

SUBJECT: Specifying which OIG legal services were transferred to HHSC

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Raymond, Frank, Miller, Minjarez, Rose, Swanson, Wu
0 nays
2 absent — Keough, Klick

WITNESSES: For — None
Against — None
On — Gary Jessee, Health and Human Services Commission; (*Registered, but did not testify*: Stuart Bowen and Dirk Johnson, Health and Human Services Commission Inspector General)

BACKGROUND: SB 207 by Hinojosa, enacted by the 84th Legislature in 2015, implemented Sunset recommendations for the Health and Human Services Commission's (HHSC's) Office of Inspector General. The bill amended Government Code, sec. 531.102 to give the HHSC executive commissioner responsibility for performing all administrative support services functions necessary to operate the office, including procurement processes, contracting policies, information technology services, budgeting, personnel and employment policies, and legal services.

DIGEST: HB 2379 would specify that the HHSC executive commissioner was responsible for the Office of Inspector General's legal services relating only to open records, procurement, contracting, human resources, privacy, litigation support by the attorney general, bankruptcy, and other legal services detailed in a memorandum of understanding or other written agreement between HHSC and the office.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 2379 would address ambiguity in current law about which legal services were transferred by the 84th Legislature to the Health and Human Services Commission (HHSC) from the Office of Inspector General (OIG). The bill would align statute with the original intent of SB 207, which did not seek to move the OIG's investigatory functions to the HHSC executive commissioner. This bill would specify the OIG legal services that are administrative in nature, thereby falling under the executive commissioner's authority, and effectively would leave investigatory legal services with the OIG.

The bill would protect the necessary independence of the OIG by preserving its authority over attorneys that perform investigative and audit functions. The OIG's investigatory legal services are different from legal services in the other agencies and entities whose administrative functions were transferred to HHSC. Unlike other functions, OIG's investigatory legal services require independence from HHSC to be successful. HB 2379 would not conflict with federal rules because the OIG is embedded within HHSC and is not a separate agency.

**OPPONENTS
SAY:**

HB 2379 could create inconsistencies in how legal services are handled across the state's health and human services agencies and divisions. It also is unclear whether OIG independent investigations would be consistent with federal requirements for Medicaid to operate within a single state agency.