

## **BILL ANALYSIS**

C.S.H.B. 2229  
By: Coleman  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that the Texas HIV medication program provides medications for the treatment of HIV and similar infections to HIV patients who, among other requirements, meet certain financial eligibility requirements. Interested parties further contend that the HIV medication program advisory committee is comprised of community members such as doctors, social workers, and individuals diagnosed with HIV and makes eligibility and guideline recommendations relating to the program. Provisions of law relating to the committee do not adequately ensure the continuation of the committee.

C.S.H.B. 2229 seeks to ensure the continuation of the HIV medication program advisory committee by establishing provisions relating to the creation, appointment, duties, and requirements of the Texas HIV Medication Advisory Committee.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2229 amends the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission to establish the Texas HIV Medication Advisory Committee. The bill specifies that the committee consists of 11 members appointed by the executive commissioner and sets forth the composition of the committee. The bill requires the Department of State Health Services (DSHS) to provide staff support for the committee and makes the committee subject to provisions of law relating to state agency advisory committees, except as otherwise provided by the bill's provisions. The bill requires the committee to advise the executive commissioner and DSHS in the development of procedures and guidelines for the Texas HIV medication program; review the program's goals and aims; evaluate the program's ongoing efforts; recommend both short-range and long-range goals and objectives for medication needs; and perform any other tasks assigned by the executive commissioner. The bill specifies that a committee member serves at the will of the executive commissioner.

C.S.H.B. 2229 requires the committee to select a presiding officer and an assistant presiding officer from the committee members and requires those officers to begin serving on March 1 of each odd-numbered year and serve until February 27 of the following odd-numbered year. The bill authorizes an officer to continue to serve until a replacement is elected for the officer's position. The bill establishes duties for the presiding officer relating to the administration of the committee and authorizes the presiding officer to serve as an ex officio member of any subcommittee. The bill requires the assistant presiding officer to perform the duties of the presiding officer if the presiding officer is absent or becomes disabled and to complete the unexpired portion of the presiding officer's term if the office of the presiding officer becomes vacant. The bill authorizes the committee to elect a committee member to replace the assistant presiding officer if the office of the assistant presiding officer becomes vacant.

C.S.H.B. 2229 requires the committee to meet only as necessary to conduct committee business and authorizes a meeting to be called by agreement between DSHS staff and the presiding officer or between DSHS staff and three or more committee members. The bill requires DSHS staff to make meeting arrangements and contact each committee member to determine the member's availability for a meeting date and place. The bill establishes that the committee is not a "governmental body" as defined under state open meetings laws, but requires each committee meeting to be announced and conducted in accordance with state open meetings law, except that the provisions allowing executive sessions do not apply to the committee. The bill requires each member of the committee to be informed of a committee meeting at least five working days before the meeting is to take place. The bill requires an agenda for each committee meeting to include an item entitled "public comment" under which any person may address the committee on matters relating to committee business and authorizes the presiding officer to establish procedures for public comment, including a time limit for each comment. The bill requires a member of the committee to attend a scheduled committee meeting and a meeting of a subcommittee to which the member is assigned and requires a member to notify the presiding officer or the appropriate DSHS staff if the member is unable to attend a scheduled meeting. The bill requires the committee to include the attendance records of each member in the committee's annual report to the commissioner of DSHS and requires the report to include a member's attendance at both committee and subcommittee meetings.

C.S.H.B. 2229 requires the committee to use Robert's Rules of Order as the basis of parliamentary decisions, except as provided by other law or rule, and sets out provisions establishing administrative procedures and requirements relating to a committee meeting. The bill authorizes the committee to establish subcommittees as necessary to assist the committee in performing the committee's duties and requires the presiding officer to appoint committee members to serve on subcommittees and to act as subcommittee chairs. The bill authorizes the presiding officer to appoint a person who is not a committee member to serve on a subcommittee. The bill requires a subcommittee to meet when called by the subcommittee's chair or when directed by the committee. The bill requires a subcommittee chair to make a regular report to the committee at each committee meeting or in an interim written report as needed and requires the report to include an executive summary or minutes of each subcommittee meeting.

C.S.H.B. 2229 prohibits the executive commissioner, DSHS, and the committee from being bound by any statement made or action taken by a committee member unless the member makes the statement or takes the action based on specific instructions from the executive commissioner, DSHS, or the committee. The bill prohibits the committee and committee members from participating in any legislative activity in the name of the executive commissioner, DSHS, or the committee, unless the committee or committee member obtains approval through the department's legislative process, and authorizes committee members to represent themselves or another entity in the legislative process. The bill prohibits a committee member from the following: accepting or soliciting a benefit that might reasonably tend to influence the member in the discharge of the member's official duties; disclosing confidential information acquired through the member's service on the committee; and knowingly soliciting, accepting, or agreeing to accept a benefit for exercising the member's official powers or duties in favor of another person. The bill requires a committee member who has a personal or private interest in a matter pending before the committee to publicly disclose the fact and prohibits such a committee member from voting or otherwise participating in the matter. The bill defines "personal or private interest" for purposes of this provision.

