

SUBJECT: Continuing the Texas Department on Aging

COMMITTEE: Human Services — favorable, without amendment

VOTE: 5 ayes — Uresti, Christian, McCall, Reyna, Villarreal

0 nays

4 absent — Naishtat, Wohlgemuth, Miller, Olivo

WITNESSES: For — Sylvia Benenson, Older Women’s League, Dallas Chapter; Bruce Bower, Texas Senior Advocacy Coalition; Waggoner Carr, American Association of Retired Persons and Texas Silver Haired Legislature; Lynda Ender, The Senior Source and Senior Citizens of Greater Dallas; Sandra Fischer and Chris Kyker, Texas Silver Haired Legislature; Martha Fleming, Corporation for National and Community Services; George Kelemen, American Association of Retired Persons; Jeanette Lee

Against — None

BACKGROUND: The Texas Department on Aging (TDoA) was established in 1981 with a mandate to serve citizens over age 60. The agency offers services through its network of 28 area agencies on aging (AAAs). Services include access and assistance services, such as benefits counseling, case management, and ombudsman services; supportive services, such as personal assistance, transportation, home repair and modification, respite, and adult day care; and nutrition services, such as group lunches or home-delivered meals. The establishment of AAAs is required under the federal Older Americans Act, the primary funding source for TDoA, and AAAs must contribute a local match of at least 10 percent.

When the agency underwent sunset review in 1999, the Sunset Advisory Commission’s report found that TDoA’s focus on accountability and contract administration hampered its advocacy role. The commission recommended consolidating administrative functions of TDoA and the Texas Department of Human Services (DHS) so that TDoA could focus better on advocacy.

In 1999, the 76th Legislature enacted SB 374 by Zaffirini, which transferred TDoA's duties to DHS and would have abolished the agency in 2003. In 2001, the 77th Legislature enacted SB 535 by Carona, postponing the merger of TDoA and DHS until September 1, 2005, and postponing TDoA's abolition until 2006. SB 535 directed the Health and Human Services Commission (HHSC) to study the functions and activities of TDoA and to make recommendations regarding the transfer to DHS.

DIGEST: HB 493 would repeal the merger of TDoA with DHS and would continue TDoA until 2013.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 493 would prevent TDoA from being merged with DHS and abolished. TDoA enjoys the widespread support of elderly Texans and has done an outstanding job with limited staff and resources. According to HHSC, the agency has resolved the issues that prompted the earlier recommendation to merge it with DHS. TDoA's focus and services would have to compete against other priorities in the new agency, most likely resulting in less attention to the needs of the elderly, especially the healthy elderly.

The merger would cause a conflict of interest. The TDoA ombudsman program should not be transferred to DHS, the same agency that regulates nursing homes. A separate ombudsman program would retain its federally required objectivity. The ombudsman program, largely comprising volunteer advocates who oversee care in nursing homes, is not compatible with the goals and objectives of DHS. Also, elderly people use the benefits counseling program to represent them in benefit hearings that DHS conducts for the Medicaid program.

Transferring programs to DHS would be unnecessary and disruptive and would not necessarily result in greater coordination. HHSC already can coordinate long-term care services and make rate setting and provider contracting more consistent without the expense and disruption of forming a new agency.

Requiring programs to locate in closer physical proximity and under the direction of a single board would not ensure coordination and communication.

Because the proposed Department of Aging and Disability Services would remain responsible for administering cash assistance and other welfare or emergency assistance programs, its focus would be divided.

The state would save no money by combining TDoA with DHS, because all of TDoA's functions would be transferred to DHS. Conversely, maintaining TDoA as a separate state agency would not cost the state additional money. The bill's fiscal note estimates no significant cost to the state.

HHSC has studied TDoA's functions and activities and has recommended continued coordination between TDoA and DHS, not merging them. The commission recognizes the need for continued coordination because both agencies share similar stakeholders and policy concerns. It also recognizes that merging the two would violate the direction in SB 535 by Carona to avoid conflict with the federal Older Americans Act.

**OPPONENTS
SAY:**

Lawmakers should not undo the good decisions made by the 76th Legislature about the future of long-term care services. That legislation moved the state closer to a more comprehensive, less duplicative, and easier-to-access system of providing services. If TDoA's functions were transferred to DHS as now required, TDoA's outstanding characteristics and programs would be maintained through continued use of the AAAs.

Consolidating long-term care programs into a single state agency is necessary to create an identifiable agency that is responsible for and can coordinate more effectively the complex range of services required by aging and disabled people. Consolidating long-term care services is especially important because Texas' population is growing in age as well as in number. Fragmentation of services is a long-standing problem, and consolidation has been recommended as far back as 1993 by the Task Force on Long-Term Care.

Program fragmentation among state agencies is confusing to clients and administratively expensive and drains available resources. Consumers have no single access point. HHSC has identified 46 long-term care programs with varying eligibility requirements that often provide similar services, such as home-delivered meals, nursing, transportation, physical therapy, adaptive aids, and respite care. Some programs offer choices among an array of services, whereas others offer the clients no choice.

Combining the administration of long-term services would not alter program eligibility but would maximize the use of available funding in agency contracts with providers and would improve public access by providing a single point of entry for all programs. Clients' medical and support needs often change as they age, and the consolidation of programs would provide a continuum of services to help disabled people obtain needed services from birth through death without having to reapply to program after program.

The ombudsman program would not lose its objectivity about nursing home oversight by being placed in the same agency that regulates nursing homes. The program operates with a very small central staff, which would be located in a different division of the agency from nursing home regulation, and the program largely depends on the work of the AAAs, which are outside of the agency. Other states run their ombudsman programs this way, and Texas also can make this system work well.

NOTES:

The identical companion bill, SB 262 by Carona, has been referred to the Senate Government Organization Committee.

HB 2292 by Wohlgemuth, which would merge TDoA with other agencies under the umbrella of HHSC, was reported favorably as substituted by the House Appropriations Committee on April 17.