

BILL ANALYSIS

Senate Research Center

S.B. 203
By: Nelson et al.
Health & Human Services
5/28/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation continues the Texas Health Services Authority (THSA) through 2021, at which time it will be removed from statute and allowed to function as a private nonprofit corporation. The bill also continues a statutory and voluntary program certifying compliance with privacy standards and changes THSA's current board to include representation of local health information exchanges.

The bill ensures that THSA continues to have the opportunity to advise the Health and Human Services Commission on health information exchange related issues after it is removed from statute.

S.B. 203 amends current law relating to the continuation and functions of the Texas Health Services Authority as a quasi-governmental entity and the electronic exchange of health care information.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 15 (Section 182.108, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.904, Government Code, by amending Subsections (c) and (g) and adding Subsections (c-1) and (c-2), as follows:

(c) Requires the Electronic Health Information Exchange System Advisory Committee (advisory committee) to include certain members and sets forth those members to be included. Deletes existing text requiring the advisory committee to include at least one representative of the Texas Health Services Authority (THSA) established under Chapter 182, Health and Safety Code. Makes nonsubstantive changes.

(c-1) Requires the advisory committee, notwithstanding Subsection (c), to include at least one representative of THSA. Provides that this subsection expires September 1, 2021.

(c-2) Requires the advisory committee, notwithstanding Subsection (c), on and after September 1, 2021, to include at least one representative of the private nonprofit organization with relevant knowledge and experience in establishing statewide health information exchange capabilities designated under Section 182.108(j), Health and Safety Code.

(g) Requires the advisory committee to collaborate with THSA to ensure that the health information exchange system is interoperable with, and not an impediment to, the electronic health information infrastructure that THSA assists in developing. Provides that this subsection expires September 1, 2021.

SECTION 2. Amends Section 181.206, Health and Safety Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that the Health and Human Services Commission (HHSC), in coordination with the attorney general of the State of Texas (attorney general) and the Texas Department of Insurance (TDI), rather than in coordination with THSA, the attorney general, and TDI:

(1)-(2) Makes no change to these subdivisions.

(a-1) Requires HHSC, notwithstanding Subsection (a), to also coordinate with THSA when requesting an audit or monitoring and reviewing the results of an audit under Subsection (a). Provides that this subsection expires September 1, 2021.

SECTION 3. Amends Section 181.207, Health and Safety Code, as follows:

Sec. 181.207. FUNDING. (a) Creates this subsection from existing text. Requires HHSC and TDI to apply for and actively pursue available federal funding for enforcement of this chapter, rather than requires HHSC and TDI to, in consultation with THSA, apply for and actively pursue available federal funding for enforcement of this chapter.

(b) Requires HHSC and TDI, notwithstanding Subsection (a), to consult with THSA when applying for or pursuing federal funding under Subsection (a). Provides that this subsection expires September 1, 2021.

SECTION 4. Amends the heading to Chapter 182, Health and Safety Code, to read as follows:

CHAPTER 182. ELECTRONIC EXCHANGE OF HEALTH INFORMATION

SECTION 5. Amends Subchapter A, Chapter 182, Health and Safety Code, by adding Section 182.003, as follows:

Sec. 182.003. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2021.

SECTION 6. Amends Section 182.052, Health and Safety Code, as follows:

Sec. 182.052. New heading: EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2021. Deletes existing text providing that THSA is subject to Chapter 325 (Sunset Law), Government Code. Deletes existing text providing that unless continued in existence as provided by that chapter, THSA is abolished and this chapter expires September 1, 2015. Deletes existing text authorizing the governor of the State of Texas (governor) to order the dissolution of THSA at any time the governor declares that the purposes of THSA have been fulfilled or that THSA is inoperative or abandoned.

SECTION 7. Amends Section 182.053, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, by amending Subsections (a) and (b) and adding Subsections (b-1) and (h), as follows:

(a) Provides that THSA is governed by a board of 12 directors, rather than 11 directors, appointed by the governor, with the advice and consent of the senate.

