

## **BILL ANALYSIS**

Senate Research Center  
82R16603 NAJ-D

H.B. 2229  
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Health & Human Services  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The HIV Medication Program is administered by the Department of State Health Services (DSHS) and provides over 50 different kinds of medications for the treatment of HIV and other opportunistic infections for low-income Texans. The HIV Medication Program Advisory Committee (committee) was established to make recommendations to the Health and Human Services Commission (HHSC) and DSHS about the program, and more specifically, recommendations about HIV medication needs and eligibility guidelines. The committee is comprised of doctors, social workers, individuals diagnosed with HIV, a hospital administrator, and a pharmacist.

The executive commissioner of HHSC (executive commissioner) created the committee by rule, and currently the executive commissioner has the authority to abolish the committee after March 1, 2008. Because the duties of the committee are not codified, the committee can lapse without an affirmative action by the executive commissioner. Last year, the committee was inadvertently non-renewed.

H.B. 2229 codifies the creation of the committee, requires the executive commissioner to appoint a committee, and requires the committee to follow certain guidelines.

H.B. 2229 amends current law relating to the creation of the Texas HIV Medication Advisory Committee.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Texas Department of State Health Services, as the successor agency to TDH.]

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 85, Health and Safety Code, by adding Subchapter K, as follows:

#### **SUBCHAPTER K. TEXAS HIV MEDICATION ADVISORY COMMITTEE**

Sec. 85.271. DEFINITIONS. Defines, in this subchapter, "commissioner," "committee," "executive commissioner," and "program."

Sec. 85.272. TEXAS HIV MEDICATION ADVISORY COMMITTEE. (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to establish the Texas HIV Medication Advisory Committee (committee).

(b) Provides that the committee consists of 11 members appointed by the executive commissioner. Requires that the committee include:

- (1) three physicians who are actively engaged in the treatment of adults who are infected with HIV;
- (2) one physician who is actively engaged in the treatment of infants and children who are infected with HIV;
- (3) four consumers who are diagnosed with HIV;
- (4) one person who is an administrator for a public, nonprofit hospital that provides services to individuals who are infected with HIV;
- (5) one social worker who works with individuals who are infected with HIV; and
- (6) one pharmacist who participates in the program.

(c) Requires the Texas Department of Health (TDH) to provide staff support for the committee.

(d) Provides that, except as provided by this subchapter, the committee is subject to Chapter 2110 (State Agency Advisory Committees), Government Code.

Sec. 85.273. DUTIES. (a) Requires the committee to advise the executive commissioner and TDH in the development of procedures and guidelines for the program.

(b) Requires the committee to review the program's goals and aims, evaluate the program's ongoing efforts, recommend both short-range and long-range goals and objectives for medication needs, and perform any other tasks assigned by the executive commissioner.

Sec. 85.274. TERMS. Provides that a committee member serves at the will of the executive commissioner.

Sec. 85.275. OFFICERS. (a) Requires the committee to select a presiding officer and an assistant presiding officer from the committee members.

(b) Provides that an officer shall begin serving on March 1 of each odd-numbered year and serve until February 27 of the following odd-numbered year.

(c) Authorizes an officer to continue to serve until a replacement is elected for the officer's position.

(d) Requires the presiding officer to preside at all committee meetings attended by the presiding officer, call meetings in accordance with this subchapter, appoint subcommittees as necessary, and ensure annual reports are made to the commissioner of TDH (commissioner).

(e) Authorizes the presiding officer to serve as an ex officio member of any subcommittee.

(f) Requires the assistant presiding officer to perform the duties of the presiding officer if the presiding officer is absent or becomes disabled, and complete the unexpired portion of the presiding officer's term if the office of the presiding officer becomes vacant.

(g) Authorizes the committee to elect a committee member to replace the assistant presiding officer if the office of the assistant presiding officer becomes vacant.

Sec. 85.276. MEETINGS. (a) Requires the committee to meet only as necessary to conduct committee business.

(b) Authorizes a meeting to be called by agreement between TDH staff and, the presiding officer, or three or more members of the committee.

(c) Requires TDH staff to make meeting arrangements, and contact each committee member to determine the member's availability for a meeting date and place.

(d) Provides that the committee is not a "governmental body" as defined by Chapter 551 (Open Meetings), Government Code. Requires, however, that each committee meeting be announced and conducted in accordance with Chapter 551, Government Code, except that the provisions allowing executive sessions do not apply to the committee.

(e) Requires that each member of the committee be informed of a committee meeting at least five working days before the meeting is to take place.

(f) Requires that an agenda for each committee meeting include an item entitled "public comment" under which any person may address the committee on matters relating to committee business. Authorizes the presiding officer to establish procedures for public comment, including a time limit for each comment.

Sec. 85.277. ATTENDANCE. (a) Requires a member to attend a scheduled committee meeting, and a meeting of a subcommittee to which the member is assigned.

(b) Requires a member to notify the presiding officer or the appropriate TDH staff if the member is unable to attend a scheduled meeting.

