

COUNCIL ON DISABILITIES

November 1990

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SUMMARY

Summary

The Council on Disabilities is subject to the Texas Sunset Act and will be automatically abolished unless statutorily continued by the 72nd Legislature in 1991. The review of the council included an assessment of the need for the functions of the agency and benefits that could be gained through transfer of the council's functions to another existing agency. The results are summarized below:

Assessment of Need for Agency Functions

The review concluded that the functions of the Council on Disabilities should be continued. These functions include promoting the development and coordination of statewide public and private policies, programs, and services to persons with disabilities; overseeing and updating the long-range plan for Texans with disabilities; promoting a demographic survey of disabled persons; and promoting the compilation of laws related to the disabled.

Assessment of Organizational Alternatives

If the decision is made to continue the functions of the agency, the review concluded that the Council on Disabilities should be abolished and its functions transferred to the Governor's Committee on Disabled Persons. The Council on Disabilities had been largely inactive since 1987, and although recently reactivated, has been unable to achieve a quorum at its meetings. This has resulted in the council being unable to achieve its mandate. In addition, many of the duties of the council are very similar and in some cases overlap with those of the Governor's Committee on Disabled Persons. Transferring the council's functions to the Governor's Committee on Disabled Persons would eliminate the need for two different committees dealing with disability issues while ensuring that the current functions of the Council on Disabilities are continued.

Fiscal Impact

It is estimated that the adoption of these recommendations would result in an annual net savings of \$20,000. This is based on a savings of \$47,000 from eliminating the council, but new costs of \$27,000 to the Governor's Committee for Disabled Persons for performing the council's functions.

BACKGROUND

Creation and Powers

The Council on Disabilities (COD) was created by the legislature in 1983 to promote the development and coordination of statewide policies, programs and services for persons with disabilities. The duties of the council include overseeing the state's long-range plan for persons with disabilities; making recommendations to the legislature for modifications of the laws related to the disabled; promoting a demographic survey of the disability population; and promoting the compilation and publication of laws related to the disabled. The duties of the council have not changed since its creation in 1983.

The first Long-Range Plan for Texans with Disabilities was developed in 1982 by a planning group appointed by the governor. The plan included a series of goals and objectives to meet the needs of persons with disabilities. The plan was first updated by the council in 1985, and the council is currently in the process of updating the plan again for the 72nd Legislature. The council also made recommendations to the legislature in 1984 and 1986 on issues concerning the disabled, including a recommendation to fund a statewide demographic survey of disabled persons to determine the prevalence and location of disabled persons throughout Texas. In addition, a compilation of state laws relating to persons with disabilities was first published by the Texas Legislative Council in 1983, and in 1985 was updated based upon interest expressed by the council.

Policy-making Body

The Council on Disabilities is composed of 23 members. The governor appoints the chair, the lieutenant governor appoints a senator, and the speaker of the house appoints a member of the house of representatives. In addition, the governor, the lieutenant governor, and the speaker of the house each appoint a disabled person or parent of a disabled person, a provider of services to disabled persons, and a private citizen. The remaining 11 members are appointed from the governing boards of each of the following agencies to represent that agency on the council:

- the Texas Department of Human Services,
- the Texas Department of Mental Health and Mental Retardation,
- the Texas Department of Health,
- the Texas Education Agency,
- the Texas Rehabilitation Commission,
- the Texas Commission for the Deaf,
- the Texas Commission for the Blind,
- the Texas Department on Aging,
- the Texas Commission on Alcohol and Drug Abuse,
- the Texas School for the Deaf, and
- the Texas Employment Commission.

Members of the council serve for two-year terms. Members may be reappointed, with no limit on the total number of years a member may serve. Members receive no compensation, but are entitled to reimbursement for actual and necessary expenses. A majority of the members, or twelve members, constitutes a quorum of the council. The council has had difficulty in obtaining a quorum for conducting its business. In fiscal year 1989, the council met three times with an average of seven members present. In fiscal year 1990, the council met five times with an average of ten members present.

