

**BILL ANALYSIS**

Senate Research Center  
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S.B. 374  
By: Zaffirini  
Health Services  
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**DIGEST**

S.B. 374 would set forth provisions for the creation and transfer of certain programs to a long-term care agency on human services, aging, health, and rehabilitation, and for the transfer of certain functions from the Department on Aging to the Independent Aging Policy Council.

**PURPOSE**

As proposed, S.B. 374 sets forth provisions for the creation and transfer of certain programs to a long-term care agency on human services, aging, health, and rehabilitation, and for the transfer of certain functions from the Department on Aging to the Independent Aging Policy Council.

**RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Board of Long-term Care Service in Chapters 181B, 181C, and 181D; and Chapter 182B (Sections 181.032, 181.064(a), 181.104(c) and (d), and 181.106(d), Title 2I, Health and Safety Code; and Sections 182.033 and 182.035(a) and (d), Title 2I, Health and Safety Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 2, Health and Safety Code, by adding Subtitle I, as follows:

SUBTITLE I. LONG-TERM CARE

CHAPTER 181. DEPARTMENT OF LONG-TERM CARE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS; ORGANIZATION OF DEPARTMENT

Sec. 181.001. DEFINITIONS. Defines “board,” “commissioner,” “department,” and “elderly person.”

Sec. 181.002. TEXAS DEPARTMENT OF LONG-TERM CARE. Provides that the Texas Department of Long-term Care Services is an agency of this state.

Sec. 181.003. SUNSET PROVISION. Provides that the Texas Department of Long-term Care Services (department) is abolished and this subtitle expires on September 1, 2007, unless continued in existence as provided by Chapter 325, Government Code.

Sec. 181.004. BOARD OF LONG-TERM CARE SERVICES. Provides that the Texas Board of Long-term Care Services (board) is responsible for the adoption of policies and rules for the government of the department. Provides that the board is composed of six members appointed by the governor with the consent of the senate. Requires a person to have demonstrated an interest in and knowledge of long-term care services to qualify for appointment to the board. Requires at least two members of the board to be members of the general public. Prohibits a person from being a public member of the board if the person or the person’s spouse meet certain conditions. Sets forth requirements regarding members’ terms, appointments, and compensation.

Sec. 181.005. COMMISSIONER. Requires the board to appoint a commissioner of long-term care services with the approval of the Health and Human Services Commissioner (commissioner)

and the governor. Provides that the commissioner is the executive and administrative officer of the department. Requires the commissioner to serve at the will of the board. Requires the commissioner to be appointed without regard to race, color, disability, sex, religion, age, or national origin.

Sec. 181.006. **ELIGIBILITY.** Adds standard language developed by the Sunset Advisory Commission regarding eligibility of board members.

Sec. 181.007. **REMOVAL.** Adds standard language developed by the Sunset Advisory Commission regarding removal of board members.

Sec. 181.008. **BOARD TRAINING.** Adds standard language developed by the Sunset Advisory Commission regarding training of board members.

Sec. 181.009. **SEPARATION OF RESPONSIBILITIES.** Adds standard language developed by the Sunset Advisory Commission regarding separation of responsibilities.

Sec. 181.010. **DIVISIONS OF DEPARTMENT.** Authorizes the commissioner to establish divisions within the department as necessary for effective administration and for the discharge of the department's functions. Authorizes the commissioner to allocate and reallocate functions among the department's divisions.

Sec. 181.011. **PERSONNEL.** Authorizes the commissioner to employ personnel necessary to administer the department's duties. Requires the commissioner or the commissioner's designated representative to develop an intra-agency career ladder program, one part of which must require the intra-agency posting of all non-entry-level positions concurrently with any public posting.

Sec. 181.012. **EQUAL EMPLOYMENT OPPORTUNITY.** Adds standard language developed by the Sunset Advisory Commission regarding equal employment opportunity.

Sec. 181.013. **STANDARDS OF CONDUCT.** Requires the commissioner or the commissioner's designee to provide to members of the board and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter.