(c) Requires the committee to include the attendance records of each member in the committee's annual report to the commissioner. Requires that the report include a member's attendance at both committee and subcommittee meetings.

Sec. 85.278. PROCEDURES. (a) Requires the committee to use Robert's Rules of Order as the basis of parliamentary decisions except as provided by other law or rule.

(b) Requires that an action taken by the committee be approved by a majority vote of the members present after a quorum is established.

(c) Requires that each member have one vote.

(d) Prohibits a member from authorizing another individual to represent the member by proxy.

(e) Requires the committee to make decisions in the discharge of the committee's duties without discrimination based on a person's race, creed, gender, religion, national origin, age, physical condition, or economic status.

(f) Requires TDH staff to take minutes of each committee meeting. Requires the presiding officer, after the minutes are approved by the committee, to sign the minutes.

Sec. 85.279. SUBCOMMITTEES. (a) Authorizes the committee to establish subcommittees as necessary to assist the committee in performing the committee's duties.

(b) Requires the presiding officer to appoint committee members to serve on subcommittees and to act as subcommittee chairs. Authorizes the presiding

officer to appoint a person who is not a committee member to serve on a subcommittee.

(c) Requires a subcommittee to meet when called by the subcommittee's chair or when directed by the committee.

(d) Requires a subcommittee chair to make a regular report to the committee at each committee meeting or in an interim written report as needed. Requires that the report include an executive summary or minutes of each subcommittee meeting.

Sec. 85.280. STATEMENT BY MEMBER; MEMBER DUTIES. (a) Prohibits the executive commissioner, TDH, and the committee from being bound by any statement made or action taken by a committee member unless the member makes the statement or takes the action based on specific instructions from the executive commissioner, TDH, or the committee.

(b) Prohibits the committee and committee members from participating in any legislative activity in the name of the executive commissioner, TDH, or the committee unless the committee or committee member obtains approval through TDH's legislative process. Authorizes committee members to represent themselves or another entity in the legislative process.

(c) Prohibits a committee member from accepting or soliciting a benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(d) Prohibits a committee member from disclosing confidential information acquired through the member's service on the committee.

(e) Prohibits a committee member from knowingly soliciting, accepting, or agreeing to accept a benefit for exercising the member's official powers or duties in favor of another person.

(f) Requires a committee member who has a personal or private interest in a matter pending before the committee to publicly disclose the fact and may not vote or otherwise participate in the matter.

(g) Defines, in this section, "personal or private interest."

Sec. 85.281. COMPENSATION; EXPENSES. (a) Authorizes a committee member to receive reimbursement for expenses incurred for each day the member engages in official committee business if the reimbursement is authorized by the General Appropriations Act or through the budget execution process.

(b) Provides that a committee member is not entitled to a salary or stipend unless required by law.

(c) Provides that a committee member who is an employee of a state agency, other than TDH, is not entitled to reimbursement for expenses from TDH.

(d) Provides that a person who serves on a subcommittee and who is not a committee member is not entitled to reimbursement for expenses from TDH.

(e) Provides that only a consumer who is diagnosed with HIV and serves as a committee member is eligible for reimbursement of actual travel expenses incurred.

(f) Requires a committee member who is eligible for reimbursement of expenses to submit to TDH staff the member's receipts for the expenses and any required forms not later than 14 days after a committee meeting.

(g) Requires a member to make a request for reimbursement of expenses on an official state travel voucher prepared by TDH staff.

Sec. 85.282. REPORTS. (a) Requires the committee to file an annual written report with the commissioner not later than March 31 of each year. Requires that the report cover the meetings and activities of the committee for the year preceding the date of the report.

(b) Requires that the report include:

- (1) the meeting dates of the committee and any subcommittee;
- (2) attendance records for each committee member;
- (3) a brief description of any action taken by the committee;
- (4) a description of how the committee has accomplished any specific tasks officially given to the committee;
- (5) the status of any rules recommended by the committee; and
- (6) the anticipated activities of the committee for the following year.

(c) Requires the committee to identify the costs for the committee's existence in the report, including the cost of TDH staff used to support the committee's activities and the source of funds used to support the committee's activities.

(d) Requires the presiding officer and appropriate TDH staff to sign the report.

SECTION 2. Repealer: Section 85.066 (Advisory Committee), Health and Safety Code.

SECTION 3. (a) Requires the executive commissioner to appoint the initial members of the committee as provided by Section 85.272, Health and Safety Code, as added by this Act, as promptly as possible after the effective date of this Act. Provides that the executive commissioner is authorized to appoint, but is not required to appoint, initial members to the committee who served on the advisory committee previously established under Section 85.066, Health and Safety Code, as repealed by this Act.

(b) Requires the members of the committee, at the first meeting of the committee, to select a presiding officer and an assistant presiding officer, and notwithstanding Section 85.275(b), Health and Safety Code, as added by this Act, the initial terms of those officers begin on the date of selection.

SECTION 4. Effective date: upon passage or September 1, 2011.