(b) Requires the governor to also appoint at least two ex officio, nonvoting members representing the health and human services agencies as state agency data resources, rather than requiring the governor to appoint at least two ex officio, nonvoting members representing the department.

(b-1) Requires the governor to appoint as a voting member one individual who represents Texas local health information exchanges.

(h) Defines "health and human services agencies."

SECTION 8. Amends Section 182.101, Health and Safety Code, as follows:

Sec. 182.101. GENERAL POWERS AND DUTIES. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Provides that this section expires September 1, 2021.

SECTION 9. Amends Section 182.102, Health and Safety Code, by adding Subsection (c) to provide that this section expires September 1, 2021.

SECTION 10. Amends Section 182.103, Health and Safety Code, by adding Subsection (d) to provide that this section expires September 1, 2021.

SECTION 11. Amends Section 182.104, Health and Safety Code, as follows:

Sec. 182.104. SECURITY COMPLIANCE. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Provides that this section expires September 1, 2021.

SECTION 12. Amends Section 182.105, Health and Safety Code, as follows:

Sec. 182.105. INTELLECTUAL PROPERTY. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Provides that this section expires September 1, 2021.

SECTION 13. Amends Section 182.106, Health and Safety Code, as follows:

Sec. 182.106. ANNUAL REPORT. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Provides that this section expires September 1, 2021.

SECTION 14. Amends Section 182.107, Health and Safety Code, by adding Subsection (d) to provide that this section expires September 1, 2021.

SECTION 15. (a) Amends Section 182.108, Health and Safety Code, by adding Subsection (f), to provide that Subsections (a)-(e) and this subsection expire September 1, 2021.

(b) Amends Section 182.108, Health and Safety Code, effective September 1, 2021, by adding Subsections (g), (h), (i), (j), (k), (l), (m), and (n), as follows:

(g) Provides that the privacy and security standards for the electronic sharing of protected health information adopted under this section and in effect on September 1, 2021, continue until amended by rule by HHSC.

(h) Authorizes HHSC, in amending standards under Subsection (g), to seek the assistance of a private nonprofit organization with relevant knowledge and experience in establishing statewide health information exchange capabilities.

(i) Requires that the standards amended under Subsection (g) be designed to:

(1) comply with the Health Insurance Portability and Accountability Act and Privacy Standards and Chapter 181 (Medical Records Privacy);

(2) comply with any other state and federal law relating to the security and confidentiality of information electronically maintained or disclosed by a covered entity;

(3) ensure the secure maintenance and disclosure of individually identifiable health information;

(4) include strategies and procedures for disclosing individually identifiable health information; and

(5) support a level of system interoperability with existing health record databases in this state that is consistent with emerging standards.

(j) Requires HHSC to designate a private nonprofit organization with relevant knowledge and experience in establishing statewide health information exchange capabilities to establish a process by which a covered entity may apply for certification by the designated private nonprofit organization of a covered entity's past compliance with standards adopted under this section. Requires HHSC, if a private nonprofit organization with relevant knowledge and experience in establishing statewide health information exchange capabilities does not exist, to either:

(1) establish the process described by this subsection; or

(2) designate another entity with relevant knowledge to establish the process described by this subsection.

(k) Requires the entity that establishes the process under Subsection (j) to publish the standards adopted under this section on the entity's Internet website.

(l) Requires HHSC to ensure that any fee charged for the certification process described in Subsection (j) by the private nonprofit organization or entity designated under that subsection, including a person acting on behalf of a designated organization or entity, is reasonable. Requires HHSC, if HHSC establishes the process as described by Subsection (j)(1), to set a reasonable fee for the certification process.

(m) Authorizes HHSC, for good cause, to revoke the designation or authority of a private nonprofit organization or entity to establish the process or offer certifications under Subsection (j).

(n) Defines "covered entity," "disclose," "Health Insurance Portability and Accountability Act and Privacy Standards," "individually identifiable health information," and "protected health information."

SECTION 16. Effective date, except as otherwise provided by this Act: September 1, 2015.