

SUBJECT: Board governance for the Council on Early Childhood Intervention

COMMITTEE: Public Health — committee substitute recommended

VOTE: 6 ayes — Berlanga, Hirschi, Coleman, Davila, Delisi, Maxey

0 nays

3 absent — Glaze, Janek, Rodriguez

SENATE VOTE: On final passage, February 17 — 31-0

WITNESSES: For — Kay Lambert, Advocacy Incorporated; Claude Wilson, Texas Planning Council for Developmental Disabilities; Denise Brady, ARC of Texas

Against — None

On — Mary Elder and Alexander Porter, Interagency Council on Early Childhood Intervention; Jill Gray, Texas Education Agency

BACKGROUND : The state Interagency Council on Early Childhood Intervention Services (ECI) administers and supervises a statewide program to provide services to developmentally delayed children under the age of three. The program also provides training and counseling for parents.

The council is required to develop and implement a public awareness program focusing on the importance of prenatal care and early detection of developmental delay and provides training for public and private service providers who have contact with developmentally delayed children. Council members annually elect a chair and develop a plan to address ECI needs statewide. Agencies represented on the council are required to provide staff support to the council. The governor appoints an advisory committee to assist the council and assess council services.

The council is currently composed of three parents of developmentally delayed children and six members from relevant state agencies. Members

are chosen by the governor and agency representatives by the head of their respective agencies. Council members serve six-year staggered terms.

DIGEST:

CSSB 305 would establish a nine-member board as the governing body of the ECI Interagency Council and specify the powers and duties of the council to comply with the federal Individuals with Disabilities Education Act (IDEA). The council would be subject to the Sunset Act and unless continued by the Legislature would be abolished on September 1, 2003.

CSSB 305 would take effect September 1, 1997.

ECI board. The ECI board would be composed of eight family members of developmentally delayed children appointed by the governor and one member from the Texas Education Agency appointed by the commissioner of education. Six non-voting members would actively participate in board deliberations and advise the board. These members would represent the Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Commission on Alcohol and Drug Abuse, Texas Department of Human Services, Department of Protective and Regulatory Services and the Texas Workforce Commission. Agency members would have to be authorized to make decisions, subject to approval by their agency head, to commit resources on behalf of their agency.

CSSB 305 would set certain eligibility requirements for board service and the grounds under which a board member could be removed. Board members appointed by the governor would serve staggered six-year terms; agency representatives would serve at the will of their agency.

The current advisory committee to the council would assist the board in its duties. CSSB 305 also would designate the committee as performing the duties of the advisory committee required under IDEA.

Council powers and duties. The bill would delete current statutory provisions requiring that the council be composed of three members and six agency representatives. The council's powers and duties would include administration of a statewide system of early intervention services to ensure that all infants and toddlers aged three or below who were developmentally delayed or at risk of being so would receive services provided in partnership

with their families. Eligibility criteria would be changed to reflect federal IDEA requirements. The bill would delete a current provision allowing the council to charge fees for its services.

The council would be designated by the governor as the lead IDEA agency and would be directed to develop a statewide plan under federal guidelines. The bill would also require the council to develop a statewide plan for providing technical assistance for primary referral sources and families for children under three.

The council would have to issue rules for applying for and accepting gifts, grants and donations from public and private sources. It would be required to cooperate with state agencies in planning, funding, delivering and monitoring authorized services and would make periodic reports about the program to the Legislature, appropriate committees, the governor and the U.S. Department of Education.

Other requirements. CSSB 305 would add fiscal and reporting provisions to comply with IDEA funding requirements. The council would be required to annually file with the governor, House and Senate a written report accounting for all funds in accordance with the general appropriations act.

The council would be entitled to obtain from various law enforcement agencies criminal history records of applicants for employment or for volunteer positions with the ECI or local providers involving interaction with children. Criminal history information could not be released or disclosed to anyone except by court order or with the individual's consent. The council could provide employees or applicants with their criminal records and would be required to destroy such records after they were used. Refusing to provide fingerprints to ECI would be grounds for dismissing or refusing to hire individuals serving or interacting directly with children.

CSSB 305 also would provide standard state personnel management provisions on employment of the executive director, career ladder, written policy statement about personnel issues, and an analysis of the workforce that would meet state and federal equal employment opportunity guidelines.

The board, council and advisory committee would be subject to state open records, open meetings and administrative procedures requirements.

**SUPPORTERS
SAY:**

CSSB 305 would bring the ECI interagency council into compliance with federal law so it could function as the lead agency under the federal IDEA. The bill would meet federal mandates so federal funding would not be jeopardized. Otherwise, the Texas ECI programs would be at risk of losing federal dollars. In fiscal 1996, the ECI council served 23,000 developmentally delayed infants and toddlers across the state. It is extremely important that these children be provided services in their first three years. Recent widely publicized academic studies have found that the first three years of a child's life are a critical period of development. Lost opportunities here can never be regained.

Changing the structure and composition of the governing body of ECI to include more parents and relatives of developmentally delayed children would help to focus the board and ensure that client needs would be met. Those who love and work with these children every day of their lives are passionate, educated and very up-to-date about what sort of intervention would be the most helpful for families with developmentally disabled children.

Agencies would still be represented on the ECI board, and agency advice and input would be welcomed and seriously considered. The ECI council would be required to cooperate with state agencies in planning, funding, delivering and monitoring services.

It makes sense for a representative of TEA, the agency that is most involved with developmentally delayed children as they get old enough to go to school, to be a voting member of the board. Federal requirements mandate that ECI programs continue seamlessly as children grow up; TEA picks up with these children after they have completed ECI programs in the first three critical years.

It is vitally important that those who care for children who are too young to identify or describe inappropriate behavior do not have criminal records indicating they are likely to harm children. CSSB 305 would allow the

council to check the criminal records of applicants and employees in direct contact with children. The bill would not allow the information to be released, however, thus protecting the privacy of employees and applicants.

**OPPONENTS
SAY:**

The composition of the board would be unbalanced with eight parents and only one agency representative. Currently the council is composed of three parents of developmentally delayed children and six members of state agencies. Since a number of state agencies also provide services for these children and could potentially be affected by council policies and recommendations, they should be voting members of the board.

NOTES:

The committee substitute changed the board's composition from nine lay members to eight lay members and one TEA representative, added that agency representatives would have the authority to commit resources to ECI programs with the approval of the agency head, added a provision regarding grounds for removal of a member who terminated employment with the appointing state agency, and directed that that agencies with representatives on the board, as well as those who are on the board, be required to provide staff to the council as needed.