

**SUBJECT:** Continuing the Texas Workforce Commission

**COMMITTEE:** Economic and Small Business Development — committee substitute recommended

**VOTE:** 6 ayes — Button, C. Anderson, Faircloth, Metcalf, Villalba, Vo

1 nay — E. Rodriguez

2 absent — Johnson, Isaac

**SENATE VOTE:** On final passage, May 11 — 25-6 (Lucio, Menéndez, Perry, Rodríguez, Watson, Zaffirini)

**WITNESSES:** (*On House companion bill, HB 3294*)

For — Norma Crosby, National Federation of the Blind of Texas; (*Registered, but did not testify:* Gabriel Cazares, Texas Association of Blind Students; Mike Meroney, Huntsman Corp., BASF Corp. Sherwin Alumina, Co.; Carlton Schwab, Texas Economic Development Council; Stephanie Simpson, Texas Association of Manufacturers; Jason Taylor, Texas Rehab Action Network)

Against — Paul Hunt, American Council of the Blind of Texas, Chris Prentice, Austin Council of the Blind; Rodrick Robinson, Stephanie Robinson, New Life Medical; Max Arrell; Sheryl Hunt

On — Andres Alcantar and Larry Temple Texas Workforce Commission; Robin Jill Bradshaw, Texas Chargers; Minnie Christal, Chelsea Nguyen, Karla Horn, Rochelle Owens, and Edgar Sheppard, Texas Rehab Action Network; Guy Robert Jackson, Gulf Coast Workforce Board; Kyle Janek and Lisa Subia, Health and Human Services Commission; Jeff Miller, Disability Rights Texas; Nancy Toelle and Edgenie Bellah, Alliance of and for Visually Impaired Texans; Rebecca Trevino, Department of Assistive and Rehabilitative Services; Heather Withrow; Martha Garber; Stephen McFadden; (*Registered, but did not testify:* Sandra Breitengross Bitter, Texas State Independent Living Council; Veronda L. Durden,

Department of Assistive and Rehabilitative Services; Faye Rencher and Karen Latta, Sunset Advisory Commission; Janna Lilly, Texas Council of Administrators of Special Education; Linda Litzinger)

**BACKGROUND:** The Texas Workforce Commission (TWC) oversees and provides workforce development services to employers and job seekers in the state. The Legislature created TWC in 1995 by merging workforce programs from several state agencies. Among other functions, TWC determines unemployment benefits, enforces state law to prevent and reduce employment discrimination, and collects, analyzes, and disseminates workforce and labor market data.

TWC is led by three governor-appointed commissioners, with one designated as the chair. The three commissioners serve as the policymaking body that oversees all TWC functions.

In fiscal 2013, TWC operated on a budget of about \$1.09 billion. Almost 85 percent of this was derived from federal funds. About 11 percent was derived from general revenue. TWC employed about 3,340 staff in 2013, including more than 1,300 staff working in its Austin headquarters, 847 staff integrated within local workforce development boards, and 348 employees working in tax or appeals field offices throughout the state.

TWC would be discontinued on September 1, 2015, if not continued in statute.

**DIGEST:** CSSB 208 would extend the operation of the Texas Workforce Commission (TWC) until September 1, 2027. The bill also would make several changes to operation of TWC.

**Vocational rehabilitation.** Some of the bill's changes involve vocational rehabilitation services, currently housed within the Department of Assistive and Rehabilitative Services (DARS).

*Transfer of vocational rehabilitation.* The bill would transfer vocational rehabilitation services from DARS to TWC. As soon as practicable after

the effective date of the bill, TWC would be required to integrate office space and information technology systems. All related services, programs, obligations, contracts, property, and records in custody of DARS would be transferred to TWC by September 1, 2016, subject to federal approval. TWC would be required to integrate all vocational rehabilitation programs not later than October 1, 2017. TWC would be required to integrate all vocational rehabilitation staff by August 31, 2018.

The bill would authorize DARS or TWC, as appropriate, to seek any required federal approval for TWC to administer:

- the vocational rehabilitation program for individuals with visual impairments;
- the vocational rehabilitation program for individuals with other disabilities;
- the Independent Living Services Program for older individuals who are blind; and
- the Criss Cole Rehabilitation Center.

The bill also would authorize DARS or TWC to seek federal approval, if required, for the following:

- for TWC, beginning on September 1, 2016, to administer the program for vending facilities operated by blind persons, including the Business Enterprises Program under the Randolph-Sheppard Act; and
- to designate within TWC the state unit that is currently responsible for administering the state's vocational rehabilitation program.

