

BILL ANALYSIS

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C.S.S.B. 208
By: Campbell et al.
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Workforce Commission (TWC) oversees and provides workforce development services to employers and job seekers. TWC contracts with 28 local workforce development boards to provide a variety of services, such as job training, employment services, and child care. The agency also administers the state's unemployment insurance (UI) system and enforces state law to prevent and reduce employment and housing discrimination.

TWC is subject to the Texas Sunset Act and will be abolished on September 1, 2015, unless continued by the Legislature. The Sunset Advisory Commission concluded that the agency's functions are needed and have benefitted from integration into a single, locally driven workforce system. This bill furthers that concept by transferring services to help people with disabilities in finding jobs from the Department of Assistive and Rehabilitative Services (DARS) to TWC, along with other changes to improve several of TWC's current programs.

C.S.S.B. 208:

- Transfers the vocational rehabilitation program from DARS to TWC to improve employment outcomes for people with disabilities.
- Requires the integration of DARS' two separate vocational rehabilitation programs to eliminate administrative duplication and better serve consumers.
- Authorizes TWC to participate in the federal treasury offset program, enabling TWC to recover millions in outstanding unemployment compensation debts.
- Transfers the powers and duties of the human rights commission to the TWC's three-member commission and streamlines the civil rights division's functions.
- Focuses TWC on better managing its child care program for success to ensure the effective use of the program's \$489 million in annual funding.
- Requires posting of career school enforcement actions and eliminates statutory career school fees and fee caps.
- Continues the Texas Workforce Commission for 12 years.

C.S.S.B. 208 transfers from DARS to TWC the Criss Cole Rehabilitation Center and Independent Living programs, subject to the necessary federal approval. It also redirects independent living funding to the network of centers for independent living to improve local access to those services.

C.S.S.B. 208 amends current law relating to the continuation and functions of the Texas Workforce Commission and affecting the rates and imposition of certain fees and assessments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 (Section 132.201, Education Code), SECTION 12 (Section 21.453, Labor Code), and SECTION 24 (Sections 352.003, 352.007, 352.054, 352.057, 352.058, 352.102, 352.104, 352.106, 353.002, and 353.003, Labor Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of Health and Human Services is transferred to TWC in SECTION 25 (Sections 355.006 and 355.012, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 132, Education Code, by adding Section 132.025, as follows:

Sec. 132.025. **REQUIRED POSTING.** Requires the Texas Workforce Commission (TWC), to facilitate a prospective student's informed selection among career schools and colleges, to include in its searchable directory of career schools and colleges maintained on its Internet website information regarding any formal enforcement action taken by TWC against a school or college, including:

- (1) any revocation of the school's or college's certificate of authority;
- (2) any assessment of administrative penalties against the school or college; and
- (3) any suspension of admission of students to the school or college.

SECTION 2. Amends Sections 132.201(a), (d), (e), and (f), Education Code, as follows:

(a) Requires certificate and registration fees, except those charged pursuant to Subsection (d), to be collected by TWC. Requires TWC by rule to determine the amount of each fee. Deletes existing text requiring each fee to be in an amount set by TWC in an amount not to exceed 150 percent of each fee according to a schedule set forth in this subsection.

(d) Requires TWC, in connection with the regulation of any career school or college or program through a memorandum of understanding pursuant to Section 132.002(c) (relating to licensing agencies entering into a memorandum of understanding with TWC for regulation of excess course hours), by rule to set an application and annual renewal fee in an amount reasonably calculated, rather than an application and annual renewal fee not to exceed \$2,000, to cover the administrative costs associated with assuming the additional regulation.

(e) Requires TWC by rule to determine the amount of a fee for an investigation at a career school or college to resolve a complaint filed against the school or college. Deletes existing text providing that the fee for an investigation at a career school or college to resolve a complaint filed against the school or college is \$600. Authorizes the fee to be charged only if:

- (1) the complaint could not have been resolved by telephone or written correspondence only;
- (2) a representative of TWC visits the school or college as a part of the complaint resolution process; and
- (3) the school or college is found to be at fault.

(f) Authorizes TWC to assess a reasonable service charge or interest to be paid by a career school or college that pays a fee by installment, rather than assess a reasonable service charge or interest to be paid by a career school or college that pays a fee by installment in an amount not to exceed 10 percent annually of the fee that is to be paid by installment. Makes no further change to this subsection.

SECTION 3. Amends Section 1001.104, Education Code, as follows:

Sec. 1001.104. **HOSPITAL AND REHABILITATION FACILITIES.** (a) Requires the Texas Education Agency (TEA) to enter into a memorandum of understanding with the state agency responsible for administering the vocational rehabilitation program under Subtitle C, Title 4, Labor Code, and the Department of Public Safety of the State of Texas (DPS) rather than the Texas Rehabilitation Commission (TRC), and for the

interagency development of curricula and licensing criteria for hospital and rehabilitation facilities that teach driver education.

(b) Requires TEA to administer comprehensive rules governing driver education courses adopted by mutual agreement among TEA, the state agency responsible for administering the vocational rehabilitation program under Subtitle C, Title 4, Labor Code, and DPS rather than TEA, TRC, and DPS.

SECTION 4. Amends the heading to Section 411.104, Government Code, to read as follows:

Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; SECURITY SENSITIVE POSITIONS.

SECTION 5. Amends Subchapter F, Chapter 411, Government Code, effective September 1, 2016, by adding Section 411.1041, as follows:

Sec. 411.1041. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION; VOCATIONAL REHABILITATION AND OTHER SERVICES. (a) Entitles TWC, in connection with the administration of vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is:

- (1) an applicant selected for employment with TWC whose potential duties include direct contact with clients to provide those services;
- (2) an applicant for those services from TWC; or
- (3) a client receiving those services from TWC.