The council breaks into task forces to conduct particular aspects of its work. The council chair currently has appointed seven task forces, including ones in the following areas: the long range state plan, the demographic survey, the American Disabilities Act, and a disability awareness conference.

Funding and Organization

The Council on Disabilities receives no direct state appropriation. Traditionally, the council's appointing officials and participating state agencies have rotated lead responsibility for the council. The Texas Rehabilitation Commission (TRC) was the first lead agency in 1984, with staff assistance provided by the governor's office. The Commission for the Blind was the lead agency from 1986 to 1988. TRC took responsibility again in 1989 and will continue as lead agency through 1992. In fiscal year 1990, the Texas Rehabilitation Commission set up an operating budget for the council of \$27,915, but only \$16,915 was actually expended. The council is also authorized to receive and spend grants and donations, however, to date, no such funding has been received.

The statute does not authorize the council to hire staff directly. Rather, the statute directs the council to use the existing staff of an appointing official or agency to assist it in performing its duties. Beginning in 1989, TRC decided to hire an executive director for the council, at a cost to TRC of \$29,702 annually. Currently, the executive director is the only full-time employee of the council.

RESULTS OF REVIEW

Overall Approach to the Review

Overall Approach to the Review

The Texas Sunset Act requires an assessment of several factors as part of the review of an agency. These factors include a determination of the continued need for the functions performed by the agency and a determination if those functions could be better performed by another agency.

In accordance with the Sunset Act, the review of the Council on Disabilities included an assessment of these factors. The assessment of the need for the council's functions focused on whether there was a continuing need for state involvement in the promotion of coordinated public and private services to disabled persons. The review then examined whether benefits would result from transferring the council's functions to another state agency.

A number of activities were undertaken by the sunset staff to assess the need for the Council on Disabilities and to gain a better understanding of the council's current approach to its duties. These activities included:

- interviews with the chair and executive director of the council;
- observation of a council meeting;
- review of various agency documents and records, legislative and budget documents, and literature concerning policies, programs and services for disabled persons;
- personal and phone interviews with various state agency representatives involved with the activities of the council; and
- personal and phone interviews with various interest and advocacy groups involved with the activities of the council.

The results of the review are addressed in the two following sections of this report: 1) Assessment of Need for Agency Functions; and 2) Assessment of Organizational Alternatives.

Assessment of Need for Agency Functions

ISSUE 1: The functions of the Council on Disabilities should be continued.

BACKGROUND

The functions of the Council on Disabilities (COD) are to: promote the development and coordination of public and private policies, programs and services for persons with disabilities; monitor and update the long-range state plan for Texans with disabilities; promote a demographic survey of persons with disabilities; and promote the compilation and publication of laws related to the disabled.

As part of the review, an evaluation was made to determine if there is a continuing need for each of these functions. The evaluation indicated the following:

- ▶ **Coordination is needed to ensure against duplication and gaps in services to the disabled.**
 - Texas has a diverse array of public and private entities involved in providing services to persons with disabilities, including twelve state agencies and a vast number of private providers of services to disabled persons. Many of these entities offer similar services and provide services to similar groups of disabled persons. Lack of coordination could therefore result in the potential for duplications or overlaps in service.
- ▶ **The long-range state plan for Texans with Disabilities is the only comprehensive plan that addresses the overall needs of disabled persons and needs to be updated regularly to continue to be a useful guide.**
 - Most of the individual state agencies providing services to the disabled have developed strategic plans for the particular services and populations they are authorized and funded to serve. The long-range state plan for Texans with Disabilities, however, is the only document that provides an overall picture and broad goals that need to be addressed through both public and private efforts to meet the needs of disabled persons in Texas.
 - Updating the plan every two years ensures that the document is kept up-to-date with changes regarding services to the disabled. For example, the current plan will need to be updated to incorporate a number of changes that are the result of changes at the federal level based on passage of the American Disabilities Act.
- ▶ **A demographic survey of the disabled has never received full funding by the legislature due to a shortage of funds for such a**

project. However, there continues to be a need for such data when sufficient funds are available.

