

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1433
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The office of inspector general (office) of the Health and Human Services Commission (HHSC) is required to conduct investigations of fraud in HHSC or health and human service agencies. However, the office experiences some difficulty in conducting those investigations because the office is not authorized to access bank records or to directly issue a subpoena to acquire necessary evidence and witnesses.

C.S.H.B. 1433 authorizes the inspector general to employ and commission peace officers as investigators for the limited purpose of accessing bank records and authorizes the inspector general to directly issue a subpoena. This bill also sets forth certain provisions to formalize cooperation between the office and the State Auditor's Office.

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 Subchapter B, Chapter 531, Government Code, by adding Sections 531.099 and 531.0991, as follows:

Sec. 531.099. TILE REIMBURSEMENT PAYMENTS. (a) Defines "TILE classification."

(b) Requires the Health and Human Services Commission (HHSC) to ensure that the rules governing the reimbursement payments to nursing facilities based on TILE classifications prescribe certain methods and permit certain actions performed by a nursing facility.

Sec. 531.0991. RECONSIDERATION OF TILE CLASSIFICATION. (a) Defines "TILE classification."

(b) Requires HHSC to review and make a determination on the request not later than the 60th day after the date HHSC receives the request if a nursing facility or hospice provider disagrees with HHSC's TILE classifications of a nursing facility resident and submits a reconsideration request for that classification as provided by commission rules.

(c) Provides that, if HHSC does not make a determination on a reconsideration request during the period required by Subsection (b), the TILE classification requested by the nursing facility or hospice provider for the nursing facility resident is considered granted, and that the TILE classification and the associated daily reimbursement rate is assigned to the resident retroactively to the effective date of the incorrect TILE classification.

SECTION 2. Amends Section 531.102, Government Code, by adding Subsections (h-1) and (l) and amending Subsections (j) and (k), as follows:

(h-1) Authorizes the inspector general of HHSC to employ and commission peace officers as investigators for the limited purpose of assisting the inspector general in carrying out the duties of the office of inspector general (office) specified by Subsection (a). Provides that a commissioned peace officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund under Title 8 (Public Retirement Systems).

(j) Requires the office to prepare a final report on each audit, investigation, or review that the office conducts under this subchapter (Medicaid and Other Health and Human Services Fraud, Abuse, or Overcharges) or other law, rather than this section (Office of Inspector General). Makes conforming changes.

(k) Makes conforming changes.

(l) Requires the office to deliver a copy of each final report prepared in accordance with Subsection (j) to certain persons and entities set forth in this subsection.

SECTION 3. Amends Section 531.1021(a), Government Code, as follows:

(a) Authorizes the inspector general to issue a subpoena, rather than authorizing the office to request that the executive commissioner of HHSC (executive commissioner), or the executive commissioner's designee, approve the issuance of a subpoena by the office, in connection with an investigation conducted by the office. Authorizes the office to issue the subpoena, rather than authorizing such if the request for a subpoena is approved.

SECTION 4. Amends the heading to Section 531.103, Government Code, to read as follows:

Sec. 531.103. INTERAGENCY COORDINATION WITH ATTORNEY GENERAL.

SECTION 5. Amends Section 531.103, Government Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Includes the state auditor as an entity to which HHSC and the office of the attorney general are required to submit a semiannual report concerning the activities of HHSC and the office of the attorney general in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program that is funded with state or federal money administered by HHSC or a health and human services agency.

(c-1) Requires the report required by Subsection (c) to specifically describe certain activities of the office during the current state fiscal year.

SECTION 6. Amends Subchapter C, Chapter 531, Government Code, by adding Sections 531.1041, 531.1042, and 531.1043, as follows:

Sec. 531.1041. COOPERATION AND COORDINATION WITH STATE AUDITOR.

(a) Authorizes the inspector general to request that the state auditor provide information or other assistance to the inspector general, and authorizes the state auditor to provide such information or assistance as the state auditor determines appropriate.

(b) Authorizes the inspector general to meet with the state auditor's office to coordinate an audit, investigation, or review conducted under this subchapter, to share information, or to schedule work plans.

(c) Entitles the state auditor to have access to all information maintained by the inspector general, including information that is confidential under state and federal law, and vouchers, electronic data, and internal records.

(d) Provides that information provided by or to the state auditor under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 531.1042. STATE AUDITOR AUDITS, INVESTIGATIONS, AND REVIEWS AND ACCESS TO INFORMATION NOT AFFECTED. Provides that this chapter and any other law relating to the office's operation does not prohibit the state auditor from conducting an audit, investigation, or review or from having complete access to all records and certain information, nor does it affect the state auditor's authority to conduct an audit, investigation, or review under Chapter 321 (State Auditor) or other law.

Sec. 531.1043. REPORTS TO GOVERNOR AND STATE AUDITOR. (a) Requires the inspector general to inform the governor and the state auditor in a timely manner of the initiation of an audit, investigation, or review under this subchapter and the status of each ongoing audit, investigation, and review.

(b) Requires the inspector general to immediately report to the general counsel of the governor and to the state auditor any problem relating to the operation or administration of a program administered by HHSC or a health and human services agency, or any interference with an audit, investigation, or review that the inspector general considers particularly serious or flagrant.

SECTION 7. Amends Article 2.12, Code of Criminal Procedure, to include an investigator commissioned by the Texas Medical Board, rather than the State Board of Medical Examiners, an officer employed by the Department of State Health Services, rather than the Texas Department of Health, an investigator commissioned by the commissioner of insurance under Section 701.104 (Department Investigators), rather than Article 1.10D, Insurance Code, investigators commissioned by the Texas Private Security Board, rather than the Texas Commission on Private Security, and officers employed or commissioned by the office under Subchapter C (Medicaid and other Health and Human Services Fraud, Abuse, or Overcharges), Chapter 531, Government Code, as peace officers.

SECTION 8. Makes application of Section 531.0991, Government Code, as added by this Act, prospective.

SECTION 9. Authorizes a state agency to delay implementing a provision of this Act until a requested federal waiver or authorization necessary to implement that provision is obtained.

SECTION 10. Effective date: September 1, 2007.