(b) Prohibits criminal history record information obtained by TWC under Subsection (a) from being released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

SECTION 6. Amends Section 2308.3155(b), Government Code, as follows:

- (b) Requires TWC to adopt rules to administer the Texas Rising Star Program, including:
- (1) creates this subdivision from existing text and makes no further change; and
 - (2) a timeline and process for regularly reviewing and updating the quality standards used to determine the rating system that includes TWC's consideration of input from interested parties regarding those standards.

SECTION 7. Amends Subchapter C, Chapter 91, Human Resources Code, effective September 1, 2016, by adding Section 91.0211, as follows:

Sec. 91.0211. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. Provides that TWC has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 91.021(a) (relating to TWC's primary responsibilities) and subject to receipt of any required federal approval to administer those services and programs. Provides that a power or duty under this chapter, including rulemaking authority, of the Department of Assistive and Rehabilitative Services (DARS), the commissioner of assistive and rehabilitative services (commissioner), or the executive commissioner of the Health and Human Services Commission (executive commissioner) (HHSC) that is applicable to those services or programs is a power or duty of TWC with respect to those services or programs.

SECTION 8. Amends Subchapter C, Chapter 111, Human Resources Code, effective September 1, 2016, by adding Section 111.0511, as follows:

Sec. 111.0511. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. Provides that TWC has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 111.051 (Commission as Principal Authority) and subject to receipt of any required federal approval to administer those services and programs. Provides that a power or duty under this chapter, including rulemaking authority, of DARS, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of TWC with respect to those services or programs. Requires all other state agencies engaged in vocational rehabilitation services or related services or programs to coordinate those activities with TWC.

SECTION 9. Amends Subchapter D, Chapter 117, Human Resources Code, effective September 1, 2016, by adding Section 117.0713, as follows:

Sec. 117.0713. SERVICE DELIVERY BY TEXAS WORKFORCE COMMISSION. Provides that TWC has primary responsibility for providing vocational rehabilitation services and other services and programs under Subtitle C, Title 4, Labor Code, notwithstanding Section 117.071 (General Powers and Duties of Department) and subject to receipt of any required federal approval to administer those services and programs. Provides that a power or duty under this chapter, including rulemaking authority, of DARS, the commissioner, or the executive commissioner that is applicable to those services or programs is a power or duty of TWC with respect to those services or programs.

SECTION 10. Amends Section 21.0015, Labor Code, as follows:

Sec. 21.0015. TEXAS WORKFORCE COMMISSION. Provides that the powers and duties exercised by the Commission on Human Rights under this chapter are transferred to TWC, rather than the TWC civil rights division. Provides that a reference in this chapter to the "commission" means TWC, rather than the TWC civil right division.

SECTION 11. Amends Section 21.206, Labor Code, as follows:

Sec. 21.206. DETERMINATION OF REASONABLE CAUSE; REVIEW BY COMMISSION. (a) Requires the executive director or the executive director's designee to review with TWC members, rather than a panel of three commissioners, if after investigation the executive director or the executive director's designee determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in a complain.

(b) Requires the executive director, if after the review at least two of the three commission members, rather than commissioners, determine that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice, to issue a written determination incorporating the executive director's finding that the evidence supports the complaint, and serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

SECTION 12. Amends Section 21.453, Labor Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that Subsection (a-1) is an exception to this subsection.

(a-1) Requires TWC by rule to develop risk-assessment criteria for determining the circumstances under which TWC may conduct a review of the personnel policies and procedures of a state agency more frequently than required by Subsection (a). Requires the risk-assessment criteria to include:

- (1) data on complaints against a state agency;
- (2) previous review findings; and
- (3) any other related information collected and maintained by TWC.

SECTION 13. Amends Section 21.455, Labor Code, by adding Subsection (d), as follows:

(d) Requires TWC to annually:

- (1) review the reimbursements received by TWC under this section to ensure that TWC recovers the expenses described by Subsection (a); and
- (2) adjust the reimbursement rate if, as a result of the most recent annual review, TWC determines that the reimbursement rate is higher or lower than the rate required to recover those expenses.

SECTION 14. Amends Chapter 214, Labor Code, by adding Section 214.009, as follows:

Sec. 214.009. RECOVERY OF COVERED UNEMPLOYMENT COMPENSATION DEBT THROUGH FEDERAL TREASURY OFFSET PROGRAM. (a) Defines "program."

(b) Authorizes TWC to collect the following covered unemployment compensation debt through the program:

- (1) a past-due debt for erroneous payment of benefits due to fraud that has become final under law and remains uncollected;
- (2) a past-due debt for erroneous payment of benefits due to a person's failure to report earnings, even if non-fraudulent, that has become final under law and remains uncollected;
- (3) a past-due employer contribution owed to the compensation fund for which TWC has determined the person to be liable and that remains uncollected; and
- (4) any penalties and interest assessed by TWC on a debt described by Subdivision (1), (2), or (3).

(c) Requires TWC, before submitting covered unemployment compensation debt for recovery under the program, to:

- (1) notify the debtor by regular United States mail that TWC plans to recover the debt through the offset of any federal tax refund;
- (2) provide the debtor at least 60 days following the date the notice is provided under Subdivision (1) to present to TWC evidence that all or part of the debt is not:
 - (A) legally enforceable;
 - (B) due to fraud or unreported earnings; or
 - (C) a contribution owed to the compensation fund; and
- (3) consider any evidence presented by the debtor to determine the amount of debt that is legally enforceable and owed.

(d) Authorizes TWC, in considering evidence presented by a debtor under Subsection (c), to determine only whether the debtor has demonstrated that the debt is not subject to recovery through the program so that TWC is able to minimize erroneous offsets. Prohibits TWC from reviewing the initial determination establishing the debtor's liability.