Sec. 181.014. **MERIT SYSTEM.** Authorizes the department to establish a merit system for its employees. Authorizes the merit system to be maintained in conjunction with other state agencies that are required by federal law to operate under a merit system.

Sec. 181.015. **PUBLIC INPUT INFORMATION AND COMPLAINTS.** Adds standard language developed by the Sunset Advisory Commission regarding public input information and complaints

Sec. 181.016. **ADVISORY COMMITTEES.** Authorizes the board to appoint, on the commissioner's recommendation, advisory committees as needed.

#### **SUBCHAPTER B. POWERS AND DUTIES**

Sec. 181.031. **GENERAL POWERS AND DUTIES.** Provides that the department has all the powers and duties necessary to administer this chapter. Requires the department to administer this state's long-term care services programs and to conduct a statewide needs assessment for long-term care services.

Sec. 181.032. **RULES.** Requires the board to adopt rules necessary to carry out the department's powers and duties under this chapter.

Sec. 181.033. **CONTRACTS.** Authorizes the department to enter into contracts as necessary to perform any of the department's powers or duties.

Sec. 181.034. **LONG-TERM CARE SERVICES.** Provides that the department is responsible for long-term care regulation and rate setting.

Sec. 181.035. INVESTIGATIONS AND ENFORCEMENT. Provides that the department is responsible for the investigation of fraud in the provision of long-term care services and the enforcement of state law relating to the provision of those services.

Sec. 181.036. SERVICES FOR ELDERLY PERSONS. Requires the department to develop, strengthen, extend, and expand services available for elderly persons to the extent funds are appropriated and available for that purpose.

Sec. 181.037. AREA AGENCIES ON AGING. Requires the department to encourage, promote, and aid in the establishment and maintenance of area agencies on aging for the development of programs and services on a local level that improve the living conditions of the aged by enabling them to more fully enjoy and participate in family community life. Requires the department to receive approval from the Health and Human Services Commission (commission) before it may alter an area agency planning service area in effect on September 1, 1999.

Sec. 181.038. TRUSTS FOR CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. Authorizes an area agency on aging to contract with one or more private attorneys to establish trusts described by 42 U.S.C. Section 1396p(d) (4) (B), as amended, for the benefit of recipients of medical assistance under Chapter 32, Human Resources Code, who, without the establishment of these trusts, would become ineligible for medical assistance. Requires the department to allocate available state funds to the area agencies on aging for use in contracting for the establishment of trusts under Subsection (a).

Sec. 181.039. INFORMATION ON COMMUNITY SERVICES. Requires the department to inform a person that community services might be available under the community care for the aged and disabled program administered by the department, if the department determines that a person is not eligible for a level of care in a nursing home. Requires the department to provide a list of services available under the program and information on the services to the person.

#### SUBCHAPTER C. FINANCIAL PROVISIONS

Sec. 181.061. ANNUAL REPORT. Requires the department to file annually a report accounting for money received and disbursed by the department during the preceding fiscal year with the governor and the presiding officer of each house of the legislature.

Sec. 181.062. FINANCIAL AUDIT. Provides that the financial transactions of the department are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 181.063. DONATIONS. Authorizes the department to accept a donation from any source to perform any of the department's powers or duties.

Sec. 181.064. REVIEW OF ADMINISTRATIVE COSTS AND PROGRAMS. Requires the board, by rule, to define "administrative costs." Requires the board, however, if a standard definition of administrative costs is required by law to be used by state agencies, to use that definition. Requires the department to request appropriate information from an entity to determine the administrative costs incurred by an entity. Requires the board to establish the maximum amount of administrative costs that may be incurred by the entity in engaging in the program.

Sec. 181.065. REPORT ON UNIT COSTS. Requires the department to file a report that clearly identifies the unit cost of each service, other than services related to community service volunteering and subsidized employment services, provided by an area agency on aging with the Legislative Budget Board and the Governor's Office of Budget and Planning. Requires the report to be in the form required by the Legislative Budget Board.

#### SUBCHAPTER D. PROGRAMS

Sec. 181.101. GENERAL. Provides that the department is responsible for administering the programs in this subchapter as well as any other programs for the department in other laws.