The affected vocational rehabilitation programs would be reorganized to:

- provide services to clients based on the functional need of the client rather than the type of disability;
- develop a plan to support specialization of counselors; and
- consolidate policies and redesign performance measures for provision of services.

TWC would be required to create a designated state unit for vocational rehabilitation services in compliance with federal law. The unit would be primarily responsible for and concerned with vocational rehabilitation of individuals with disabilities and would have its own full-time director and a staff substantially employed full-time on rehabilitation work.

The unit would have an organizational status within TWC that was comparable to other major organizational units of the commission.

*Rehabilitation Council.* The bill would transfer the Rehabilitation Council of Texas to TWC on September 1, 2016.

*Federal funds.* The comptroller would receive, manage, and distribute any federal funds received to implement federal vocational rehabilitation mandates. TWC would be required to certify the disbursement of any federal funds. TWC could comply with any requirements necessary to obtain the maximum amount of federal funds available for vocational rehabilitation.

TWC could cooperate with other public and private agencies, as well as other states, in implementing the goals of vocational rehabilitation. TWC would be required to cooperate with the federal government to accomplish the goals of vocational rehabilitation. TWC would be required to train counselors to understand work incentives and to ensure that commission clients were informed of the availability of federal work incentives. TWC also would create eligibility guidelines for providing vocational rehabilitation services and assess the effectiveness of the program annually.

*Legislative oversight committee.* The bill would include a legislative oversight committee to oversee the transition and integration of the state's vocational rehabilitation services if the Health and Human Services Commission's Sunset reauthorization bill under consideration by the 84th Legislature were not enacted. The Legislative oversight committee would facilitate the transfer of DARS functions to TWC and the transfer and

consolidation of administrative support services functions with minimal negative effect on the delivery of services.

With assistance from TWC and the transferred agencies and entities, the committee would advise TWC on specified functions to be transferred, related funds and obligations, and the reorganization of DARS' administrative structure under the law. The committee's members would include legislators appointed by the lieutenant governor and the speaker of the House in addition to members of the public appointed by the governor.

Appointments would be made by October 1, 2015. The committee would meet at least quarterly and would be subject to statute regarding open meetings. The committee would submit a biennial report to provide an update on the progress of and issues related to the transfer of functions to TWC, including the need for any additional changes to statute that were needed to complete the transfer of services. The committee would be abolished August 31, 2019.

*Transition plan.* The bill would require the transfer of vocational rehabilitation services and other services and programs under the bill to be accomplished in accordance with a transition plan developed by the TWC executive director, the DARS commissioner, and the HHSC executive commissioner to ensure that the transfer and provision of services and programs were accomplished in a careful and deliberative manner.

The bill would specify the items that the transition plan would have to include, among them, a schedule for implementing the transfer of services and programs, measures to ensure that unnecessary disruption to the provision of transferred services and programs did not occur, a strategy for integrating DARS vocational rehabilitation staff into TWC's workforce development boards and centers, and a strategy for integrating vocational rehabilitation programs for individuals with visual impairments and for individuals with other disabilities.

*Contracts with service providers.* TWC would be required to use a risk assessment methodology on which to base the rates paid in contracts with

service providers. Contracts with service providers would be required to contain clearly defined performance standards, penalties, and accounting, reporting, and auditing requirements. Service providers that supplied adaptive technology would be required to provide training in the adaptive technology's use to clients of the program. TWC would be allowed to establish a program to finance the purchase of technological aids for visually impaired clients.

*Criminal history record.* TWC would be allowed to obtain the criminal history record for an applicant selected for employment by the rehabilitation council, an applicant for rehabilitative services, or a client who was receiving rehabilitative services from the commission. Any criminal history obtained by TWC would be confidential and could not be released except on court order, or with written consent by the person to whom the criminal history record applied. TWC would be required to establish criteria for denying an application for employment based on an applicant's criminal history record.

*Youth with disabilities.* TWC would create a specialized training program for transition counselors, vocational transition specialists, and other employees. In collaboration with the Texas Education Agency, the commission would identify areas of the state with the greatest need for transition services for students with disabilities with the goal of contacting a student about three years before the student graduated from high school.

**Civil Rights Division.** Responsibility for overseeing the TWC's Civil Rights Division currently is split between TWC and the Human Rights Commission, which was left in place when the Legislature abolished the Texas Commission on Human Rights as an independent agency and transferred its functions to the TWC under a separate Civil Rights Division. Despite this transfer, the Civil Rights Division kept its own board.

