate must exceed the Medicare or Medicaid rates, and establish a schedule for periodically updating the rate schedule.

CSHB 1400 would require the TCB to include specific provisions in its service provider contracts, such as requiring clearly defined and measurable program performance standards that directly relate to services provided, clearly defined sanctions or penalties for nonperformance of any contractual obligation, and clearly specified accounting, reporting, and auditing requirements. The bill would require a risk-based method for contract monitoring and institute evaluation of service providers based on program performance objectives.

The bill would also require TCB to include in contracts with suppliers of adaptive technology equipment that the suppliers of the adaptive equipment must provide client training. It also would authorize TCB to administer the Business Enterprises Program (BEP) and to administer the program's retirement fund.

CSHB 1400 would require that children's program clients files be confidential, except when investigations of the agency or a contracted service provider are going on. The bill would allow the agency to do criminal background checks on prospective employees as well as allow a pay differential for shift workers in the vocational rehabilitation program.

Other changes proposed by the bill include standard Sunset Advisory Commission recommendations on conflict of interest, equal employment opportunity, removal of commission members, separation of functions, maintenance of complaint information and commission member training.

CSHB 1400 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

CSHB 1400 would continue the Texas Commission for the Blind, an agency that assists visually impaired people so that they may become productive and independent. There are 520,600 blind and visually impaired people in Texas and by the year 2000, Texas will have more than 200,000 citizens over the age of 65 with blindness or some kind of visual impairment. TCB is needed to

assist these individuals in remaining independent. LBB estimates that CSHB 1400 would increase available funds to the agency by about \$730,000 a year. Although TCB is effective in serving its clients, some improvements need to be made.

The Sunset Commission staff found that TCB does not have formalized policies regarding service delivery. The bill would establish clear guidelines for counselors, management practices, funding information, and counselor oversight. This would improve guidance to staff in decision making regarding service delivery time frames, client progress, and evaluation of counselors. Although the bill would not require TCB to set time limits, it would assist the commission in determining if the time periods are meeting the needs of clients.

The bill would require the commission to consistently verify the Medicaid eligibility of clients applying for childrens' services. Services provided to families with blind or visually impaired children include assisting them in finding medical, social, educational and vocational services so that they can actively participate in society. Without clear direction to caseworkers, the commission cannot ensure that federal reimbursement is maximized.

CSHB 1400 would require the agency to improve contract performance measures and monitoring. The Sunset Commission staff found that TCB does not fully comply with state standards for contract monitoring. This bill would require TCB to establish a formal process for consistently monitoring performance to be able to hold contractors accountable for the best possible performance. This would ensure quality service for TCB clients.

There are no existing policies that define how rates for treatment and procedures are set, or for updating rates. The bill would ensure that the commission's rate-setting process is formalized into policy guidelines and would also provide for public input like other agencies, such as the Department of Health and the Department of Protective and Regulatory Services. Currently, TCB pays for procedures such as vision screening based on recommendations of contracted medical consultants, who are also service providers for the commission.

The federal government grants TCB authority to administer the BEP program and the retirement fund. Employees of the facilities are not state employees

and having a retirement plan is optional. They have elected to have a retirement program but specific statutory authority to administer the retirement program does not exist in current state law. CSHB1400 would clarify the state's role.

The pay differentials are needed so TCB can better retain staff for late night shifts, such as those at the Criss Cole Center. Most agencies that run 24-hour programs have the ability to pay night workers more than day workers, which helps attract employees to work the difficult hours. CSHB 1400 would enable TCB to have the same flexibility in paying late-night workers.

Increasing the board composition to include visually impaired persons would widen the pool of qualified people to serve. Adding a family member to the board also would help ensure the needs of children and elderly blind or visually impaired persons will be adequately represented.

The commission has acted responsively in dealing with employee complaints under the federal Americans with Disabilities Act (ADA). It now provides employees with Braille and large-print versions of training manuals and other publications. The commission has designated an ADA coordinator to handle any complaints and agreed to refer to independent mediation any problems that cannot be resolved.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute would extend the Sunset date from September 1, 2007 to September 1, 2011 and would change the board composition from two blind members to five blind or visually impaired members. It would require that one board member be a family member, relative or custodian of a person who is blind or visually impaired and clarify the definition of visually impaired. The substitute would remove the requirement that the executive director be appointed annually by the board and allow TCB to perform criminal background checks on potential employees. It would allow pay shift differentials for late night workers and would remove the requirement that contracts with providers of adaptive technology equipment have to include maintenance. The substitute also would authorize TCB to administer the BEP and its retirement fund and require that children's program client files be confidential.

Rep. Gray intends to offer floor amendments that would change the classification of the Business Enterprises Program's retirement fund from a general revenue fund to a trust fund and that would require TCB to post agency reports and performance data on the Internet in a format that is accessible to persons with impairments.

The companion bill, SB 361 by Zaffirini, has been referred to the Senate Health Services Committee.