

SUBJECT: Continuing the State Preservation Board

COMMITTEE: House Administration — committee substitute recommended

VOTE: 7 ayes — Luna, Hamric, Hawley, Maxey, Telford, Tillery, West
0 nays
4 absent — Goolsby, Alvarado, Bailey, Chisum

WITNESSES: For — None
Against — None
On — Rick Crawford, State Preservation Board

BACKGROUND : The State Preservation Board was created in 1983 to oversee the restoration of the State Capitol, construction of the Capitol Extension, and renovation of the old General Land Office Building. The board is also charged with preserving, maintaining and buying antiques and historically reproduced furnishings for the buildings.

The six-person State Preservation Board (SPB) consists of the governor, the lieutenant governor, the speaker of the House, a state representative appointed by the speaker, a senator appointed by the lieutenant governor (usually the chairs of the House Administration and Senate Administration committees), and a public member appointed by the governor.

SPB has seven divisions: administration, curatorial, gift shops, accounting, visitors center, events and exhibits, and design and construction. To carry out these programs, the SPB had 31 employees in fiscal 1996.

The board receives appropriations from general revenue as well as private donations from individuals and groups, and was appropriated approximately \$1.4 million in fiscal 1996. The Capitol trust fund holds donations and revenues from the Visitors Center gift shop, the Capitol bookstore, the Capitol cafeteria, and Capitol equipment and event fees. The SPB can spend

these funds without an appropriation from the Legislature, but the funds are restricted for specially designated purposes.

The SPB is subject to the Sunset Act and underwent Sunset Advisory Commission review in 1994 before the 74th regular session. The Legislature delayed the final review for two years to better evaluate the need for the agency after completion of the Capitol restoration. The SPB is scheduled to be abolished on September 1, 1997, unless continued by the Legislature.

DIGEST: CSHB 1107 would continue the SPB until September 1, 2007.

CSHB 1107 would establish that the SPB would be considered a legislative agency for purposes of the State Purchasing and General Services Act, which regulates the purchasing procedures for executive branch agencies. It also would authorize the board's executive director, rather than the board itself, to employ and direct an architect of the Capitol.

The bill would authorize the SPB to transfer balances over \$300,000 in the food vendor service account, and over \$50,000 in the news media fee account to other accounts, to be spent for any purpose within the board's jurisdiction. CSHB 1107 would also permit money in the gift shop account to be spent for the benefit of the contents and grounds of the buildings along with the buildings themselves. The bill would remove several references in the statutes to a permanent advisory committee that was abolished last session.

The bill would take effect September 1, 1997.

SUPPORTERS SAY: The State Preservation Board should continue to oversee and protect the public's investment in the Capitol complex. Without the SPB, which has a strong interest in maintaining the Capitol it did so much to restore, the newly restored building and grounds could be left to deteriorate once again, as they had before the renovation took place. It is far more cost-effective to maintain the Capitol buildings now rather than pay later for another renovation, and a separate agency can devote the care and attention needed for this responsibility.

The SPB undertook the monumental task of guiding the restoration of the Capitol and has more expertise about preserving and managing the complex than any other agency. No other agency combines extensive historical knowledge about the Capitol and its artifacts with the specialized experience needed to manage the complex and the retail services provided by the gift shop, the bookstore and the Capitol dining room.

Although the General Services Commission (GSC) now provides maintenance and custodial services for the Capitol buildings, these activities will probably soon be transferred to the SPB. Both the House and Senate versions of HB 1, the general appropriations bill, recommend an increase of \$7.2 million from general revenue for the SPB for the transfer of Capitol complex custodial and maintenance services from the GSC to the SPB. Maintenance at the Capitol is specialized, since terrazzo tile floors, brass railings and other unique features of the complex must be specially cleaned.

Treating the SPB as a legislative agency solely for purpose of exempting it from state purchasing requirements would shorten delays in replacing unique items and repairing buildings and objects in the Capitol complex. The bill would not make the SPB part of the legislative branch but merely limit the extent to which it is subject to the State Purchasing and General Services Act.

There are many specialized objects and materials in the Capitol complex that can take weeks or even months to procure under GSC guidelines, while the SPB knows exactly where such objects or services may be obtained since often only one source can provide them. Although sole source purchasing is possible through the GSC, the bureaucracy involved is time-consuming. It is a waste of state tax dollars and staff time to force a highly specialized agency like the SPB to follow such procurement rules and a bother for building occupants, who sometimes must wait weeks for a door to be repaired, for example.

The seasonal nature of the legislative process and the heavy and urgent demands made for equipment, repairs, and alterations of space during regular and special sessions make GSC purchasing requirements inappropriate for the agencies that supply goods and services to the

Legislature. Most state agency needs are easy to predict during the year, but legislative agencies cannot predict, for example, when a special session may be called and large quantities of materials will be urgently needed. It is particularly onerous for the SPB, the agency overseeing the Capitol complex, where much of the action during legislative sessions takes place, to have to comply with the lengthy and time-consuming state purchasing requirements required by the GSC.