(e) Requires TWC to assess against the debtor the cost of any administrative fee charged by the United States Department of the Treasury for each offset. Authorizes TWC to add the assessed amount to the covered unemployment compensation debt that is offset under the program.

SECTION 15. Amends Section 301.006(b), Labor Code, as follows:

(b) Requires the member of TWC who represents the public, notwithstanding Subsection (a) (relating to the governor designating the chair of the commission), to serve as chair:

(1) when TWC acts under:

(A) Chapter 21 (Employment Discrimination);

(B) and (C) Creates these paragraphs from existing text and makes nonsubstantive changes; or

(D) Chapter 301 (Texas Fair Housing Act), Property Code; and

(2) Makes no change to this subdivision.

SECTION 16. Amends Section 301.008, Labor Code, as follows:

Sec. 301.008. APPLICATION OF SUNSET ACT. Provides that TWC is subject to Chapter 325 (Sunset Law), Government Code. Provides that, unless continued in existence as provided by that chapter, TWC is abolished September 1, 2027, rather than September 1, 2015.

SECTION 17. Amends Section 301.009(a), Labor Code, to require TWC to have a civil rights division among certain other divisions.

SECTION 18. Amends Subchapter D, Chapter 301, Labor Code, effective September 1, 2016, by adding Section 301.075, as follows:

Sec. 301.075. VOCATIONAL REHABILITATION AND CERTAIN OTHER SERVICES FOR PERSONS WITH DISABILITIES. Provides that, subject to federal approval, if required, to administer vocational rehabilitation services and other services and programs to persons with disabilities under Subtitle C, Title 4, TWC has primary responsibilities for providing those services and programs.

SECTION 19. Amends Section 301.153, Labor Code, as follows:

Sec. 301.153. New heading: GOVERNANCE; AUTHORITY. (a) Redesignates Subsection (e) as Subsection (a). Requires TWC, rather than the human rights commission, to establish policies for the civil rights division and requires the executive director of TWC to supervise the director of the civil rights division in administering the activities of the division.

(b) Redesignates Subsection (f) as Subsection (b) and makes a conforming change.

(c) Requires TWC to administer Chapter 21 of this code and Chapter 301, Property Code, including the powers and duties formerly exercised by the former Commission on Human Rights under those laws.

(d) Provides that a reference in Chapter 21 of this code, Chapter 301, Property Code, or any other law to the former Commission on Human Rights means TWC.

Deletes text of existing subsection (a) providing that the civil rights division is governed by the human rights commission, which consists of the following seven members: one member who represents industry, one member who represents labor, and five members who represent the public. Deletes existing subsection requiring the members of the human rights commission established under this section to be appointed by the governor, and in making appointments to the human rights commission, requiring the governor to strive to achieve representation on the human rights commission that is diverse with respect to disability, religion, age, economic status, sex, race, and ethnicity. Deletes existing Subsection (c) providing that the term of office of each commissioner is six years, and requiring the governor to designate one commissioner to serve as presiding officer. Deletes existing Subsection (d) entitling a commissioner to reimbursement of actual and necessary expenses incurred in the performance of official duties.

SECTION 20. Amends Section 301.154(a), Labor Code, to require that the director of the civil rights division of TWC (director) be appointed by the executive director of TWC, rather than the human rights commission, to administer the powers and duties of the division.

SECTION 21. Amends Subchapter I, Chapter 301, Labor Code, by adding Section 301.157, as follows:

Sec. 301.157. ANALYSIS OF STATE AGENCY DISCRIMINATION COMPLAINTS; REPORT. (a) Requires the civil rights division of TWC (division) each state fiscal year to collect and analyze information regarding employment discrimination complaints, other than complaints determined to be without merit, filed with the division against a state agency. Requires that the information include:

- (1) an analysis of the complaints, both by number and by type; and
- (2) key findings or trends the division identifies during the division's review of state agency personnel policies and procedures under Section 21.453 (Review).

(b) Requires TWC to include the results of the division's analysis under this section in TWC's annual report to the governor and the legislature. Requires the division to exclude from the report any identifying information of a complainant or a state agency complaint as necessary to maintain confidentiality required by TWC 's contract with the federal Equal Employment Opportunity Commission or by other law.

SECTION 22. Amends Section 302.0043(f), Labor Code, to require the report on TWC's childcare program to include employment outcome information, disaggregated by local workforce development area, regarding parents receiving subsidized care under the program, and identify multiyear trends in the information collected and analyzed by TWC under this section, including trends in the information for at least the five state fiscal years preceding the date of the report.

SECTION 23. Amends Subchapter A, Chapter 302, Labor Code, by adding Section 302.00435, as follows:

Sec. 302.00435. Requires TWC to develop a policy for obtaining, through appropriate methods, input from interested parties regarding its subsidized child care program and for using that input in administering that program.

SECTION 24. Amends Title 4, Labor Code, by adding Subtitle C, as follows:

SUBTITLE C. VOCATIONAL REHABILITATION AND CERTAIN OTHER
SERVICES FOR PERSONS WITH DISABILITIES

CHAPTER 351. GENERAL PROVISIONS; RESPONSIBILITY FOR
ADMINISTRATION OF SERVICES

Sec. 351.001. DEFINITIONS. Defines "department" and "executive commissioner."

Sec. 351.002. RESPONSIBILITY FOR ADMINISTRATION OF SERVICES AND PROGRAMS. (a) Requires the Department of Assistive and Rehabilitative Services (DARS), notwithstanding any other provision of this subtitle, to administer the services and programs under this subtitle until September 1, 2016. Requires DARS on that date to cease administering the services and programs, subject to receipt of any required federal approval.