Sec. 181.102. COOPERATION WITH FEDERAL AND STATE AGENCIES. Provides that the department is the state agency designated to handle federal programs relating to the aged that

require action within the state and that are not the specific responsibility of another state agency under federal or state law. Provides that the department is not intended to supplant or to take away from the counties and municipalities of this state or from other state agencies or facilities any of the specific responsibilities that they hold. Requires the department to cooperate with federal and state agencies, counties, and municipalities and private agencies or facilities in this state to accomplish the purposes of this chapter. Requires the department to cooperate with the Texas Department of Housing and Community Affairs to provide affordable housing for elderly individuals and for families in which an elderly individual is head of the household and shall assess the need for housing for elderly individuals and for families in which an elderly individual is head of the household in different localities; set standards relating to the design and construction of housing for elderly individuals; provide planning assistance to builders; and publicize the availability of the housing program to potential developers and residents.

Sec. 181.103. **WORK GROUP.** Defines “long-term care facilities.” Provides that a work group is created to assist the department and the Texas Department of Mental Health and Mental Retardation (TXMHMR) in studying coordination of planning and services between the two agencies in providing long-term care services. Sets forth who is included in the composition of a work group. Provides that a member of a work group serves at the will of the appointing agency. Requires the commissioner and the commissioner of mental health and mental retardation to jointly appoint a member of the work group to serve as presiding officer, and members of the work group shall elect any other necessary officers. Requires the work group to meet at the call of the presiding officer. Provides that a member of a work group receives no additional compensation for serving on the work group. Requires the work group to study and report on the coordination of planning and services between the two agencies in providing long-term care services. Requires the work group, as part of its study and report on coordination, to additionally study certain procedures and make recommendations in which their development will be consistent and standardized. Requires the work group to report annually to the commissioner and the commissioner of mental health and mental retardation. Requires the report to include any recommendations on subjects the work group has studied. Provides that the work group is not subject to Chapter 2110, Government Code.

Sec. 181.104. **VOLUNTARY COMMUNITY SERVICES PROGRAMS.** Requires the department to disburse state funds appropriated for that purpose to local public agencies or private, nonprofit corporations that operate programs to recruit retired persons to perform voluntary community services or that operate Foster Grandparent Programs. Prohibits a public agency or private, nonprofit corporation from receiving state money under this section, if it is not able to qualify for federal matching money for the same purpose. Requires the board, by rule, to establish guidelines or formulas to determine the proportion of state money distributed to each public agency or private, nonprofit corporation. Requires the board, by rule, to establish additional qualifications to receive the state money. Prohibits the state funds disbursed under this section from being used to pay compensation to volunteer workers, except for participants in the Foster Grandparent Programs, or for purposes other than financing the operation or administration of the volunteer programs, but it may be used to defray expenses incurred by volunteers in the performance of volunteer work. Authorizes the board, by rule, to further limit the purposes for which the state money may be spent.

Sec. 181.105. **PUBLIC INFORMATION ON COST OF LONG-TERM CARE.** Requires the department to develop programs to provide information to the public relating to certain topics.

Sec. 181.106. **PROGRAMS FOR DEAF-BLIND MULTIHANDICAPPED INDIVIDUALS AND THEIR PARENTS.** Requires the department to establish programs to serve deaf-blind multihandicapped individuals by helping them attain self-sufficiency and independent living. Requires the department to establish a program of parental counseling for the parents of deaf-blind multihandicapped individuals. Authorizes the program to be provided on an individual basis and must include programs, activities, and services necessary to foster greater understanding and to improve relationships among professionals, parents, and deaf-blind multihandicapped individuals. Requires the department to establish a summer outdoor training program for deaf-blind multihandicapped individuals. Requires the outdoor training program to be designed to help meet the unique needs of deaf-blind multihandicapped individuals for the purpose of broadening their educational experiences and improving their ability to function more independently. Requires the department to adopt rules for implementing and administering the programs. Authorizes the

department to contract for services or goods with private or public entities for purposes of this section. Requires the department, from information collected from the programs, to determine the need for related future services and the most efficient and effective method of delivering the future services.

