

## **BILL ANALYSIS**

Senate Research Center  
78R10154 DLF-F

H.B. 2019  
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Engrossed

### **DIGEST AND PURPOSE**

The Texas Traumatic Brain Injury Advisory Council (TBIAC) is a joint endeavor by the Health and Human Services Commission and the Texas Department of Health. This council is devoted to the interests of persons with traumatic brain injuries and their families. Concerns have arisen that Texas' current health care delivery system does not adequately meet the needs of persons with traumatic brain injury. TBIAC is focused on integrating access to appropriate services and supports that already exist. H.B. 2019 establishes this council within the Texas Department of Health to assist people with brain injuries and their families and outlines its duties and responsibilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 2 (Section 92.060, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Designates Sections 92.001-92.011, Health and Safety Code, as Subchapter A of Chapter 92, Health and Safety Code, and adds a subchapter heading for Subchapter A, to read as follows:

#### **SUBCHAPTER A. GENERAL PROVISIONS**

SECTION 2. Amends Chapter 92, Health and Safety Code, by adding Subchapter B, as follows:

#### **SUBCHAPTER B. TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL**

Sec. 92.051. DEFINITIONS. Defines "traumatic brain injury support group," "council," and "primary family caregiver."

Sec. 92.052. ADVISORY COUNCIL; ASSOCIATED AGENCY. (a) Provides that the Texas Traumatic Brain Injury Advisory Council (TBIAC) is an advisory council within the Texas Department of Health (TDH).

(b) Provides that, notwithstanding Subsection (a), if, as a result of legislation enacted in the 78th Legislature, Regular Session, 2003, a state agency other than TDH is designated to serve as the agency with primary responsibility in relation to persons with physical disabilities, TBIAC is an advisory council within that state agency and a reference in this chapter to TDH means that agency.

Sec. 92.053. MEMBERSHIP. (a) Requires TBIAC to be composed in accordance with federal law. Requires appointments to TBIAC to be made without regard to certain characteristics of the appointees.

(b) Sets forth the composition of TBIAC, including 22 members appointed in a certain

manner.

- (c) Requires one of the six public consumer members appointed under Subsection (b)(1) to be a member of a statewide traumatic brain injury support group.

Sec. 92.054. OFFICERS. (a) Requires the members of TBIAC annually to elect a presiding officer and an assistant presiding officer from the council members.

- (b) Prohibits a representative of a state agency from serving as presiding officer or assistant presiding officer.

- (c) Requires at least one of the officers to be a public consumer member.

Sec. 92.055. RESTRICTIONS ON MEMBERS. (a) Defines "Texas trade association." Provides that the term does not include a voluntary health organization.

- (b) Prohibits a person from being a public consumer member of TBIAC if the person or the person's spouse engages in certain activities.

- (c) Prohibits a person from being a member of TBIAC if the person is an officer, employee, or paid consultant of a Texas trade association in a health care field.

- (d) Prohibits a person from being a member of TBIAC if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TBIAC.

- (e) Sets forth grounds for removal from TBIAC.

- (f) Provides that the validity of an action of TBIAC is not affected by the fact that it is taken when a ground for removal of a council member exists.

Sec. 92.056. TERMS; VACANCY. (a) Provides that the public consumer and professional members of TBIAC are appointed for staggered six-year terms, with the terms of four members expiring February 1 of each odd-numbered year.

- (b) Provides that, in addition to other methods by which a position may become vacant, a position on TBIAC becomes vacant if a member resigns from TBIAC by providing written notice to the presiding officer of TBIAC.

- (c) Requires the presiding officer, if a position on TBIAC becomes vacant, to provide written notice to the appropriate appointing official requesting a new appointment to fill the remainder of the member's term.

- (d) Requires the appropriate appointing official, if a vacancy occurs, to appoint a person, in the same manner as the original appointment, to serve for the remainder of the unexpired term.

- (e) Provides that a person who has served one full term on TBIAC is not eligible for reappointment.

Sec. 92.057. COMPENSATION; EXPENSES. (a) Provides that, except as provided by Subsections (b) and (c), a member of TBIAC is not entitled to compensation for service on TBIAC and is not entitled to reimbursement for travel expenses.

- (b) Requires a member who is a representative of a state agency to be reimbursed for

travel expenses incurred while conducting TBIAC business from the funds of the agency the person represents in accordance with the General Appropriations Act.

(c) Requires TDH, if money is available for this purpose in the account established under Section 92.062(b), to reimburse a public consumer member for the member's actual and necessary expenses incurred in performing TBIAC duties, including travel, meals, lodging, respite care for a dependent with a disability, and telephone long-distance charges.