Preservation board members already receive a great deal of input from building occupants and other interested parties. Mandating that formal advisory committees be established to provide advice on building management issues would be a waste of time and money and could encourage endless wrangling over office space, parking and other issues. It is impossible to make everyone completely happy, but it is possible to manage the Capitol in a fair and equitable manner, which is exactly what the SPB is currently doing.

One reason why the preservation board runs so smoothly is that the board members trust, respect and regularly cooperate with each other on a range of issues. Because of their stature, the governor, the lieutenant governor and the speaker are unlikely to be intimidated by requests regarding, for example, how space is allocated in the Capitol. If staff representatives were allowed to represent the board members, they might be unduly pressured by those who have a personal interest in changing the way the building is managed.

The SPB has a healthy working relationship with the Department of Public Safety (DPS) and the other agencies with which it interacts in overseeing the Capitol complex. The SPB and the DPS cooperate and communicate with each other on all security matters regarding the Capitol complex, so no more formalized arrangement is needed.

CSHB 1107 would allow money that may accumulate in certain dedicated accounts to be transferred to different accounts so it could be used for various purposes, including maintaining and repairing the Capitol, and purchasing art, artifacts and historical furnishings for the complex. The Capitol is part of the state's historical heritage and should be maintained and decorated with care for all the citizens of Texas to enjoy.

The bill would require that \$300,000 be left in the food service account and \$50,000 in the news media fee account to purchase and maintain cafeteria equipment and furniture and to maintain and furnish the space rented to the news media. Additional money collected in these accounts, however, which under current law can only be used for limited purposes, would be released to be used as for purposes within the SPB's jurisdiction. This would mirror a general state trend away from dedicated funds so that they can be used more efficiently. There is now \$220,000 in the food service account, collected from rent as well as a percentage of gross sales in excess of \$20,000 a month, and \$66,000 in the news media fee account, collected from the media who rent space in the Capitol Extension.

When the SPB was first established, the architect of the Capitol was also the executive director of the agency. Since 1992, however, there has not been an architect of the Capitol officially designated by the board. The SPB now retains staff architects because the SPB's executive director now runs the agency. It makes administrative sense to have the executive director, who answers directly to the board, employ an architect of the Capitol.

**OPPONENTS
SAY:**

Now that the restoration of the Capitol Complex is completed, there is no longer a need for a separate State Preservation Board. Existing state agencies, including the General Services Commission, which provides maintenance services for the Capitol buildings, and the State Historical Commission, which reviews the Capitol for historic landmark status, could share responsibility for overseeing the Capitol complex.

Allowing the SPB to be considered a legislative agency for purposes of the State Purchasing and General Services Act would be a move away from fiscal accountability. Treating the SPB like a legislative agency could also be questionable as a possible violation of Art. 2, sec. 1, of the Texas Constitution, the separation of powers requirement that the powers of state government be divided into three distinct departments.

The SPB was able to complete a massive project to restore the Capitol in a timely fashion while operating under state purchasing guidelines, and there is no compelling need for it to bypass these regulations now. The Capitol complex is very much in the public eye, and by adhering to the guidelines

used by other state agencies in contracting with private vendors, the SPB would avoid any appearance of possible favoritism.

If the SPB must obtain a specialized item, it can do so through sole source provisions of state law, which allow it to circumvent the bidding process when there is only one source for the object it is trying to procure.

OTHER
OPPONENTS
SAY:

The SPB should be encouraged to use advisory committees to gain public perspectives on the operation of the Capitol, a recommendation of the Sunset Advisory Commission that was not included in the bill. Policy decisions regarding the use of the buildings are of great interest to the occupants of the complex, the public, and other state agencies, and some formal method should be available for those affected by SPB policies to air their views about such matters as banning smoking throughout the Capitol.

Another Sunset recommendation not included in the CSHB 1107 would have allowed board members to select designees to attend board meetings in place of board members themselves. The Sunset review found that the board meets relatively infrequently because of the busy schedules and many conflicting demands on the time of the governor, the lieutenant governor and the speaker. As a result, interested parties have even fewer opportunities to comment on SPB activities. Allowing board members to select designees would allow more frequent meetings and more opportunity for outside input on the management and operation of the Capitol complex.

The bill should include a provision encouraging the SPB to more clearly define and formalize its working relationship with other agencies, another recommendation by the Sunset Commission not included in the bill. The SPB should, for example, make a formal agreement with the Department of Public Safety (DPS) concerning the two agencies' responsibilities regarding security for the Capitol. The DPS has primary responsibility for security, but the SPB is now contracting for some security services on its own. There is a potential risk that each agency might assume that certain aspects of security were being handled by the other if they do clearly define their relationship.

NOTES: The committee substitute deleted a provision that would have allowed board members to designate representatives to act and vote on their behalf during a board meeting and added provisions that:

- the executive director, rather than the board, hire and supervise the architect of the Capitol;
- the board be considered a legislative agency for purposes of the State Purchasing and General Services Act and
- the board be authorized to transfer balances in the food service vendor's account and the news media fee account to other accounts to be spent for any purpose within the boards jurisdiction, and allowing money in the gift shop account to be spent for the benefit of the contents and grounds of the buildings.

The companion bill, SB 351 by Moncrief, has been referred to the Senate State Affairs Committee.