(b) Requires DARS or the Health and Human Services Commission (HHSC), as appropriate, to seek federal approval, if required:

(1) for HHSC, beginning on September 1, 2016, to administer the services and programs under this subtitle that DARS operated before that date under the federal Rehabilitation Act of 1973 (29 U.S.C. Sections 720 through 751), including:

(A) the vocational rehabilitation program for individuals with visual impairments;

(B) the vocational rehabilitation program for individuals with other disabilities;

(C) the Independent Living Program for individuals who are blind or have visual impairments;

(D) the Independent Living Services Program for individuals with significant disabilities;

(E) the Independent Living Services Program for older individuals who are blind;

(F) the Criss Cole Rehabilitation Center;

(G) the federal Social Security Disability Determination program; and

(H) the program for vending facilities operated by blind persons under Chapter 355; and

(2) to designate within TWC the state unit under 29 U.S.C. Section 721 that is responsible for administering the state's vocational rehabilitation program.

(c) Provides that the Rehabilitation Council of Texas (council) transfers to TWC on September 1, 2016.

(d) Provides that Subsections (b) and (c) and this subsection expire September 1, 2019.

Sec. 351.003. DESIGNATED STATE UNIT FOR VOCATIONAL REHABILITATION SERVICES. Requires TWC, in accordance with the requirements of the federal

Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), to establish a designated state unit within TWC that:

- (1) is an organizational unit designated to be primarily responsible for and concerned with vocational rehabilitation of individuals with disabilities;
- (2) has a full-time director;
- (3) has a staff employed on the rehabilitation work of the organizational unit, all or substantially all of whom are employed full-time on such work; and
- (4) is located at an organizational level and has an organizational status within the commission comparable to that of other major organizational units of the commission.

Sec. 351.004. INTEGRATION OF VOCATIONAL REHABILITATION PROGRAMS; PROGRAM STAFF. (a) Requires TWC, not later than August 31, 2018, to integrate the vocational rehabilitation staff from department offices into TWC's local workforce development boards and centers.

(b) Provides that this section expires September 1, 2019.

Sec. 351.005. MEANING OF CERTAIN REFERENCES IN LAW. Provides that until the administration of this subtitle is transferred from DARS to TWC, a reference to TWC or the executive director in this subtitle means DARS, commissioner of assistive and rehabilitative services, or executive commissioner, as applicable.

CHAPTER 352. VOCATIONAL REHABILITATION SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 352.001. DEFINITIONS. Defines "direct services," "direct services program," "individual with a disability," "maintenance," "occupational license," "physical restoration," "prosthetic appliance," "rehabilitation training," "substantial impediment to employment," and "vocational rehabilitation" or "vocational rehabilitation services."

Sec. 352.002. PURPOSE. Provides that it is the policy of this state to provide vocational rehabilitation services to eligible individuals with disabilities so that those individuals may prepare for and engage in a gainful occupation.

Sec. 352.003. REHABILITATION COUNCIL OF TEXAS. (a) Provides that the council operates in accordance with the federal Rehabilitation Act Amendments of 1992, Pub. L. No. 102-569, and the federal Rehabilitation Act Amendments of 1998, Pub. L. No. 105-220.

(b) Requires the council to report to and advise TWC on the council's activities and the results of the council's work. Requires the council, for the purpose of performing its advisory functions, to work with TWC, the executive director, and other TWC staff.

(c) Requires TWC to adopt rules for the administration of the council.

Sec. 352.004. RECEIPT AND DISBURSEMENT OF STATE AND FEDERAL FUNDS. (a) Provides that the comptroller of public accounts of the State of Texas (comptroller) is custodian of federal funds received by the state to implement federal law relating to vocational rehabilitation.

(b) Requires TWC to certify for disbursement funds available for the vocational rehabilitation program in accordance with regulations.

(c) Requires the comptroller to disburse state and federal vocational rehabilitation funds on certification by TWC.

Sec. 352.005. GIFTS, DONATIONS, AND OTHER MONEY. (a) Requires TWC to deposit all money paid to TWC under this chapter in the state treasury. Provides that the money may be used only for the administration of this chapter.

(b) Authorizes TWC to receive and use gifts and donations for carrying out the purposes of this chapter. Prohibits a person from receiving payment for solicitation of any funds.

Sec. 352.006. MISUSE OF INFORMATION. Provides that, except for purposes directly connected with the administration of the vocational rehabilitation program and according to TWC rules, no person may solicit, disclose, receive, use, or knowingly permit the use of records or other information concerning an applicant for or recipient of vocational rehabilitation services that is directly or indirectly acquired by an officer or employee of the state or its political subdivisions in the course of the person's official duties.

Sec. 352.007. CRIMINAL HISTORY RECORD INFORMATION. (a) Authorizes TWC to obtain criminal history record information from the Texas Department of Criminal Justice (TDCJ) and DPS if the criminal history records relate to:

(1) an applicant selected for employment with TWC whose potential duties include direct contact with clients to provide vocational rehabilitation services or other services under this subtitle;

(2) an applicant for vocational rehabilitation services or other services under this subtitle from TWC; or

(3) a client receiving vocational rehabilitation services or other services under this subtitle.

(b) Requires TDCJ and DPS on request to supply to TWC criminal history record information relating to applicants selected for employment with TWC whose potential duties include direct contact with clients to provide vocational rehabilitation services, applicants for vocational rehabilitation services from TWC, or vocational rehabilitation clients of TWC. Requires TWC to treat all criminal history record information as privileged and confidential and for TWC use only.

(c) Requires TWC by rule to establish criteria for denying a person's application for employment with TWC to provide vocational rehabilitation services based on criminal history record information obtained as authorized by this section.