SECTION 2. Transfers, effective September 1, 2000, Chapter 101C, Human Resources Code, to Chapter 181, Health and Safety Code, as added by this Act, and redesignates and amends Chapter 181E, Health and Safety Code, as follows:

#### SUBCHAPTER E. OPTIONS FOR INDEPENDENT LIVING

Sec. 181.201. DEFINITIONS. Redesignated from existing Section 101.041.

Sec. 181.202. OPTIONS FOR INDEPENDENT LIVING. Redesignated from existing Section 101.042.

Sec. 181.203. SPONSORS TO BE SERVED. Redesignated from existing Section 101.043. Deletes text requiring the department to maintain a memorandum of agreement with the Texas Department of Human Services.

Sec. 181.204. PROVISIONS OF SERVICES. Redesignated from existing Section 101.044.

Sec. 181.205. CASE MANAGEMENT UNITS. Redesignated from existing Section 101.045.

Sec. 181.206. ADMIN. OF PROGRAM. Redesignated from existing Section 101.046.

Sec. 181.207. ADVISORY COMMITTEE. Redesignated from existing Section 101.047.

Sec. 181.208. FEES. Redesignated from existing Section 101.048. Requires an elderly person whose income exceeds the basic income and resources requirements for eligibility for the department's community care for aged and disabled program, but whose income is less than 200 percent of that level to pay a portion of the cost of support services provided to the person by a case management unit according to the fee scale. Deletes text regarding an elderly person whose income exceeds the basic income and resources requirements. Makes a conforming change.

Sec. 181.209. ANNUAL REPORT. Redesignated from existing Section 101.049. Requires a report to include information concerning the manner in which the department has provided services under the program to elderly persons entitled to priority under Section 181.203(a), rather than 101.043(a). Deletes text authorizing the report to be combined with the report required by Section 101.008.

SECTION 3. Amends Title 2I, Health and Safety Code, as added by this Act, by adding Chapter 182, as follows:

#### CHAPTER 182. INDEPENDENT AGING POLICY COUNCIL

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. DEFINITIONS. Defines "board," "commissioner," "council," "department," and "elderly person."

Sec. 182.002. SUNSET PROVISION. Provides that the Independent Aging Policy Council (council) is abolished and this chapter expires on September 1, 2007, unless continued in existence as provided by Chapter 325, Government Code.

Sec. 182.003. INDEPENDENT AGING POLICY COUNCIL. Provides that the council is created to provide expertise and advice to the department on aging, long-term care, and community policy issues relating to the needs of elderly persons and to recommend action by the department to meet the needs of the state's elderly population. Provides that the council is administratively attached to the department. Requires the department to provide the facilities for the council, but the council is independent of the department or board's direction. Provides that

the council is composed of six members appointed by the governor with the consent of the senate. Requires a person, to qualify for appointment to the council, to have demonstrated an interest in a knowledge of the special needs of elderly persons and on aging issues. Sets forth the persons required to be included as a member. Prohibits a person from being a public member of the board if the person or the person's spouse meet certain conditions. Provides that members of the council serve for staggered terms of six years with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Requires appointments to be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees. Provides that a member is not entitled to compensation but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the council, as provided in the General Appropriations Act.

Sec. 182.004. **PRESIDING OFFICER OF THE COUNCIL.** Requires the governor to designate a presiding officer from among the council members. Provides that a member holds the position of presiding officer at the will of the governor.

Sec. 182.005. **RESTRICTIONS ON COUNCIL MEMBERSHIP AND EMPLOYMENT.** Adds standard language developed by the Sunset Advisory Commission regarding restrictions on council membership and employment.

Sec. 182.006. **REMOVAL.** Adds standard language developed by the Sunset Advisory Commission regarding removal from the council.

Sec. 182.007. **STANDARDS OF CONDUCT.** Adds standard language developed by the Sunset Advisory Commission regarding standards of conduct.

Sec. 182.008. **COUNCIL TRAINING.** Adds standard language developed by the Sunset Advisory Commission regarding council training.

Sec. 182.009. **EXECUTIVE DIRECTOR; PERSONNEL.** Adds standard language developed by the Sunset Advisory Commission regarding the executive director and personnel.

