

**SUBJECT:** Transferring state purchasing duties to Comptroller's Office

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 7 ayes — Swinford, Paxton, Christian, B. Cook, Farrar, Flynn, Veasey  
0 nays  
2 absent — Van Arsdale, Parker

**WITNESSES:** For — None  
Against — None  
On — Victor M. Gonzalez, Pamela Smith, Raette Smith Hearne, Comptroller's Office; Edward Johnson, Texas Building and Procurement Commission

**BACKGROUND:** In 1919, the 36th Legislature consolidated 21 state agencies with purchasing, printing, and property-management functions and created the State Board of Control. Various agencies continued to provide these functions until the General Services Commission was constituted in 1991 to provide a variety of central services for state agencies and political subdivisions, including purchasing, business services, telecommunications, and facilities construction, leasing, and maintenance.

In 2001, the 77th Legislature enacted SB 311 by Zaffirini, Sunset legislation that abolished the General Services Commission and replaced it with the Texas Building and Procurement Commission (TBPC) to oversee acquisition and maintenance of state buildings and purchasing of goods and services for state agencies.

HB 1 by Chisum, the appropriations bill, would allocate about \$99.3 million for TBPC operations during the 2008-09 biennium and would authorize 569.4 full-time equivalent employees.

**DIGEST:** CSHB 3560 would change the name of the Texas Building and Procurement Commission to the Texas Facilities Commission and transfer its authority for overseeing state purchasing to the Comptroller's Office.

The Texas Facilities Commission would retain the authority to oversee:

- charge and control of state buildings, grounds, or property;
- maintenance and repair of state buildings;
- construction of state buildings;
- purchase or lease of state buildings, grounds, or property; and
- child-care services for state employees.

Employees with duties related to these property management and maintenance functions would remain with the Texas Facilities Commission. TBPC employees whose duties involved procurement and contracts would be transferred to the Comptroller's Office. Any TBPC management employee would be allowed to transfer but would not automatically continue to hold that management position.

Procurement and management of computer and other high-technology contracts would remain with the Department of Information Resources, which currently oversees these services.

**Conflict of interest provisions.** CSHB 3560 would prohibit the comptroller, chief clerk, or other Comptroller's Office employee from having any interest in or being connected with any contract or bid to purchase goods or services for the state or to accept any rebate or gift. If the chief clerk or another employee were to violate this section, they would be subject to dismissal. The bill also would provide that the comptroller would work with the Texas Ethics Commission to adopt rules to implement this section, and the Texas Ethics Commission would be responsible for enforcement of the rules and would be permitted to prepare written opinions regarding this section.

CSHB 3560 would allow the state auditor to review purchase information from the comptroller before or after a state warrant was issued for the purchase of goods and services.

The bill also would define and prohibit conflicts of interest for members of the newly created Texas Facilities Commission board.

**Joint study on property management.** CSHB 3560 also would direct the Texas Facilities Commission executive director, the state auditor, and the General Land Office to conduct an in-depth study of the commission. The study would be required to consider the best allocation of state money for

acquisition, construction, and control and maintenance of state buildings, including the potential benefits of outsourcing these functions.

The study would be completed by November 1, 2008, and this provision of the bill would expire on January 1, 2009.

**Conforming changes.** CSHB 3560 would include changes in various sections of the Government Code, including transfer of bank accounts and other assets, rule-making authority and oversight of various aspects of the procurement process.

The bill would take effect on September 1, 2007.

**SUPPORTERS  
SAY:**

Transferring the state government's procurement process to the Comptroller's Office, which writes the checks for these purchases, would make state operations more effective and efficient. Savings may be realized by changing currently inefficient operations and lowering the cost of goods with improved procurement processes and possible economies of scale in state purchases. The change has been recommended both by a House interim study and the governor's budget proposals.

Accountability to the citizens would be improved by having procurement under the oversight of a statewide elected official rather than an appointed commission. Texans are aware of the powers and duties of the state comptroller, but they may not know as much about a commission appointed by the governor and confirmed by the Senate. In the past, other functions, such as those performed by the state property tax board or state treasurer's office, have been folded into the comptroller's operations in a way that protected the public interest.

CSHB 3560 would provide sufficient checks and balances. The State Auditor's Office would retain authority to review and audit purchases as it now has with TBPC operations. The bill would add additional safeguards by requiring the Texas Ethics Commission to adopt and enforce rules to prevent conflicts of interest in procurement. Also, the Legislature has not been reluctant to oversee and rein in the comptroller when needed, as demonstrated by its decision to remove the Texas Performance Review from that office.

TBPC procurement and purchasing employees would be transferred to the new division of the Comptroller's Office and would not lose their jobs.

The bill also would ensure that former TBPC managers remained on the state payroll, but would provide flexibility for the comptroller to name a new management team for the division.

Final decisions about what to do about property management and construction of state buildings should be made after the study that would be required by CSHB 3560.

OPPONENTS  
SAY:

Renaming agencies and shifting pieces of state government would not necessarily promote effectiveness and efficiency. Creating new agencies and consolidating old agencies has been a trend for decades now, and the state budget only seems to expand. Also, the turmoil and uncertainty would create tensions among state employees where they worry more about keeping their jobs than serving the public.

Adding another function to the Comptroller's Office would risk further consolidation of power for that one elected official. The comptroller already has vast power under the Texas Constitution, including the ability to certify the amount of money available for the budget. A need for checks and balances within limited government must be weighed in any calls for greater efficiency and cost savings.

OTHER  
OPPONENTS  
SAY:

The TBPC should be abolished entirely and its property management functions transferred to the oversight of the general land commissioner, another statewide elected official.

NOTES:

The original version of the bill would have abolished the TBPC and transferred its authority over state buildings, facilities, and property to the General Land Office.

The companion bill, SB 1507 by Janek, was heard and left pending by the Senate Government Organization Committee on April 23.