Sec. 352.008. HEARINGS. Entitles an applicant for or recipient of vocational rehabilitation services who is aggrieved by an action or inaction under this chapter to a hearing by TWC in accordance with law.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 352.051. VOCATIONAL REHABILITATION PROGRAM FOR INDIVIDUALS WITH DISABILITIES. (a) Requires TWC to conduct a program to provide vocational rehabilitation services to eligible individuals with disabilities.

(b) Authorizes TWC, to achieve the purposes of the program, to:

(1) cooperate with other public and private agencies in studying the problems involved in providing vocational rehabilitation and in

establishing, developing, and providing necessary or desirable facilities and services;

(2) enter into reciprocal agreements with other states to provide vocational rehabilitation for the residents of the states concerned; and

(3) conduct research and compile statistics relating to the vocational rehabilitation of individuals with disabilities.

Sec. 352.052. COOPERATION WITH FEDERAL GOVERNMENT; OBTAINING FEDERAL FUNDS. (a) Requires TWC to cooperate with the federal government to accomplish the purposes of federal laws relating to vocational rehabilitation for individuals with disabilities and closely related activities.

(b) Requires TWC to negotiate agreements or plans with the federal government and to use efficient methods of administration and comply with other conditions required to secure the full benefits of the federal laws. Authorizes TWC to waive or modify the state law to the extent necessary to obtain the full benefits of the federal law if TWC determines that a provision of state law precludes conformity with a federal requirement and limits federal financial support.

(c) Authorizes TWC to comply with any requirements necessary to obtain federal funds to be used for vocational rehabilitation services in the maximum amount and most advantageous proportion possible.

Sec. 352.053. CONTRACTS FOR SERVICE. (a) Requires TWC to include in its contracts with service providers under this chapter provisions set forth in this section.

(b) Requires TWC to monitor a service provider's performance under a contract for service under this chapter. Requires TWC, in monitoring performance, to:

(1) use a risk-assessment methodology to institute statewide monitoring of contract compliance of service providers; and

(2) evaluate service providers based on clearly defined and measurable program performance objectives.

Sec. 352.054. RATES FOR MEDICAL SERVICES. (a) Requires TWC by rule to adopt standards governing the determination of rates paid for medical services provided under this chapter. Requires that the rules provide for an annual reevaluation of the rates.

(b) Requires TWC to establish a schedule of rates based on the standards adopted under Subsection (a). Requires TWC, in adopting the rate schedule, to:

(1) compare the proposed rate schedule to other cost-based and resource-based rates for medical services, including rates paid under the Medicaid and Medicare programs; and

(2) for any rate adopted that exceeds the Medicaid or Medicare rate for the same or a similar service, document the reasons why the adopted rate reflects consideration of the best value, provider availability, and consumer choice.

(c) Requires TWC to provide notice to interested persons and allow those persons to present comments before adopting the standards and schedule of rates under Subsections (a) and (b).

Sec. 352.055. CONTRACT PAYMENT. Requires TWC to base payment under a contract for vocational rehabilitation services on outcome-based performance standards defined in the contract.

Sec. 352.056. CONTRACTS FOR ADAPTIVE TECHNOLOGY. Requires TWC to include in a contract under this chapter with a supplier of adaptive technology equipment provisions that require the supplier to provide training for clients receiving the adaptive technology equipment.

Sec. 352.057. LOANS FOR VISUAL AIDS. (a) Authorizes TWC to establish a program to make loans to finance the purchase of technological aids for individuals with visual impairments. Prohibits interest on the loans from exceeding 10 percent per year.

(b) Authorizes TWC to adopt rules to administer the loan program.

Sec. 352.058. SUBROGATION. (a) Provides that, by providing a person rehabilitation services, including medical care services, under this subchapter, TWC is subrogated to the person's right of recovery from personal insurance, another person for personal injury caused by the other person's negligence or wrongdoing, or any other source.

(b) Provides that TWC's right of subrogation is limited to the cost of the services provided.

(c) Authorizes TWC to totally or partially waive TWC's right of subrogation when TWC finds that enforcement would tend to defeat the purpose of rehabilitation.

(d) Authorizes TWC to adopt rules for the enforcement of TWC's right of subrogation.

Sec. 352.059. WORK INCENTIVES AND SUPPLEMENTAL SECURITY INCOME (SSI). Requires TWC to employ a person at TWC's central office to:

(1) train counselors to understand and use work incentives; and

(2) review cases to ensure that TWC clients are informed of the availability of and assisted in obtaining work incentives and Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.).

SUBCHAPTER C. PROVISION OF ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES

Sec. 352.101. INTEGRATION OF VOCATIONAL REHABILITATION PROGRAMS. (a) Requires TWC, subject to federal approval and not later than October 1, 2017, to integrate into a single vocational rehabilitation program the following programs that are operated under the federal Rehabilitation Act of 1973 (29 U.S.C. Sections 720 through 751):

(1) the vocational rehabilitation program for individuals with visual impairments; and

(2) the vocational rehabilitation program for individuals with other disabilities.

(b) Requires TWC, not later than October 1, 2017, to facilitate the integration of the vocational rehabilitation programs identified in Subsection (a), to at a minimum perform certain tasks set forth in this subsection.

(c) Provides that this section expires September 1, 2019.

Sec. 352.102. ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES. Requires TWC to provide vocational rehabilitation services to individuals with disabilities eligible for those services under federal law.

Sec. 352.103. PROVISION OF VOCATIONAL REHABILITATION SERVICES. (a) Requires TWC by rule to establish and maintain guidelines for providing vocational rehabilitation services that are consistent with state and federal laws and that include certain functions and requirements set forth in this section.

(b) Requires TWC to annually assess the effectiveness of the state's vocational rehabilitation program.