Sec. 182.010. **SEPARATION OF RESPONSIBILITIES.** Adds standard language developed by the Sunset Advisory Commission regarding separation of responsibilities.

Sec. 182.011. **PUBLIC INPUT INFORMATION AND COMPLAINTS.** Adds standard language developed by the Sunset Advisory Commission regarding public input information and complaints.

Sec. 182.012. **CITIZENS ADVISORY COUNCIL.** Provides that the Citizens Advisory Council (CAC) is composed of one member appointed by the council from each designated area agency on aging. Requires each CAC member to also be a member of the local advisory council advising the area agency. Provides that CAC council members are entitled to the compensatory per diem authorized by the General Appropriations Act for each day spent engaged in the performance of their duties as directed by the council and are entitled to the same travel allowance authorized by the General Appropriations Act for state employees. Requires the council to appoint one member of CAC to service as the presiding officer. Requires CAC to work under the council's direction. Requires CAC to inform policymakers and administrators at the state level of local needs and concerns relating to the aged. Requires CAC to meet at least quarterly and to hold other meetings called by the presiding officer. Provides that CAC members serve for staggered terms of three years with the terms of one-third of the membership expiring on January 31 of each year.

#### SUBCHAPTER B. POWERS AND DUTIES

Sec. 182.031. **GENERAL POWERS AND DUTIES.** Provides that the council has all the powers and duties necessary to administer this chapter. Sets forth the required activities of the council. Requires the council to work with area agencies on aging as necessary to carry out the purposes of this chapter.

Sec. 182.032. **COOPERATION WITH FEDERAL AND STATE AGENCIES.** Requires the council to cooperate with federal and state agencies and other organizations in conducting studies

and surveys on the special problems of the aged in matters such as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, and education. Requires the council to make appropriate reports and recommendations to the governor and to the department and other state or federal agencies.

Sec. 182.033. RULES. Authorizes the council to adopt rules necessary to carry out the council's powers and duties under this chapter.

Sec. 182.034. OLDER AMERICANS ACT: STATE UNIT AND PLAN; MONEY. Provides that the council is the state unit on aging under the federal Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and its subsequent amendments. Requires the council to develop this state's plan on aging as required by the federal Older Americans Act. Requires the department to provide information to the council and otherwise assist as requested by the council in developing this plan. Requires the council to determine priorities for money received under the Older Americans Act. Requires the council to transfer money for services to the department within guidelines established by the General Appropriations Act.

Sec. 182.035. FUNDING TO AREA AGENCIES ON AGING. Requires the council, by rule, to adopt a formula that meets the intent of the Older Americans Act, as amended, for allocating among area agencies on aging funds that the department receives under Title III, federal Older Americans Act (42 U.S.C. Section 3021 et seq.) and its subsequent amendments. Requires the formula to provide for allocation of the funds among the area agencies according to the most recent population estimates available from the U.S. Bureau of the Census or the Texas Department of Health. Requires the council to update the formula biennially and to include the formula and the population estimates in each state plan on aging. Requires, unless otherwise provided for by council rules regarding the carryover of unexpended Title III funds, at the end of a fiscal year, unexpended Title III funds of an area agency on aging's allocations for that fiscal year to be deducted from the allocation for the new fiscal year and that same amount of new fiscal year funds shall be reallocated. Requires the council, by rule, to adopt a reallocation formula that includes performance as a criterion, in addition to other criteria adopted by the department. Requires the funds that the council receives under Title III, federal Older Americans Act, on or after September 1, 1999, to be allocated and reallocated to area agencies on aging under the formulas adopted under this section.

SECTION 4. Amends Section 531.001(4), Government Code, to redefine "health and human services agencies."

SECTION 5. Transfers, effective September 1, 2000, Chapter 101D, Human Resources Code, to Chapter 40, Human Resources Code, and redesignates and amends Chapter 40, Human Resources Code, as follows:

#### SUBCHAPTER D. OFFICE OF LONG-TERM CARE OMBUDSMAN

Sec. 40.071. DEFINITIONS. Redesignated from existing Section 101.051. Redefines "long-term care facility."

