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FISCAL IMPACT REPORT

SPONSOR Harrison DATE TYPED 1/28/04 HB 260

SHORT TITLE Aging & Long Term Services Department Act SB _____

ANALYST Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 141; HB 34

SOURCES OF INFORMATION

LFC Files

Responses Received From
 State Agency on Aging (SAA)
 Developmental Disabilities Planning Council (DDPC)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 260 creates an Aging and Long-Term Services Department (ALTSD) in accordance with the terms of Executive Order No. 2003-022. The new department is composed of five divisions: administrative services, consumer and elder rights, aging network services, long-term care, and adult protective services. An office of Indian elder affairs is also created within the secretary's office. This bill addresses directives and recommendations made in Committee Substitute for House Bill 585 passed and signed by the Governor during the 2003 Legislative Session and by the Legislative Subcommittee on Reorganization.

Significant Issues

The purpose of this bill is to create a single, unified department to administer all laws (including the federal Older Americans Act) and exercise all functions formerly administered by the State Agency on Aging and to administer laws and exercise certain functions of the Human Services

Department (HSD), the Department of Health (DOH) and the Children, Youth & Families Department (CYFD) that relate to aging, adults with disabilities or long-term care services.

FISCAL IMPLICATIONS

HB260 does not contain an appropriation. According to the Agency on Aging, transfer of funds and FTEs from the DOH, HSD, and CYFD are being negotiated between the departments, with assistance from the Department of Finance and Administration (DFA), to ensure appropriate transfers to the Aging and Long-Term Services Department.

ADMINISTRATIVE IMPLICATIONS

This bill contains standard legislative language necessary to transfer appropriations, money, personnel and property to the ALTSD for all programs being transferred.

The ALTSD has developed a plan to implement functional transfers of certain long-term care programs. The traumatic brain injury program is to be transferred from DOH on July 1, 2004, the HSD home and community-based Medicaid waiver programs for the disabled and elderly are to be transferred no later than January 1, 2006, and the functions of adult protective services, adult day care, attendant care and other home- and community-based long-term care programs that serve seniors or adults with disabilities will be transferred from CYFD to ALTSD no later than January 1, 2006.

The Developmental Disabilities Planning Council recommends obtaining input from persons receiving services, families, advocates, and providers prior to the transfer of any program which provides services to persons with disabilities or to their families.

RELATIONSHIP

HB 260 differs from HB 34 and SB 141 in that it mandates that the Indian elder affairs office shall defer and comply with all standards and policies of Indian nations, tribes, or pueblos when providing services to Indian elders within the boundaries of Indian land. Section 13D on page 11, line 15 also mandates that delivery of services to Native American communities shall not be interrupted or discontinued during the transition of home-based care programs and that employees providing such services must be sensitive to the cultural and unique needs of the Native American population.

Another difference from HB 34 and SB 141 is that HB 260 mandates that the ALTSD to develop criteria to differentiate between urban and rural settings in determining funding allocations for home-based care programs and that home-based care providers not be paid less than what they earned on July 1, 2003.

TECHNICAL ISSUES

The Attorney General's Office recommends the following amendments:

Section 6. Subsection (B)(10), which addresses the appointment of division directors, is unnecessary and redundant. See page 5, lines 15-19. The same subject is addressed in almost the

same terms in Section 7, page 7, lines 2-5. Subsection (B)(10) should be deleted to avoid redundancy and potential confusion resulting from slight differences in terminology in the two provisions.

Section 8. This section, which addresses the establishment of bureaus and bureau chiefs, should be amended to include the following sentence: “The chief and all subsidiary employees of the department shall be covered by the Personnel Act unless otherwise provided by law.” This language is the same as that in existing legislation creating other cabinet level departments, and clarifies the employment status of those Department employees who are not expressly exempted from the Personnel Act’s coverage.

Section 10. The provision creates the Office of Indian Elder Affairs. The use of the term “Indian” might be amended to use the term “Native American” instead. In addition to being more current and acceptable to some, use of the term “Native American” would make this section consistent with Subsection 13(D) (page 11 of the bill), which uses the term “Native American”.

Section 13. Subsection F (page 12, lines 5-7) provides that obligations of “an agency or program” shall be obligations of the Department. As drafted, this is vague and overbroad. It might be clarified by adding the phrase “transferred under Subsection B of this section” between the words “program” and “shall” on line 6. In this way, it is clear that the agencies and programs whose obligations will be assumed by the Department are limited to those agencies and programs the bill brings under the Department.

RLG/lg