

BILL ANALYSIS

C.S.S.B. 2138
By: Hinojosa
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Health and Human Services Commission (HHSC) administers supplemental payments for numerous programs authorized by federal law, such as Section 1115 demonstration waiver programs and directed payment programs. However, HHSC is authorized to retain funds for the administration of only a few of these programs. This means that general revenue dollars have to fund the state share of administrative costs to operate the remaining programs. C.S.S.B. 2138 seeks to give HHSC the authority to retain some funds to administer certain payment programs and meet growing demands.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.S.B. 2138 amends the Government Code to authorize the Health and Human Services Commission (HHSC) to retain from money HHSC receives from a source other than the general revenue fund to operate a Section 1115 Medicaid demonstration waiver program or a directed payment program, as defined by the bill, or successor program as determined by HHSC, an amount equal to the estimated costs necessary to administer the program for which the money is received, capped at \$8 million for a state fiscal biennium. The bill requires HHSC to spend the retained money to assist in paying the costs necessary to administer the program for which the money is received but prohibits HHSC from using the money to pay any type of administrative cost that before June 1, 2019, was funded with general revenue. The bill authorizes HHSC, if HHSC determines that it needs additional money to administer a waiver or directed payment program, to retain, with the approval of the governor and the Legislative Budget Board (LBB), not more than an additional 0.25 percent of the total amount estimated to be received for the program.

C.S.S.B. 2138 requires the HHSC to submit an annual report to the governor and the LBB that:

- details the amount of money retained and spent by HHSC under the bill's provisions during the preceding state fiscal year, including a separate detail of any increase in the amount of money retained for a Section 1115 Medicaid demonstration waiver program, directed payment program, or successor program;
- contains a transparent description of how HHSC used that money; and
- assesses the extent to which the money retained by HHSC under the bill's provisions

covered the estimated costs to administer the applicable program and states whether, based on that assessment, HHSC adjusted or considered adjustments to the amount retained.

C.S.S.B. 2138 requires the executive commissioner of HHSC to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2138 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute changes the cap on the amount HHSC is authorized to retain from money to which the bill's provisions apply from one percent of the total amount estimated to be received for an applicable program to \$8 million for a state fiscal biennium. The substitute includes a provision authorizing HHSC, with approval from the governor and the LBB, to retain a certain additional amount under certain circumstances. The substitute includes requirements for HHSC to submit a certain annual report to the governor and the LBB.

The substitute does not include a requirement for HHSC to spend money retained under the bill's provisions as provided by the General Appropriations Act and other applicable law but includes a requirement for HHSC to spend that money to assist in paying the costs necessary to administer the program for which the money is received, with a certain exception.