Sec. 40.072. ESTABLISHMENT OF OFFICE. Redesignated from existing Section 101.052.

Sec. 40.073. ROLE OF OFFICE. Redesignated from existing Section 101.053. Provides that this subchapter does not affect the authority of the Texas Department of Long-term Care Services, rather than the Texas Department of Health and the Texas Department of Human Services, to regulate long-term care facilities.

Sec. 40.074. POWERS AND DUTIES. Redesignated from existing Section 101.054.

Sec. 40.075. LEGAL ASSISTANCE. Redesignated from existing Section 101.055.

Sec. 40.076. OMBUDSMAN. Redesignated from existing Section 101.056.

Sec. 40.077. INVESTIGATIONS. Redesignated from existing Section 101.057.

Sec. 40.078. ACCESS TO RECORDS AND CONFIDENTIALITY. Redesignated from

existing Section 101.058. Requires the state ombudsman or the ombudsman's designee, specifically identified by the executive director, to have access to patient care records of elderly residents of long-term care facilities. Deletes text regarding defining elderly residents of long-term care facilities. Makes conforming changes.

Sec. 40.079. REPORTING SYSTEM. Redesignated from existing Section 101.059. Makes conforming changes.

Sec. 40.080. ANALYSIS OF LAWS. Redesignated from existing Section 101.060.

Sec. 40.081. PUBLIC INFORMATION. Redesignated from existing Section 101.061.

Sec. 40.082. ANNUAL REPORT. Redesignated from existing Section 101.062. Authorizes the report to be combined with the report required by Section 40.0565, rather than Section 101.008.

Sec. 40.083. LIMITATION OF LIABILITY. Redesignated from existing Section 101.063.

Sec. 40.084. CRIMINAL PENALTY. Redesignated from existing Section 101.064.

SECTION 6. Redesignates, effective September 1, 2000, Section 101.023, Human Resources Code, as Chapter 312, Labor Code, as follows:

#### CHAPTER 312. COMMUNITY SENIOR CITIZENS EMPLOYMENT

Sec. 312.001. COMMUNITY SENIOR CITIZENS EMPLOYMENT PROGRAMS. Redesignated from existing Section 101.023. Authorizes the commission, rather than Texas Workforce Commission, to establish and administer a community program for persons 55 years or older who lack suitable employment and have family incomes under federal poverty guidelines. Makes conforming changes.

SECTION 7. Repealers, effective September 1, 2000:

- (1) Section 12.015, Health and Safety Code (Information on Community Services).
- (2) Chapter 101, Human Resources Code (Texas Department on Aging).
- (3) Chapter 113, Human Resources Code (Programs for Deaf-Blind Multihandicapped individuals and their parents).

SECTION 8. (a) Requires the department to study the feasibility of a subacute care pilot project. Requires the commission and the Texas Department of Health (TDH) to cooperate with and assist the department in this study. Sets forth the department's required considerations in conducting the study.

(b) Requires the department, not later than September 1, 2000, to submit a report on the feasibility of a subacute care pilot project to the commission.

(c) Provides that this section expires on September 1, 2001.

SECTION 9. (a) Requires the commissioners of the department and TXMHMR to appoint the members of the work group created by Section 181.103, Health and Safety Code, as added by this Act, not later than December 1, 1999.

(b) Requires the work group to report on the study and recommendations required by Section 181.103(h), Health and Safety Code, as added by this Act, to the commissioners of the department and TXMHMR not later than September 1, 2000.

SECTION 10. Requires the governor, not later than September 30, 1999, to appoint the initial members of the board created by Section 181.004, Health and Safety Code, as added by this article. Requires the governor to designate two members for a term expiring on February 1, 2001, two members for a term expiring on February 1, 2003, and two members for a term expiring on February 1, 2005.

SECTION 11. Requires the governor, not later than September 30, 1999, to appoint the initial members



of the Independent Aging Policy Council created by Section 182.003, Health and Safety Code, as added by this Act. Requires the governor to designate two members for a term expiring on February 1, 2001, two members for a term expiring on February 1, 2003, and two members for a term expiring on February 1, 2005.