Sec. 352.104. TRAINING AND SUPERVISION OF COUNSELORS. (a) Requires TWC to provide specific guidance to vocational rehabilitation counselors in:

(1) selecting vocational objectives according to a client's skills, experience, and knowledge;

(2) documenting a client's impediment to employment;

(3) selecting rehabilitation services that are reasonable and necessary to achieve a client's vocational objective;

(4) measuring client progress toward the vocational objective, including the documented, periodic evaluation of the client's rehabilitation and participation; and

(5) determining eligibility of employed and unemployed applicants for rehabilitation services using criteria defined by TWC rule to document whether a client is substantially underemployed or at risk of losing employment.

(b) Requires TWC to by rule require monitoring and oversight of vocational rehabilitation counselor performance and decision making in accordance with this section.

Sec. 352.105. SPECIALIZED TRAINING FOR CERTAIN EMPLOYEES. (a) Requires TWC to establish and require employee participation in a specialized training program for certain employees, including vocational rehabilitation transition specialists and transition counselors, whose duties involve assisting youth with disabilities to transition to post-schooling activities, services for adults, or community living.

(b) Requires that the training program provide employees with information regarding:

(1) supports and services available from health and human services agencies, as defined by Section 531.001 (Definitions), Government Code, for:

(A) youth with disabilities who are transitioning into post-schooling activities, services for adults, or community living; and

(B) adults with disabilities;

(2) community resources available to improve the quality of life for:

(A) youth with disabilities who are transitioning into post-schooling activities, services for adults, or community living; and

(B) adults with disabilities; and

(3) other available resources that may remove transitional barriers for youth with disabilities who are transitioning into post-schooling activities, services for adults, or community living.

(c) Requires TWC, in developing the training program required by this section, to collaborate with health and human services agencies, as defined by Section 531.001, Government Code, as necessary.

Sec. 352.106. PAYMENT OF SHIFT DIFFERENTIALS. Authorizes TWC by rule to develop and implement policies allowing shift differentials to be paid to employees in the vocational rehabilitation program under this chapter.

Sec. 352.107. CLIENT ORIENTATION MATERIALS. Requires TWC to develop and distribute at intake client orientation materials for the vocational rehabilitation program that include information on TWC's decision-making criteria.

Sec. 352.108. COORDINATION WITH TEXAS EDUCATION AGENCY. (a) Defines "transition services."

(b) Requires TWC and TEA to collaborate to develop a mechanism to identify the areas of the state with the greatest needs for transition services for students with disabilities. Requires that the mechanism account for TWC's limited resources and a school district's needs, including the criteria set forth in this subsection.

(c) Requires TWC and TEA to update the mechanism developed under Subsection (b) on a periodic basis.

(d) Requires TWC to develop uniform, statewide policies for transition services that include certain criteria set forth in this subsection.

(e) Requires TWC and TEA to enter into a memorandum of understanding to comply with the policies under this section and to improve coordination between the agencies. Requires that the memorandum of understanding include:

(1) strategies to better inform transition clients, clients' families, and school personnel regarding TWC's available services and contact information for TWC transition counselors; and

(2) a process to be used by TWC and TEA to develop and update the mechanism used to identify students who may need services.

(f) Provides that on or after September 1, 2016, but not later than September 1, 2017:

(1) TWC and TEA are required to develop the mechanism required in Subsection (b) and enter into the memorandum of understanding required in Subsection (e); and

(2) TWC is required to develop the policies described in Subsection (d).

(g) Provides that Subsection (f) and this subsection expire September 1, 2018.

CHAPTER 353. INDEPENDENT LIVING SERVICES

Sec. 353.001. DEFINITION. Defines "center for independent living."

Sec. 353.002. INTEGRATION OF INDEPENDENT LIVING SERVICES PROGRAMS. (a) Requires TWC, not later than September 1, 2017, to integrate into a single independent living services program the following programs that TWC operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.):

(1) the Independent Living Program (ILP) for individuals who are blind or have visual impairments;

(2) the Independent Living Services Program (ILSP) for older individuals with significant disabilities; and

(3) the ILSP for older individuals who are blind.

(b) Requires TWC to adopt any rules necessary to facilitate the integration of the programs identified in Subsection (a), including rules that direct TWC, as the single designated state entity responsible for administering the state's independent living services program, to comply with the requirements of 29 U.S.C. Section 796c for the integrated program.

(c) Provides that this section expires September 1, 2018.

Sec. 353.003. PROVISION OF INDEPENDENT LIVING SERVICES. (a) Requires TWC to ensure that all services provided under the independent living services program that TWC operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.) are directly provided by centers for independent living, except as provided by Subsection (b), and are not directly provided by TWC.

(b) Requires TWC to seek to identify a center for independent living that is willing and able to contract with a nonprofit organization or other person to provide the independent living services in the area under the program if an area of the state does not have a center for independent living, or no center for independent living in that area is able to provide certain necessary services under the independent living services program. Authorizes TWC to directly contract with an organization or other person who is not a center for independent living to provide the independent living services in the area under the program if no center for independent living is willing and able to contract with another organization or person.

(c) Requires TWC to evaluate the independent living services provided by a center for independent living and to provide necessary training or technical assistance to help the center for independent living expand its capacity to provide a full range of independent living services.

(d) Requires TWC to monitor the performance of each center for independent living in providing independent living services, including how the center for independent living monitors the performance of the organization and other person with whom it contracts to provide independent living services.

(e) Requires TWC to adopt rules to implement this section that include:

(1) an equitable and transparent methodology for allocating funds to centers for independent living under the independent living services program;

(2) requirements applicable to TWC in contracting with centers for independent living to provide independent living services under the program;

(3) requirements applicable to centers for independent living in contracting with organizations and other persons to provide independent living services under the program;

(4) requirements applicable to TWC in contracting with organizations or other persons who are not centers for independent living to provide independent living services under the program;

(5) a process for TWC to monitor independent living services contracts;

(6) guidelines on TWC's role in providing technical assistance and training to centers for independent living as necessary; and

(7) expectations for TWC employees to refer persons who contract TWC seeking independent living services to centers for independent living.

