

## **BILL ANALYSIS**

Senate Research Center

H.B. 1402  
By: Gray (Madla)  
Health Services  
4/22/1999  
Committee Report (Amended)

### **DIGEST**

Currently, the Texas Rehabilitation Commission (TRC) is the state's primary authority for the rehabilitation of people with disabilities, except for individuals with vision impairments, who are served by the Texas Commission for the Blind. TRC's primary emphasis is on vocational rehabilitation and helping persons with physical or mental disabilities prepare for, find, and maintain employment. In addition to rehabilitation programs, TRC is responsible for determining initial eligibility for Social Security disability benefits. As a result of its review of TRC, the Sunset Advisory Commission recommended continuation of TRC and several statutory modifications. H.B. 1402 would authorize TRC to continue to operate.

### **PURPOSE**

As proposed, H.B. 1402 sets forth provisions for the continuation and functions of the Texas Rehabilitation Commission until September 1, 2011.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Rehabilitation Commission in SECTIONS 7, 9, 20, 22, 23 and 27 (Sections 111.0161(a) and (b), 111.018(a)(1), 111.0552(a) and (b), 111.058(a), 111.070(a), and 111.071(b), Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 111.002, Human Resources Code, by amending Subdivision (7) and adding Subdivision (8), to redefine "extended rehabilitation services program" and to define "board."

SECTION 2. Amends Section 111.012, Human Resources Code, to provide that the Texas Rehabilitation Commission (TRC) is abolished and this chapter expires on September 1, 2011, unless continued as provided by Chapter 325, Government Code.

SECTION 3. Amends Section 111.013(b), Human Resources Code, to add standard language developed by the Sunset Advisory Commission regarding equal employment opportunity policies. Makes a conforming change.

SECTION 4. Amends Section 111.0131, Human Resources Code, to provide that it is a ground for removal from the board of the Texas Rehabilitation Commission (board) that a member does not have at the time of taking office the qualifications required by Section 111.013(b); ineligible for membership under Sections 111.013 or 111.025; cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or is absent without an excuse approved by a majority vote of the board. Requires the board chairman to notify the governor and attorney general that a potential ground for removal exists. Requires the commissioner of the Texas Rehabilitation Commission (commissioner) to notify the next highest ranking officer of the board, who is required to then notify the governor and attorney general, if a potential ground for removal exists. Makes conforming changes.

SECTION 5. Amends Chapter 111B, Human Resources Code, by adding Section 111.0132, to add standard language developed by the Sunset Advisory Commission regarding the training of board members.

SECTION 6. Amends Section 111.016, Human Resources Code, as follows:

Sec. 111.016. New heading: REHABILITATION COUNCIL OF TEXAS. Creates the

Rehabilitation Council of Texas by this section in accordance with the federal Rehabilitation Act Amendments of 1992, Pub. L. 102-569, and the federal Rehabilitation Act Amendment of 1998, Pub. L. 105-220.

SECTION 7. Amends Chapter 111B, Human Resources Code, by adding Section 111.0161, as follows:

Sec. 111.0161. ADVISORY COMMITTEES REPORT TO BOARD. Requires each advisory committee established by law or rule to advise TRC to report and advise the board on the committee's activities and results of its work. Requires each committee to work with the commissioner, the commissioner's staff, and the board. Requires the board to adopt rules to implement this section.

SECTION 8. Amends Section 111.017, Human Resources Code, to provide that the commissioner is appointed by the board, with the approval of the governor, and serves at the pleasure of the board, rather than on the basis of education, training, experience, and demonstrated ability. Provides that the commissioner is the executive head of the agency.

SECTION 9. Amends Section 111.018, Human Resources Code, to require the board to adopt policies and rules to effectively carry out the purpose of this chapter and to supervise the commissioner's administration of this chapter. Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the commissioner and staff of TRC. Authorizes the board to delegate to the commissioner or acting commissioner any power or duty imposed on the board by law except that the board is prohibited from delegating power to adopt rules. Requires the delegation of power to be in writing. Requires any delegation of the board's authority to be adopted by the board in a public meeting. Requires a policy statement to include personnel policies that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21, Labor Code, and an analysis of the extent to which the composition of TRC's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law. Requires the policy statement to be updated annually, reviewed by the state Commission on Human Rights for compliance with Subsection (g)(1), and filed with the governor's office. Deletes text regarding a requirement of the policy statement. Deletes text regarding the information required to be included in the policy statement. Makes conforming changes.

SECTION 10. Amends Section 111.019, Human Resources Code, to require TRC, rather than the commissioner, with the approval of the board, to make long-range and intermediate plans for the scope and development of the program.

SECTION 11. Amends Section 111.021, Human Resources Code, by adding Subsection (c), to require TRC to post on the Internet in an accessible format the reports required under this section and any other agency performance data required to be reported to this state or the federal government. Requires TRC to remove the confidential information before posting the report or performance data, if a report or performance data contains confidential information.

SECTION 12. Amends Section 111.022, Human Resources Code, to make a conforming change.

SECTION 13. Amends Section 111.023, Human Resources Code, to make a conforming change.

SECTION 14. Amends Section 111.024, Human Resources Code, to authorize the commissioner, with the approval of the board, to delegate to any officer or employee of TRC the responsibilities, rather than those powers and duties except the making of regulations and the appointment of personnel, of the commissioner as necessary to carry out the purposes of this chapter.

SECTION 15. Amends Section 111.025, Human Resources Code, to add standard language developed by the Sunset Advisory Commission regarding the restrictions on board membership and employment.

