

BILL ANALYSIS

C.S.H.B. 2299
By: Coleman
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 2299 seeks to amend provisions of law relating to the demonstration project for women's health care services to continue the project as a program provided by the Health and Human Services Commission and to establish legislative findings relating to the use of taxpayer money to support the performance or promotion of elective abortions.

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. 2299 amends the Human Resources Code to require the Health and Human Services Commission (HHSC) to provide a women's health program through Medicaid to expand access to preventive health and family planning services for women, rather than requiring HHSC to establish a five-year demonstration project to expand such services, and makes related conforming changes. The bill changes the expiration date of provisions of law relating to the program from September 1, 2011, to September 1, 2016.

C.S.H.B. 2299 requires HHSC to cease the operation of the program if a court holds that a statutory provision requiring HHSC to ensure that money spent under the program is not used to perform or promote elective abortions and prohibiting HHSC from contracting with entities or affiliates of entities that perform or promote elective abortions or its application to any person or entity is invalid or enjoins its enforcement. The bill requires HHSC, if HHSC ceases the operation of the program because of such a holding but a court with binding authority subsequently overrules the holding or injunction, to reinstate the operation of the program until a court subsequently overrules the decision of the court that resulted in the reinstatement of the program. The bill specifies that if any provision of law relating to the women's health program or its application to any person or circumstance is held invalid, the entire provision is invalid and establishes that provisions of law relating to the women's health program are nonseverable to achieve this purpose.

C.S.H.B. 2299 prohibits an officer or employee of HHSC or an executive or administrative official of the state from refusing to comply with the statutory provision requiring HHSC to ensure that money spent under the program is not used to perform or promote elective abortions and prohibiting HHSC from contracting with entities or affiliates of entities that perform or promote elective abortions on the basis of the officer's, employee's, or official's opinion that the provision is unconstitutional, preempted by federal law, or invalid for any other reason unless a court, in a final judgment that is not reversed on appeal, is no longer subject to appeal, and is applicable to and binding on this state, finds that the provision is unconstitutional, preempted by federal law, or invalid for any other reason.

C.S.H.B. 2299 establishes legislative findings relating to the use of taxpayer money to support

the performance or promotion of elective abortions. The bill requires a state agency that is affected by a provision of the bill to request an amendment to the existing federal waiver or authorization if the agency determines that an amendment to the existing waiver or authorization is necessary for the implementation of the provision as amended, and authorizes the agency to delay implementation until the amendment or other authorization is granted.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, August 31, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2299 contains legislative findings not included in the original.

C.S.H.B. 2299 differs from the original by requiring the Health and Human Services Commission (HHSC) to provide a women's health program through Medicaid to expand access to preventive health and family planning services for women, whereas the original requires HHSC to operate a demonstration project through Medicaid to expand access to such services.

C.S.H.B. 2299 differs from the original, in a provision of law including a referral of medical problems to appropriate providers in the preventive health and family planning services a woman participating in the program is authorized to receive, by retaining statutory language specifying that such services include a referral to providers that are entities or organizations that do not perform or promote elective abortions or contract or affiliate with entities that perform or promote elective abortions, whereas the original removes the statutory language containing that specification.

C.S.H.B. 2299 differs from the original by retaining statutory language prohibiting HHSC, for the purpose of the program, from contracting with entities or affiliates of entities that perform or promote elective abortions, whereas the original removes that statutory language.

C.S.H.B. 2299 contains a provision not included in the original requiring HHSC to cease the operation of the program if a court holds that a statutory provision requiring HHSC to ensure that money spent under the program is not used to perform or promote elective abortions and prohibiting HHSC from contracting with entities or affiliates of entities that perform or promote elective abortions or its application to any person or entity is invalid or enjoins its enforcement. The substitute contains a provision not included in the original requiring HHSC, if HHSC ceases the operation of the program because of such a holding but a court with binding authority subsequently overrules the holding or injunction, to reinstate the operation of the program until a court subsequently overrules the decision of the court that resulted in the reinstatement of the program.

C.S.H.B. 2299 contains provisions not included in the original specifying that, if any provision of law relating to the women's health program or its application to any person or circumstance is held invalid, the entire provision is invalid and establishing that provisions of law relating to the women's health program are nonseverable to achieve this purpose.

C.S.H.B. 2299 contains provisions not included in the original prohibiting an officer or employee of HHSC or an executive or administrative official of the state from refusing to comply with the statutory provision requiring HHSC to ensure that money spent under the program is not used to perform or promote elective abortions and prohibiting HHSC from contracting with entities or affiliates of entities that perform or promote elective abortions, on the basis of the officer's, employee's, or official's opinion that the provision is unconstitutional, preempted by federal law, or invalid for any other reason unless a court, in a final judgment that is not reversed on appeal, is no longer subject to appeal, and is applicable to and binding on this state, finds that the provision is unconstitutional, preempted by federal law, or invalid for any

other reason.

C.S.H.B. 2299 differs from the original by making the substitute effective on passage, or, if it does not receive the necessary vote, August 31, 2011, whereas the original takes effect August 31, 2011. The substitute differs from the original in conforming ways.