(f) Requires TWC, notwithstanding the requirements of this section, to ensure that services provided under the independent living services program are provided as required by this section not later than August 31, 2017. Provides that this subsection expires September 1, 2018.

CHAPTER 354. SOCIAL SECURITY DISABILITY DETERMINATION SERVICES

Sec. 354.001. COOPERATION WITH FEDERAL GOVERNMENT ON SOCIAL SECURITY DISABILITY DETERMINATION SERVICES. Authorizes TWC to make agreements, arrangements, or plans to cooperate with the federal government in carrying out the purposes of any federal statute pertaining to the disability determination function under the Social Security Act to the extent resources are made available by the federal government.

Sec. 354.002. METHODS OF ADMINISTRATION. Requires TWC, to achieve the purposes of Section 354.001, to adopt methods of administration that:

(1) are found by the federal government to be necessary to the disability determination function; and

(2) are not contrary to existing state laws.

SECTION 25. Transfers Chapter 94, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to Subtitle C, Title 4, Labor Code, redesignates it as Chapter 355, Labor Code, and amends it as follows:

CHAPTER 355. VENDING FACILITIES OPERATED BY BLIND PERSONS

Redesignates Chapter 94 as Chapter 355.

Sec. 355.001. DEFINITIONS. Redesignates Section 94.001 as Section 355.001. Provides that, in this chapter:

(1)-(4) Makes no change to these subdivisions;

(5) Redefines "disability" to mean a physical or mental condition that TWC, rather than DARS, determines to constitute a substantial vocational disadvantage.

Deletes existing subdivisions (1-a) and (1-b).

Sec. 355.002. LICENSE OR PERMIT REQUIRED. Redesignates existing Section 94.002 as Section 355.002. (a) Changes a reference to DARS to TWC.

(b) Provides that Subsection (a) does not apply to a building in which the Texas Facilities Commission (TFC) leases space to a private tenant under Subchapter E (Lease of Space in State-owned Buildings to Private Tenants), Chapter 2165, Government Code. Makes a nonsubstantive change.

Sec. 355.003. LICENSING PROCEDURE. Redesignates existing Section 94.003 as Section 355.003. (a) Changes references to DARS to TWC.

(b) Changes references to DARS to TWC and executive commissioner to TWC.

Sec. 355.004. LOCATION OF VENDING FACILITIES. Redesignates existing Section 94.004 as Section 355.004. (a) and (b) Changes references to DARS to TWC.

Sec. 355.005. ISSUANCE OF LICENSES; ELIGIBILITY. Redesignates existing Section 94.005 as Section 355.005. (a)-(d) Makes conforming changes.

Sec. 355.006. EXPIRATION, RENEWAL, AND REVOCATION OF LICENSES. Redesignates existing Section 94.006 as Section 355.006. (a)-(e) Makes conforming changes.

Sec. 355.007. OPERATION OF VENDING FACILITIES BY CERTAIN PERSONS WHO ARE NOT BLIND. Redesignates existing Section 94.007 as Section 355.007 and makes conforming changes.

Sec. 355.008. CLOSING CERTAIN FACILITIES PROHIBITED. Redesignates existing Section 94.008 as Section 355.008. Makes conforming changes.

Sec. 355.009. EMPLOYMENT OF ASSISTANTS. Redesignates existing Section 94.009 as Section 355.009. (a) Makes conforming changes and deletes existing text requiring preference to be given to a person who is socially, culturally, economically, or educationally disadvantaged if no person with a disability is available for the job.

(b) Makes conforming changes and changes reference from "his or her" to "the person."

Sec. 355.010. COMPETING VENDING MACHINES. Redesignates existing Section 94.010 as Section 355.010. (a)-(c) Changes a reference to DARS-sponsored vending facility to TWC-sponsored facility and makes conforming changes.

Sec. 355.011. VENDING FACILITY EQUIPMENT AND STOCK. (a)-(c) Redesignates existing Section 94.011 as Section 355.011. (a)-(c) Makes conforming changes.

Sec. 355.012. DUTIES AND PRIVILEGES OF PARTIES. Redesignates existing Section 94.012 as Section 355.012. (a) Authorizes TWC, rather than the executive commissioner, to promulgate rules and initiate procedures necessary to implement this chapter.

(b) and (c) Changes references to DARS to TWC.

Sec. 355.013. TRAINING PROGRAMS. Redesignates existing Section 94.013 as Section 355.013. Makes conforming changes.

Sec. 355.014. CONFORMITY WITH FEDERAL STATUTES. Redesignates existing Section 94.014 as Section 355.014. (a) and (b) Makes conforming changes.

Sec. 355.015. APPLICATION OF CHAPTER. Redesignates existing Section 94.015 as Section 355.015. (a) Changes a reference to DARS to TWC. Makes no change to this subsection.

(c) Changes a reference to DARS to TWC.

Sec. 355.016. BUSINESS ENTERPRISES PROGRAM. Redesignates existing Section 94.016 as Section 355.016. (a)-(g) Changes references to DARS to TWC.

SECTION 26. Amends Section 301.0015, Property Code, as follows:

Sec. 301.0015. TEXAS WORKFORCE COMMISSION. Provides that the powers and duties exercised by the Commission on Human Rights under this chapter are transferred

to TWC, rather than the civil rights division of TWC. Provides that a reference in this chapter to the "commission" means TWC, rather than the civil rights division of TWC.