SECTION 16. Amends Section 111.026, Human Resources Code, by adding Subsections (c), (d), and (e), to add standard language developed by the Sunset Advisory Commission regarding written complaints filed with TRC.

SECTION 17. Amends Section 111.052, Human Resources Code, to make conforming changes.

SECTION 18. Amends Chapter 111C, Human Resources Code, by adding Section 111.0525, as follows:

Sec. 111.0525. COORDINATION WITH STATE AGENCIES. Requires TRC to target extended rehabilitation services to those individuals who are not eligible to receive similar services from the Texas Department of Mental Health and Mental Retardation (TXMHMR) or another agency. Requires TRC to enter into an agreement with TXMHMR to reduce duplication and fragmentation of employment services by defining each agency's role and responsibilities for shared client populations. Requires TRC to establish a formal referral process with the Texas Workforce Commission (TWC) to ensure that appropriate vocational rehabilitation clients are referred to and receive services provided by TWC or local workforce developmental agencies.

SECTION 19. Amends Chapter 111C, Human Resources Code, by adding Section 111.0551, as follows:

Sec. 111.0551. PROVISION OF MEDICAL SERVICES. Sets forth the required duties of TRC.

SECTION 20. Amends Chapter 111C, Human Resources Code, by adding Section 111.0552, as follows:

Sec. 111.0552. RATES FOR MEDICAL SERVICES. Requires the board to adopt rules and standards governing the determination of rates TRC will pay for medical services and health care services. Requires the board to annually adopt, by rule, a schedule of rates based on the rules and standards adopted under Subsection (a). Sets forth the requirements of the board concerning the adoption of a rate schedule. Requires the board to hold a public hearing before adopting rules to allow interested persons to present comments.

SECTION 21. Amends Chapter 111C, Human Resources Code, by adding Section 111.0553, as follows:

Sec. 111.0553. PROCUREMENT METHODS. Requires TRC to develop and, following review and approval by the board, implement agency-wide procurement procedures to ensure compliance with the best-value purchasing requirements of Section 2155.144(c), Government Code; document that a best-value review of vendors has occurred and the reasons for selecting a vendor; negotiate price discounts with high-volume vendors; and consolidate purchases with other agencies, including the Texas Department of Health and the General Services Commission, to achieve the best value and provide effective public notification to potential vendors of planned TRC purchases. Provides that nothing in this section shall be construed to limit TRC's ability to procure goods and services from persons with disabilities.

SECTION 22. Amends Chapter 111C, Human Resources Code, by adding Section 111.058, as follows:

Sec. 111.058. CRIMINAL HISTORY RECORD INFORMATION. Authorizes the board, by rule, to establish criteria for denying a person's application for employment based on criminal history background information obtained pursuant to Section 411.117, Government Code. Requires TRC to treat all criminal history record information as privileged and confidential and for TRC use only.

SECTION 23. Amends Chapter 111, Human Resources Code, by adding Subchapter D, as follows:

#### SUBCHAPTER D. VOCATIONAL REHABILITATION SERVICES

Sec. 111.070. PROVISION OF SERVICES. Requires the board, by rule, to establish and maintain guidelines for providing vocational rehabilitation services that are consistent with state and federal laws and regulations. Sets forth the guidelines for providing vocational rehabilitation services. Requires the board to annually assess the effectiveness of the state's vocational rehabilitation program.

Sec. 111.071. Requires the board to provide specific guidance to vocational rehabilitation counselors. Sets forth the specific guidance information. Requires the board to require monitoring and oversight of vocational rehabilitation counselor performance and decision making.

Sec. 111.072. CLIENT ORIENTATION MATERIALS. Requires TRC to develop and distribute at intake client orientation materials for the vocational rehabilitation program that include information on TRC's decision making criteria.

Sec. 111.073. TRANSITION PLANNING. Requires TRC to assess the statewide need for services necessary to prepare students with disabilities for a successful transition to employment; establish collaborative relationships with each school district with education service centers to the maximum extent possible within available resources; and develop strategies to assist vocational rehabilitation counselors in identifying and reaching students in need of transition planning.

SECTION 24. Amends Section 302.021, Labor Code, by adding Subsection (d), to require the division of workforce development of TRC to promote and monitor services provided to persons with disabilities, including persons referred from TRC.

SECTION 25. Amends Section 411.117, Government Code, to entitle TRC to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for employment whose potential duties include direct contact with clients of TRC. Makes a nonsubstantive change.

SECTION 26. Effective date: September 1, 1999.

SECTION 27. (a) Requires the board of TRC to adopt each rule required to implement the changes in law made by this Act no later than January 1, 2000.

(b) Provides that Section 111.0132, Human Resources Code, does not apply to a member of the TRC board appointed before the effective date of this Act for the remainder of the member's term.

SECTION 28. Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

SECTION 21.

Amends Chapter 111C, Human Resources Code, by adding Subsection (b), Section 111.0553, to provide that nothing in this section shall be construed to limit TRC's ability to procure goods and services from persons with disabilities. Makes a conforming change.

SECTION 22.

Amends Chapter 111C, Human Resources Code, by adding Section 111.058, to authorize the board, by rule, to establish criteria for denying a person's application for employment based on criminal history background information obtained pursuant to Section 411.117, Government Code. Requires TRC to treat all criminal history record information as privileged and confidential and for TRC use only. Redesignates proposed SECTION 22 as SECTION 23.

SECTION 25.

Amends Section 411.117, Government Code, to entitle TRC to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an applicant for employment whose potential duties include direct contact with clients of TRC. Redesignates proposed SECTION 24 as SECTION 26.