

## **BILL ANALYSIS**

Senate Research Center  
84R5764 AJZ-D

S.B. 203  
By: Nelson et al.  
Health & Human Services  
2/25/2015  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

This legislation continues the Texas Health Services Authority through 2021, at which time it will be removed from statute and allowed to function as a private nonprofit corporation after that date. 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.

As proposed, 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 Subsection (c-1), 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.

(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, to 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, 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 of State Health Services.

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

(n) 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 REPORTS. (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. Amends Section 182.108, Health and Safety Code, by adding Subsections (f), (g), (h), (i), (j), (k), and (l), as follows:

(f) Provides that Subsections (a)-(e) and this subsection expire September 1, 2021.

(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 is authorized to apply for certification by HHSC 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 HHSC to publish the standards adopted under this section on HHSC's Internet website.

(1) 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: September 1, 2015.