SECTION 27. Provides that the following provisions, including provisions amended by, or redesignated and amended by, S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

Repealer: Section 132.201(b) (relating to periodic reviews and recommendations of fees to the legislature by TWC), Education Code;

Repealer: Subchapter F (Review of Fire Department Tests), Chapter 419, Government Code;

Repealer: Section 91.016(e) (relating to TWC developing and implementing policies), Human Resources Code;

Repealer: Subchapter D (Vocational Rehabilitation of the Blind), Chapter 91, Human Resources Code.

Repealer: Section 111.016 (Rehabilitation Council of Texas), Human Resources Code;

Repealer: Section 111.0205 (Work Incentives and Supplemental Security Income (SSI)), Human Resources Code;

Repealer: Section 111.053(b) (relating to commission agreements, arrangements, or plans to cooperate with the federal government), Human Resources Code;

Repealer: Section 111.061 (Contract Payment), Human Resources Code;

Repealer: Section 117.058 (Specialized Training for Certain Employees), Human Resources Code; and

Repealer: Subchapter F, Chapter 117, Human Resources Code;

Repealers: Sections 301.151(3) (defining "human rights commission") and 301.152 (General Provisions), Labor Code.

SECTION 28. (a) Requires TWC to adopt all rules, policies, and procedures required by the changes in law made by this Act, except as provided by Subsection (b) of this section, not later than September 1, 2016.

(b) Requires TWC, not later than September 1, 2017, to adopt all rules, policies, and procedures required by Subtitle C, Title 4, Labor Code, as added by this Act.

(c) Provides that Section 301.157, Labor Code, as added by this Act, applies beginning with the annual report submitted to the governor and the legislature by TWC that covers the state fiscal year ending August 31, 2015.

SECTION 29. Provides that, on the effective date of this Act, the human rights commission that governed the TWC civil rights division under Section 301.153 (Human Rights Commission), Labor Code, before the effective date of this Act is abolished. Provides that the validity of an action taken by the human rights commission before that date is not affected by the abolition. Provides that the changes in law made by this Act do not affect a case or proceeding pending under Chapter 21, Labor Code, or Chapter 301, Property Code, on the effective date of this Act.

SECTION 30. (a) Provides that on September 1, 2016, subject to receipt of federal approval, if required, for TWC to administer vocational rehabilitation services and other services programs under Subtitle C, Title 4, Labor Code, as added by this Act:

(1) those services and programs and related powers, duties, functions, and activities, including rulemaking authority, are transferred to TWC;

(2) all obligations and contracts of DARS that are related to a transferred service or program are transferred to TWC;

(3) all property and records in the custody of DARS, including information technology systems, that are related to a transferred service or program and all funds appropriated by the legislature for the service or program shall be transferred to TWC; and

(4) all complaints, investigations, or contested cases that are pending before DARS that are related to a transferred service or program are transferred without change in status to TWC.

(b) Provides that, after a transfer of services and programs occurs under Subsection (a) of this section, a rule or form adopted by the executive commissioner of HHSC or DARS, as applicable, that relates to a transferred service or program is a rule or form of TWC and remains in effect until altered by TWC.

(c) Provides that, after a transfer of services and programs occurs under Subsection (a) of this section, a reference in law to the executive commissioner of HHSC or DARS that relates to a transferred service or program means TWC.

(d) Provides that, after a transfer of services and programs occurs under Subsection (a) of this section, a license, permit, or certification in effect that was issued by DARS and that relates to a transferred service or program is continued in effect as a license, permit, or certification of TWC.

SECTION 31. Requires TWC and HHSC, in consultation with the Texas Facilities Commission, as soon as practicable after the effective date of this Act, to develop a plan for leased office or building space where staff that will be affected by the transfer of the administration of services and programs to TWC under this Act are located. Requires the plan developed under this section to:

(1) identify all leased office or building space where staff that will be affected by the transfers are located or co-located;

(2) identify the term and costs of each existing lease;

(3) identify the feasibility of canceling a lease of consolidating office or building space based on the factors set out in state law, including the General Appropriations Act;

(4) identify the location of each leased office or building space and its proximity to relevant client populations; and

(5) include a recommendation for either the cancellation or continued use of each leased office or building space based on the best values for the state.

SECTION 32. (a) Requires HHSC, DARS, and TWC, as soon as practicable after the effective date of this Act, but not later than October 1, 2015, to complete the development of a plan to transitioning data and information technology systems that support the administration of services and programs under Subtitle C, Title 4, Labor Code, as added by this Act, from DARS and HHSC to TWC. Provides that the Legislature finds that planning for the timely and successful transition of data and information technology systems is essential to the administration of these services and programs.

(b) Requires that the plan developed under this section:

- (1) identify the purpose or need for each of the data and information technology systems;
- (2) identify how the data and information technology systems will be used;
- (3) identify the date the data and information technology system will be shared with TWC;
- (4) identify the persons or classes of persons at each agency who require access to information to implement this plan;
- (5) require the appropriate privacy and security controls for access;
- (6) limit the disclosure of personal information to the minimum amount necessary to accomplish the purpose of the plan; and
- (7) to the extent federal approval is required to implement any part of the plan, require the agencies to obtain the required federal approvals before implementing that part of the plan.

(c) Requires the agencies, notwithstanding any other law, not later than October 1, 2015, to share information as needed to implement the plan developed under this section, subject to the plan's requirements and execution of all agreements necessary to ensure the privacy, security, and confidentiality of the information.

(d) Requires the agencies to coordinate activities under the plan as needed to reflect any changes in circumstances or direction.

SECTION 33. Requires DARS and TWC to actively seek any required federal approval to transfer the administration of services and programs under Subtitle C, Title 4, Labor Code, as added by this Act, from DARS to TWC on September 1, 2016.

SECTION 34. Effective date: except as otherwise provided by this Act, September 1, 2015.