

SUBJECT: Four-year term for the Health and Human Services Commissioner

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 14 ayes — Wolens, S. Turner, Alvarado, Bailey, Brimer, Counts, Craddick, Danburg, Hilbert, Hunter, Longoria, Marchant, McCall, Merritt

0 nays

1 absent — D. Jones

WITNESSES: None

BACKGROUND: The Legislature established the Health and Human Services Commission (HHSC) in 1991 to oversee and coordinate health and human services in Texas. Headed by a commissioner appointed by the governor with Senate approval for a two-year term, HHSC is an umbrella entity charged with developing a six-year continuing strategic plan for health and human services submitted to governor, the lieutenant governor, and the speaker on October 1 of each even-numbered year. HHSC also submits a consolidated health and human services budget recommendation to the Legislature for the agencies under its purview. In addition to its duties coordinating service delivery and maximizing federal funding, HHSC is the federally required single state agency for Medicaid and has final approval for all Medicaid policies, rules and programs, but it does not directly deliver any Medicaid services.

The following agencies are under HHSC purview:

- ! Interagency Council on Early Childhood Intervention;
- ! Texas Department on Aging;
- ! Texas Commission on Alcohol and Drug Abuse;
- ! Texas Commission for the Blind;
- ! Texas Commission for the Deaf and Hard of Hearing;
- ! Texas Department of Health;
- ! Texas Department of Human Services;
- ! Texas Juvenile Probation Commission;
- ! Texas Department of Mental Health and Mental Retardation;

- ! Texas Rehabilitation Commission; and
- ! Texas Department of Protective and Regulatory Services.

HHSC operates with a budget of almost \$59 million for fiscal 1998-99 and is capped at about 184 full-time employees. Its enabling statute is Chapter 531 of the Government Code.

Under Art. 16, sec. 30 of the Texas Constitution, the duration of all offices not fixed by the Constitution cannot exceed two years.

DIGEST:

CSHJR 74 would amend Art. 16, sec. 30 of the Constitution to provide that the health and human services commissioner would serve a four-year term running concurrently with the term of the governor. The term of the commissioner would expire on the date that the person who appointed that commissioner ceased to hold office of governor.

The temporary provision would provide that the proposed constitutional amendment would apply to the person holding office when the constitutional amendment was approved.

The proposal would be presented to the voters at an election on November 2, 1999. The ballot proposal would read: "The constitutional amendment to provide a four-year term for the commissioner of health and human services and to provide that the term runs concurrently with the term of the governor."

**SUPPORTERS
SAY:**

The Health and Human Services Commissioner is responsible for the management and planning of a large sector of the state's services to citizens. A recent Sunset Advisory Commission review of HHSC recommended increasing the duties and powers of the commissioner. In order to maintain continuity in the office of the commissioner, the term of office should be extended to four years.

Providing for the term of office to run concurrently with the governor would allow for additional accountability over the office and a closer working relationship between the state's chief executive and the commissioner. This would conform to the appointment of the secretary of state and the commissioner of education, who are both appointed for four-year terms running concurrently with the governor.

A constitutional amendment is necessary to allow the health and human services commissioner to serve a four-year term. The Constitution in Art. 16, sec. 30 fixes the maximum term of all state offices at no longer than two years, unless the Constitution provides otherwise. Members of boards or commissions may be appointed for up to six years under Art. 16, sec. 30a. The extended term of office for the commissioner of education is expressly authorized in Art. 7, sec. 16-a, which allows for terms of office of all officers of the public school system and higher education institutions to be six years.

The health and human services commissioner's term would run concurrently with the governor's term, no matter when the governor's term began. If the governor left office and a new governor was sworn in, the commissioner's term would expire, and the new governor would have the opportunity to fill this position.

OPPONENTS
SAY:

The term of the health and human services commissioner, or any other appointed office, should not be set in the Texas Constitution. The Constitution already is bloated with other overly specific and constraining provisions. Placing this provision in the Constitution would limit the flexibility of the Legislature if it later wished to reorganize the delivery of health and human services.

The commissioner's term can be adjusted statutorily to run concurrently with the term of office of the governor, so long as the maximum term is not more than two years. The governor already can reappoint the commissioner every two years if the governor so desires. There is no need to place additional restrictive language in the Constitution to allow the appointment to last for four years.

Alternatively, the Legislature could propose deleting the two-year term of office limitation in Art. 16, sec. 30 to remedy this problem and others. That provision was appropriate when the term of office for statewide elected executive officials, including the governor, was set at two years, but now is obsolete.

NOTES:

The committee substitute to HJR 74 would provide for the expiration of the term of office of the Health and Human Services Commissioner when the governor who appointed that commissioner ceased to hold the office of governor. It also would modify the temporary provision to apply the proposal

to commissioner serving when it was approved rather than prescribe that the serving commissioner's term would expire in 2003.

HB 2641 by Gray, which would continue the Health and Human Services Commission and revise its authority, passed the House on April 20 and was reported favorably by the Senate Human Services Committee on May 12.

A related proposal, HJR 95 by Gray, which would provide a four-year term for the Adjutant General to run concurrently with the governor, also is on today's calendar. Both HJR 74 and HJR 95 would add a new section (e) to Art. 16, sec. 30 of the Constitution.