C.S.H.B. 2229 authorizes a committee member to receive reimbursement for expenses incurred for each day the member engages in official committee business if the reimbursement is authorized by the General Appropriations Act or through the budget execution process. The bill specifies that a committee member is not entitled to a salary or stipend unless required by law and that a committee member who is an employee of a state agency other than DSHS is not

entitled to reimbursement from DSHS. The bill specifies that a person who serves on a subcommittee and who is not a committee member is not entitled to reimbursement for expenses from DSHS and that only a consumer who is diagnosed with HIV and serves as a committee member is eligible for reimbursement of actual travel expenses incurred. The bill requires a committee member who is eligible for reimbursement of expenses to submit to DSHS staff the member's receipts for the expenses and any required forms not later than 14 days after a committee meeting. The bill requires a member to make a request for reimbursement for expenses on an official state travel voucher prepared by DSHS staff.

C.S.H.B. 2229 requires the committee to file an annual written report with the commissioner of DSHS not later than March 31 of each year and requires the report to cover the meetings and activities of the committee for the year preceding the date of the report, including certain specified information. The bill requires the committee to identify the costs for the committee's existence in the report, including the cost of DSHS staff used to support the committee's activities and the source of funds used to support the committee's activities. The bill requires the presiding officer and appropriate DSHS staff to sign the report.

C.S.H.B. 2229 requires the executive commissioner to appoint the initial members of the committee as promptly as possible after the effective date of the bill and specifies that the executive commissioner may, but is not required to, appoint initial members to the committee who served on the advisory committee previously established by the Texas Board of Health relating to the HIV medication program. The bill requires the members of the committee to select a presiding officer and an assistant presiding officer at the first committee meeting and specifies that the initial terms of those officers begin on the date of selection. The bill defines "commissioner," "committee," "executive commissioner," and "program."

C.S.H.B. 2229 repeals Section 85.066, Health and Safety Code, relating to the requirement for the Texas Board of Health to appoint an advisory committee to assist in the development of procedures and guidelines required by provisions of law relating to the HIV medication program.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2229 differs from the original by repealing a provision of law relating to the appointment of an advisory committee to assist in the development of procedures and guidelines of the HIV medication program, whereas the original amends that provision of law to require, rather than authorize, the executive commissioner of the Health and Human Services Commission (HHSC) to appoint an advisory committee to advise the Department of State Health Services (DSHS) concerning procedures and guidelines required by provisions of law relating to the Texas HIV medication program. The substitute contains provisions not included in the original defining "commissioner," "committee," "executive commissioner," and "program." The substitute contains provisions not included in the original requiring the executive commissioner of HHSC to establish the Texas HIV Medication Advisory Committee and specifying that the committee consists of 11 members appointed by the executive commissioner. The substitute contains provisions not included in the original establishing the composition and duties of the committee and terms of the committee members. The substitute contains provisions not included in the original requiring DSHS to provide staff support for the committee and making the committee subject to provisions of law relating to state agency advisory committees. The substitute contains provisions not included in the original relating to the selection, duties, and terms of the presiding officer and assistant presiding officer of the committee. The substitute contains provisions not included in the original setting out provisions relating to committee meeting schedules and arrangements, meeting requirements, attendance requirements, administrative procedures, and procedures for the establishment of subcommittees.

C.S.H.B. 2229 contains a provision not included in the original prohibiting the executive commissioner, DSHS, and the committee from being bound by certain statements made or action taken by a committee member. The substitute contains provisions not included in the original prohibiting the committee and committee members from participating in any legislative activity in the name of the executive commissioner, DSHS, or the committee without approval obtained through the department's legislative process and authorizing committee members to represent themselves or another entity in that legislative process. The substitute contains provisions not included in the original prohibiting a committee member from accepting, soliciting, or agreeing to accept certain benefits or disclosing certain confidential information. The substitute contains provisions not included in the original requiring a committee member who has a personal or private interest in a matter pending before the committee to publicly disclose the fact, prohibiting the member from voting or otherwise participating in the matter, and defining "personal or private interest." The substitute contains provisions not included in the original relating to the compensation and reimbursement of expenses of committee members and members of a subcommittee who are not committee members. The substitute contains provisions not included in the original establishing reporting requirements for the committee.

C.S.H.B. 2229 differs from the original by requiring the executive commissioner to appoint the initial members of the advisory committee as promptly as possible after the effective date of the bill, whereas the original requires the executive commissioner to appoint the previously established advisory committee not later than January 1, 2012. The substitute contains a provision not included in the original specifying that the executive commissioner may, but is not required to, appoint initial members to the committee who served on the advisory committee previously established under specified provisions of law. The substitute contains a provision not included in the original requiring the members of the committee to select a presiding officer and an assistant presiding officer at the first meeting of the committee and establishing the beginning dates of the initial terms of those officers.