- An accurate survey of the prevalence and location of disabled persons throughout Texas would provide useful data for the planning and coordination of both public and private services to the disabled. Currently, there is no overall picture of the disabled population, only data on clients and services provided through various agencies.
- ▶ **Disabled persons continue to need access to information concerning state laws that affect them and promoting the compilation of such information continues to be a worthwhile function.**
 - The task of compiling these laws was initially done by the Texas Legislative Council in 1984 and updated in 1985. There was not a significant number of requests for this particular document and it therefore has not been updated since 1985. However, Advocacy, Inc. (a non-profit, federally funded advocacy group) currently publishes over 300 brochures explaining topics of interest to the disabled, including an explanation of the current state and federal laws related to that particular topic. These brochures appear to serve a useful purpose and the promotion of such activities should be continued.

Based on these findings, the conclusion is that there is a continuing need for the functions currently assigned to the Council on Disabilities.

RECOMMENDATION

- **The functions of the Council on Disabilities should be continued.**

Continuing these functions of the council will maintain a focus on the need for the coordination of public and private services to persons with disabilities.

FISCAL IMPACT

If the functions of the council are continued using the existing council structure, the annual costs of approximately \$47,000 would continue. If the functions are transferred to another entity, the fiscal impact would depend upon the costs to the new entity of performing these additional duties.

Assessment of Organizational Alternatives

ISSUE 2: The Council on Disabilities should be abolished and its functions transferred to the Governor's Committee for Disabled Persons.

BACKGROUND

The Council on Disabilities was created in 1983 to promote the development and coordination of effective and efficient statewide public and private policies, programs, and services for disabled persons. In addition, the council is responsible for continually monitoring and biennially updating the long-range state plan for Texas with disabilities; promoting a demographic survey of the disabled; and promoting the compilation and publication of laws related to the disabled. The council is composed of 23 members including the chair, one state senator, one state representative, three providers of services to the disabled, three private citizens, three disabled persons or parents of disabled persons, and one representative each from eleven state agency boards whose agencies provide services to the disabled.

The review focused on determining if there is a continuing need for the council. This involved the examination of two key areas. The first is the extent to which the council has complied with and achieved the objectives of its mandate. The second is the extent to which the duties of the council overlap with those of other state agencies and could be performed more effectively if consolidated. The results of the review indicated the following:

- ▶ **In the past three years, the Council on Disabilities has been inactive or unable to achieve a quorum at its meetings.**
 - The council did not meet at all from January 1987 to February 1989. This was due largely to the fact that there were a number of vacant positions on the council, including the chair's position.
 - The council began meeting again in February 1989, but it has not had a quorum at any of the nine meetings held since that time. A minimum of 12 members is required for a quorum. The number of members present at these meetings has ranged from six to eleven, with an average of nine members present. During this time, several of the positions continued to be vacant. Currently there is only one vacant position on the 23-member council, however, the large size of the council has continued to make it difficult to obtain a quorum.
 - While the members who have been attending have been active and involved, the lack of a quorum has resulted in the council being unable to formally act on any business. This has resulted in the council being unable to achieve its mandate to promote coordinated services to the disabled or to act as a resource on disabled issues for the legislature.