SECTION 12. Requires the state auditor, not later than December 1, 2000, to evaluate and report to the governor, the lieutenant governor, the speaker of the house of representatives, and the commission on its recommendations for improvements in the management and fiscal control systems of the department.

SECTION 13. (a) Sets forth the topics the commission is required to study.

(b) Requires the commission, based on the study in Subsection (a) of this section, and not later than December 1, 1999, to report its recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, and the Health and Human Services Legislative Oversight Committee.

(c) Requires, after review of the report required by Subsection (b) of this section by the governor, the lieutenant governor, the speaker of the house of representatives, the Health and Human Services Legislative Oversight Committee, and the department, to the extent practicable, to implement programs transferred to it under this Act in a manner consistent with the commission's report.

(d) Requires, consistent with the report required by Subsection (b) of this section, the commissioner, for each program, to determine the date on which a program administered by another state agency must be transferred to the department or the Department of Protective and Regulatory Services, as required by this Act. Prohibits the date on which a program must be transferred from being later than September 1, 2000.

(e) Requires each state agency affected by this Act to cooperate with the Health and Human Services Commission and the department in formulating and implementing the study required by Subsection (a) of this section, the report required by Subsection (b) of this section, and the transition under Subsection (d) of this section. Requires this cooperation to include assistance in program transition plans, the creation of an interim operating budget, and the temporary assignment of staff as necessary to ensure an orderly transition.

SECTION 14. (a) Provides that on September 1, 2000, or at an earlier date as determined by the Health and Human Services Commission under Section 13(d) of this Act: all powers, duties, functions, and activities relating to certain programs assigned to or performed by the Texas Department of Human Services (TDHS) immediately before that date, are transferred to the department; all employees of TDHS who primarily perform duties related to a program listed under Subdivision (1) of this subsection become employees of the department; a rule or form adopted by TDHS that relates to a program listed in Subdivision (1) of this subsection is a rule or form of the department and remains in effect until altered by the agency; a reference in law or an administrative rule to TDHS that relates to a program listed in Subdivision (1) of this subsection means the department; a license, permit, or certification in effect that was issued by TDHS for a program listed in Subdivision (1) of this subsection is continued in effect as a license, permit, or certification of the department; and a complaint, investigation, or other proceeding pending before TDHS that is related to a program listed in Subdivision (1) of this subsection is transferred without change in status to the department.

(b) Provides that on the 30th day after the date specified in Subsection (a) of this section: all funds, obligations, and contracts of TDHS related to a program listed in Subsection (a) of this section are transferred to the department; and all property and records in the custody of TDHS related to a program listed in Subsection (a) of this section and all funds appropriated by the legislature for a program listed in Subsection (a) of this section are transferred to the department.

SECTION 15. (a) Provides that on September 1, 2000, or an earlier date as determined by the Health and Human Services Commission under Subsection 13(d) of this Act: all powers, duties, functions, and activities relating to certain programs assigned or performed by the department immediately before that date are transferred to the department; all employees of the Texas Department of Health (TDH) who primarily perform duties related to a program listed in Subdivision (1) of this subsection become employees of the department; a rule or form adopted by TDH that relates to a program listed in Subdivision (1) of this

subsection is a rule or form of the department and remains in effect until altered by the agency; a reference in law or an administrative rule to TDH that relates to a program listed in Subdivision (1) of this subsection means the department; a license, permit, or certification in effect that was issued by TDH for a program listed in Subdivision (1) of this subsection is continued in effect as a license, permit, or certification of the department; and a complaint, investigation, or other proceeding pending before TDH that is related to a program listed in Subdivision (1) of this subsection is transferred without change in status to the department.

(b) Provides that on the 30th day after the date specified in Subsection (a) of this section: all funds, obligations, and contracts of TDH related to a program listed in Subsection (a) of this section are transferred to the department; and all property and records in the custody of TDH related to a program listed in Subsection (a) of this section and all funds appropriated by the legislature for a program listed in Subsection (a) of this section are transferred to the department.