The bill would abolish the Human Rights Commission and transfer its duties to TWC. TWC would develop risk assessment criteria based on previous complaints and review findings to determine whether a state

agency's personnel policies and procedures should be audited more frequently than every six years. TWC would collect and analyze information on employment discrimination complaints that TWC deemed to have merit and would include this information in its annual report to the governor and the Legislature.

The bill would direct TWC to review the reimbursements that an agency was required to pay TWC for the cost of conducting such an audit. Based on the results of this review, TWC would adjust the reimbursement rate to adequately recover the expenses of the audit.

**Recovery of unemployment compensation debt.** The bill would allow TWC to recover past due unemployment compensation debt through the federal Treasury Offset Program. TWC could recover past-due debt caused by an erroneous payment due to fraud or a person's failure to report earnings or any uncollected debt for which an employer was liable. TWC could collect any penalties and interest assessed on the past-due debt.

TWC would have to provide the debtor at least 60 days to present evidence that the debt was not legally enforceable, due to fraud, or otherwise owed to the compensation fund. TWC could only determine whether the debtor had demonstrated that the debt was not subject to recovery by the offset program, not whether the person was liable to pay the past-due debt. The program would be required to charge the debtor any administrative cost by the federal offset program.

**Subsidized child care program.** TWC would be required to report at least a five-year trend in the employment outcome of parents receiving subsidized care under TWC's child care program to the Legislature. TWC also would be required to develop a policy for obtaining input from interested parties on its subsidized child care program and to use the input in administering the program.

**Other changes.** TWC would include a list of any formal enforcement action taken by TWC against a school or college in its searchable

directory of schools and colleges on its website. The bill would require TWC to adopt rules to adopt a timeline and regular review for updating the quality standards for the Rising Star Program.

TWC would be required to adopt all rules, policies, and procedures required for the integration of vocational rehabilitation services by September 1, 2017.

The bill would take effect September 1, 2015. Any actions taken by the Human Rights Commission before that date would remain valid.

**SUPPORTERS  
SAY:**

CSSB 208 would extend a valuable and well-run state agency. The bill also would address problems of accountability, inefficiency, and policy inconsistency among the vocational rehabilitative services in the state by consolidating many of these services. By breaking down institutional barriers and eliminating fragmentation by combining similar functions, the bill would strengthen accountability in rehabilitative services.

Transitioning from DARS to TWC the vocational rehabilitation services for individuals who are blind would move from a social services-driven model to a workforce-investment model. Transitioning to TWC's workforce-investment model could improve the participation of blind individuals in the workforce. The bill also would address stakeholder concerns by transferring the Criss Cole Rehabilitation Center to TWC.

The transition process would require the legislative oversight committee established by the bill to consider input from appropriate stakeholders and to hold public hearings throughout the state to ensure the transfer was accomplished in a careful and deliberate manner. The requirement for TWC to update and reorganize rehabilitative services also would ensure that people with disabilities received effective services by focusing on maintaining specialized counselors to serve different client populations.

The bill would allow TWC to recover millions in outstanding unemployment compensation debts. This not only would ensure that Texas complied with federal law but also likely would reduce the need



for future tax increases to Texas employers.

By moving the Human Rights Commission's functions to TWC, the bill would streamline the review of personnel policies. The bill also would allow for TWC to review an agency's personnel policies more than once every six years.

The bill would help TWC to better manage its subsidized child care program to ensure the program was using in-depth data to improve the program's effectiveness and outcomes.

**OPPONENTS  
SAY:**

CSSB 208 could place a heavy administrative burden on TWC and DARS. It would leave several vocational rehabilitative services at other agencies for various reasons. By requiring some programs to move but not others, the bill could make it difficult for individuals with disabilities to access services split across several agencies. Blind services, in particular, should all be moved to TWC to reduce confusion for clients about which agencies would provide services for that population.

The bill also would require the integration and reorganization of several programs within a year after enactment. There are several guidelines and training programs that the bill would require TWC to establish. This creates a significant risk of disruption or overlap in services to people with disabilities. Furthermore, the integration and reorganization requirements would place a cost and time burden on all agencies involved, which could limit their ability to meet basic functions.

By transferring to TWC the Human Rights Commission's powers and responsibilities relating to the Civil Rights Division, the bill could pose a risk of reducing public input on discriminatory employment practices. While the bill calls for annual audits of agency personnel policies, it would not require TWC to rely as heavily on public input as current law.

**NOTES:**

The Legislative Budget Board estimates the bill would have a negative fiscal impact on general revenue related funds of \$6.7 million through fiscal 2016-17.