- ▶ **The council has not consistently overseen and reported on implementation of the State Plan for Texans with Disabilities.**
 - The last revision of the state plan was published in January 1985. The council did not prepare a report on the state plan for the legislature in 1987 or in 1989.
 - The council is currently in the process of reviewing activity on the state plan over the last five years, with the goal of completing a report for the legislature by January 1991. However, this has been hampered by the lack of participation by a number of the council members.
 - If the council cannot obtain a quorum, the current work on the state plan cannot be formally adopted for publication.
- ▶ **The council has actively promoted a demographic survey of persons with disabilities, but no survey has been conducted to date.**
 - The council has no resources itself to conduct a demographic survey. In 1984, the Texas Rehabilitation Commission and the Texas Planning Council on Developmental Disabilities conducted a pilot study in five counties, however, due to overall funding shortages, a statewide survey has never been funded by the legislature.
 - Currently, the council has contracted for a review of existing data on disabled persons that is available from surveys and routine data kept by state agencies. Due to the lack of state funds, the council is currently planning to raise funds through private donations to pay for the survey. However, to date, no funds have been raised for this purpose.
- ▶ **The functions of the council are similar and in many cases overlap with those of the Governor's Committee for Disabled Persons.**
 - The purpose of the Governor's Committee for Disabled Persons (GCDP) is to promote employment and public awareness of the abilities and special needs of persons with disabilities in Texas. The committee was established by executive order of the governor in 1979 and has been continued in existence through three changes in the administration of the governor's office. The committee is composed of twelve members appointed by the governor, and at least seven of the twelve must be persons with disabilities. The committee also has ex-officio members representing the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Texas Commission for the Deaf, and the Texas Employment Commission. The GCDP is very active and has not had problems with convening a quorum of its members for meetings.
 - Many of the activities of the GCDP are similar to those of the COD. For example, the COD has task forces on the American Disabilities

Act (ADA), a disability awareness conference, and barrier-free parks. These are very similar to three of the GCDP's subcommittees. In addition, both entities place a strong emphasis on a partnership between the public and private sectors in serving the disabled.

- The GCDP has also facilitated in numerous coordination efforts involving state agencies, including agencies outside of those directly represented on the GCDP. For example, the GCDP has currently set up a task force which is taking the lead in coordinating the response of numerous state agencies to the new requirements of the American Disabilities Act (ADA). The purpose is to ensure that standardized information is being provided to state employees and clients on the ADA, to avoid any duplication of effort, and to help provide information on the ADA to the numerous non-profit agencies serving disabled persons on the local level. In addition, the GCDP previously led a task force on accessibility, coordinating the efforts of 21 state agencies to improve accessibility to their programs and facilities.
- ▶ **The Governor's Committee for Disabled Persons can perform the primary duties of the Council on Disabilities.**
 - While the purpose of GCDP is currently focused on promoting employment and public awareness of the abilities and special needs of persons with disabilities, this could be broadened to include the duties of the council. The GCDP would then, in addition to its current duties, be responsible for oversight of the State Plan for Texans with Disabilities; promoting the coordination of public and private services to disabled persons; promoting a demographic survey of persons with disabilities; and promoting the publication of laws related to disabled persons.

PROBLEM

The Council on Disabilities has not been able to fulfill the role for which it was originally created. It was largely inactive for several years, and even though more recently reactivated, it has not been able to achieve a quorum of its members to formally act on the business of the council. In addition, much of the council's work is very similar to and in some cases overlaps with that of the Governor's Committee for Disabled Persons and could be accomplished without the need for two separate entities.

RECOMMENDATION

- **The statute should be amended to:**
 - **abolish the Council on Disabilities;**
 - **establish the Governor's Committee for Disabled Persons in statute; and**

-- transfer the Council on Disabilities functions to the Governor's Committee for Disabled Persons.

Transferring the functions of the Council on Disabilities to the Governor's Committee for Disabled Persons (GCDP) would eliminate the need for two different committees dealing with disability issues, while ensuring that the current responsibilities of the council are continued. The GCDP would need to be statutorily created, as it is currently only authorized by executive order. The composition of the committee would be the same as it is currently under executive order, but with the additional authority for the governor to designate other ex-officio members from other state agencies providing services to the disabled.

The GCDP would be statutorily responsible for promoting the development and coordination of statewide public and private services for the disabled, promoting a demographic survey of the disability population, and promoting the compilation of laws related to the disabled. The GCDP would also be required by statute to oversee and biennially update and report to the legislature on the Long Range State Plan for Texans with Disabilities. Other state agencies involved in the provision of services to persons with disabilities would be required to coordinate with the GCDP in these efforts.

FISCAL IMPACT

There would be annual cost savings of approximately \$47,000 from eliminating the council and its executive director position. It is estimated that the Governor's Committee for Disabled Persons could perform the additional duties for approximately \$27,000 a year, with a net savings to the state of \$20,000.

Council on Disabilities

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