SECTION 16. (a) Provides that on September 1, 2000, or an earlier date as determined by the Health and Human Services Commission under Subsection 13(d) of this Act: all powers, duties, functions, and activities relating to certain programs assigned or performed by the department immediately before that date are transferred to the department; all employees of the Texas Rehabilitation Commission (TRC) who primarily perform duties related to a program listed in Subdivision (1) of this subsection become employees of the department; a rule or form adopted by TRC that relates to a program listed in Subdivision (1) of this subsection is a rule or form of the department and remains in effect until altered by the agency; a reference in law or an administrative rule to TRC that relates to a program listed in Subdivision (1) of this subsection means the department; a license, permit, or certification in effect that was issued by TRC for a program listed in Subdivision (1) of this subsection is continued in effect as a license, permit, or certification of the department; and a complaint, investigation, or other proceeding pending before TRC that is related to a program listed in Subdivision (1) of this subsection is transferred without change in status to the department.

(b) Provides that on the 30th day after the date specified in Subsection (a) of this section: all funds, obligations, and contracts of TRC related to a program listed in Subsection (a) of this section are transferred to the department; and all property and records in the custody of TRC related to a program listed in Subsection (a) of this section and all funds appropriated by the legislature for a program listed in Subsection (a) of this section are transferred to the department.

SECTION 17. (a) Provides that on September 1, 2000, or an earlier date as determined by the Health and Human Services Commission under Subsection 13(d) of this Act: all powers, duties, functions, and activities relating to the Office of Long-term Care Ombudsman administered by the Texas Department on Aging (TDoA) immediately before that date are transferred to the Texas Department of Protective and Regulatory Services (DPRS); all employees of TDoA who primarily perform duties related to a program listed in Subdivision (1) of this subsection become employees of DPRS; a rule or form adopted by TDoA that relates to a program listed in Subdivision (1) of this subsection is a rule or form of DPRS and remains in effect until altered by the agency; a reference in law or an administrative rule to TDoA that relates to the ombudsman program described by Subdivision (1) of this subsection means the DPRS; a license, permit, or certification in effect that was issued by TDoA that relates to the ombudsman program described by Subdivision (1) of this subsection is continued in effect as a license, permit, or certification of DPRS; and a complaint, investigation, or other proceeding pending before TDoA that relates to ombudsman program described by Subdivision (1) of this subsection is transferred without change in status to the DPRS.

(b) Provides that on the 30th day after the date specified in Subsection (a) of this section: all funds, obligations, and contracts of TDoA related to the ombudsman program described by Subsection (a) of this section are transferred to DPRS; and all property and records in the custody of TDoA related to the ombudsman program described by Subsection (a) of this section and all funds appropriated by the legislature for a program listed in Subsection (a) of this section are transferred to the DPRS.

SECTION 18. (a) Provides that this section takes effect on September 1, 2000, or an earlier date as determined by the commission under SECTION 13(d) of this Act.

(b) Provides that the TDoA is abolished.

(c) Provides that except as provided by SECTION 17 of this Act: all powers, duties, functions,

and activities performed by TDoA immediately before that date are transferred to the department; all employees of TDoA become employees of the department; a rule or form adopted by TDoA is a rule or form of department and remains in effect until altered by the agency; a reference in law or an administrative rule to TDoA means the department; a license, permit, or certification in effect that was issued by TDoA is continued in effect as a license, permit, or certification of the department; and a complaint, investigation, or other proceeding pending before TDoA is transferred without change in status to the department.

(d) Provides that, except as provided by SECTION 17 of this Act, on the 30th day after the effective date of this section: all funds, obligations, and contracts of TDoA related to the department; and all property and records in the custody of TDoA and all funds appropriated by the legislature for the TDoA are transferred to the department.

SECTION 19. Requires the department or any other state agency to request a waiver or authorization and may delay implementing that provision until the waiver or authorization is granted, if, before implementing any provision of this Act, the department or another state agency determines that a waiver or authorization from a federal agency is necessary for implementation.

SECTION 20. Effective date, except as otherwise provided in this Act: September 1, 1999.

SECTION 21. Emergency clause.