Sec. 92.058. MEETINGS. Requires TBIAC to meet at least once each calendar quarter on meeting dates set by TBIAC and at the call of the presiding officer.

Sec. 92.059. DUTIES OF THE COUNCIL. Requires TBIAC to:

- (1) inform state leaders of issues and policies as they relate to meeting the needs of persons with a traumatic brain injury and their primary family caregivers;
- (2) recommend to state leaders policies and programs that more effectively serve persons with a traumatic brain injury and their families;
- (3) recommend to TDH methods to explore and promote innovative approaches to providing services and support to persons with a traumatic brain injury and their families;
- (4) recommend to TDH methods to promote education, training, and information about traumatic brain injury issues;
- (5) advocate for persons with a traumatic brain injury and their families;
- (6) recommend to TDH methods to support activities aimed at reducing preventable brain injuries; and
- (7) recommend to TDH methods to conduct outreach to obtain public input.

Sec. 92.060. DUTIES OF THE DEPARTMENT. (a) Requires TDH to:

- (1) provide administrative support services to TBIAC;
  - (2) accept gifts and grants on behalf of TBIAC from any public or private entity;
  - (3) receive, deposit, and disburse gifts and grants for TBIAC in accordance with this subchapter and provide other administrative services in support of TBIAC as requested by and negotiated with TBIAC; and
  - (4) enter into a memorandum of understanding with TBIAC that delineates the responsibilities of TDH and TBIAC under this subchapter and amend the memorandum as necessary to reflect changes in those responsibilities.
- (b) Authorizes the Texas Board of Health to adopt rules as necessary to implement TDH's duties under this subchapter and federal developmental disability laws.

Sec. 92.061. ADDITIONAL COUNCIL DUTIES. Requires TBIAC to make recommendations, at the request of the governor or legislative leaders, relating to activities appropriate to the achievement of legislative and executive functions relating to persons with a traumatic brain injury, and submit to the governor, legislature, and other appropriate state and

federal authorities periodic reports on TBIAC's responsibilities and performance.

Sec. 92.062. GIFTS AND GRANTS. (a) Encourages TBIAC to seek a gift or grant from any public or private entity.

(b) Requires the Health and Human Services Commission to deposit any money received under Subsection (a) to the credit of the TBIAC account. Provides that the TBIAC account is an account in the general revenue fund that may be appropriated only for the purpose of carrying out this subchapter.

Sec. 92.063. ADVISORY COMMITTEE STATUTE INAPPLICABLE. Provides that Chapter 2110, Government Code, does not apply to TBIAC.

SECTION 3. Amends Section 92.001(2), Health and Safety Code, to amend a reference to conform to the changes in law made by this Act.

SECTION 4. Amends Sections 92.002(b) and (d), Health and Safety Code, to make conforming changes.

SECTION 5. Amends Section 92.003(c), Health and Safety Code, to make a conforming change.

SECTION 6. Amends Sections 92.004(a), (c), and (d), Health and Safety Code, to make conforming changes.

SECTION 7. Amends Section 92.005, Health and Safety Code, to make conforming changes.

SECTION 8. Amends Section 92.006(b), Health and Safety Code, to make a conforming change.

SECTION 9. Amends Sections 92.008(a) and (e), Health and Safety Code, to make conforming changes.

SECTION 10. (a) Amends Section 92.011, Health and Safety Code, to require TDH and TBIAC established within TDH under Subchapter B to take certain actions.

(b) Authorizes TDH and TBIAC to enter into a memorandum of understanding to facilitate cooperation under Subsection (a).

SECTION 11. Provides that the changes in law made by this Act do not affect the entitlement of a member serving on TBIAC immediately before the effective date of this Act to continue to carry out the member's functions for the remainder of the member's term. Requires the commissioner of health and human services, as soon as practicable after the effective date of this Act, to develop a plan to bring the composition of TBIAC into compliance with Section 92.053, Health and Safety Code, as added by this Act, as the service of existing members of TBIAC terminates.

SECTION 12. Provides that it is the intention of the legislature that Subchapter B, Chapter 92, Health and Safety Code, as added by this Act, be interpreted and applied to reflect any changes made by the 78th Legislature relating to the structure of governmental agencies providing health and human services and programs in this state. Provides that if the relevant functions or duties of any agency referenced in Subchapter B, Chapter 92, Health and Safety Code, as added by this Act, are transferred to another agency by the 78th Legislature, the reference means the agency to which the relevant functions or duties were transferred.

SECTION 13. Effective date: September 1, 2003.