CHAPTER 393
H.B. No. 1705
AN ACT
relating to the Department of Information Resources, including the abolition of the telecommunications planning and oversight council, the electronic commerce network, and the electronic procurement marketplace and standards for certain school district software.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. PROVISIONS RELATING TO ABOLITION OF THE TELECOMMUNICATIONS PLANNING AND OVERSIGHT COUNCIL

SECTION 1.01. Section 2054.091(d), Government Code, is amended to read as follows:

(d) The executive director shall appoint an advisory committee to assist in the preparation of the state strategic plan. The members of the advisory committee appointed by the executive director must be approved by the board and must include officers or employees of state government. [The telecommunications planning and oversight council shall appoint one of its members to serve as a member of the advisory committee.]

SECTION 1.02. The heading to Subchapter H, Chapter 2054, Government Code, is amended to read as follows:

SUBCHAPTER H. TELECOMMUNICATIONS PLANNING [AND OVERSIGHT COUNCIL]

SECTION 1.03. Sections 2054.203(a), (c), and (d), Government Code, are amended to read as follows:

(a) The department shall comprehensively collect and manage telecommunications network configuration information about existing and planned telecommunications networks throughout state government. [The department shall provide the information collected under this section to the telecommunications planning and oversight council in a manner consistent with state and federal security restrictions.]

(c) The telecommunications planning and oversight council in consultation with the department shall establish plans and policies for a system of telecommunications services.

(d) The telecommunications planning and oversight council in consultation with the department shall develop a statewide telecommunications operating plan for all state agencies. The plan shall implement a statewide network and include technical specifications that are binding on the department.

SECTION 1.04. Section 2054.204, Government Code, is transferred to Subchapter E, Chapter 2054, Government Code, renumbered as Section 2054.0925, Government Code, and amended to read as follows:

Sec. 2054.0925 [2054.204]. TELECOMMUNICATIONS IN STATE STRATEGIC PLAN.
(a) The department shall consult with the telecommunications planning and oversight council regarding telecommunications elements of the plan under Section 2054.092. The plan must address matters relating to a state telecommunications network that will effectively and efficiently meet the long-term requirements of state government for voice, video, and computer communications, with the goal of achieving a single centralized telecommunications network for state government.

(b) The telecommunications elements of the plan under Section 2054.092 must recognize that all state agencies, including institutions of higher education, are a single entity for purposes of purchasing and the determination of tariffs.

(c) The telecommunications elements of the plan under Section 2054.092 must incorporate efficiencies obtained through the use of shared transmission services and open systems architecture as they become available, building on existing systems as appropriate. [In developing the plan under Section 2054.092, the telecommunications planning and oversight...]

970
council and the department shall make use of the technical expertise of state agencies, including institutions of higher education.

SECTION 1.05. Section 2054.205, Government Code, is amended to read as follows:

Sec. 2054.205. DEVELOPMENT OF SYSTEM. (a) The [telecommunications planning and oversight council in consultation with the] department shall develop functional requirements for a statewide system of telecommunications services for all state agencies. Existing networks, as configured on September 1, 1991, of institutions of higher education are exempt from the requirements.

(b) The department [in consultation with the telecommunications planning and oversight council] shall develop requests for information and proposals for a statewide system of telecommunications services for all state agencies.

SECTION 1.06. Section 2054.2051, Government Code, is amended to read as follows:

Sec. 2054.2051. OVERSIGHT OF SYSTEMS. (a) The [telecommunications planning and oversight council in consultation with the] department shall develop service objectives for the consolidated telecommunications system and the centralized capitol complex telephone system.

(b) The [telecommunications planning and oversight council in consultation with the] department shall develop performance measures to establish cost-effective operations and staffing of the consolidated telecommunications system and the centralized capitol complex telephone system.

(c) The department [telecommunications planning and oversight council] shall review the status of all projects related to and the financial performance of the consolidated telecommunications system and the centralized capitol complex telephone system, including:

(1) a comparison between actual performance and projected goals at least once every three months; and

(2) any benefit of contracting with private vendors to provide some or all of the systems at least once each year.

[d. The telecommunications planning and oversight council shall make recommendations to the board on ways to improve the operation of the consolidated telecommunications system and the centralized capitol complex telephone system based on its review of their performance and on concerns raised by using entities.]

SECTION 1.07. Section 2054.207, Government Code, is transferred to Section 2054.055, Government Code, redesignated as Subsection (b–1), and amended to read as follows:

(b–1) [Sec. 2054.207. REPORT TO LEGISLATURE. The department shall consult with the telecommunications planning and oversight council regarding information that must be included in the performance report under Section 2054.055.] The report under this section shall address consolidated telecommunications system performance, centralized capitol complex telephone system performance, telecommunications system needs, and recommended statutory changes to enhance system capability and cost-effectiveness. In this subsection, “centralized capitol complex telephone system” and “consolidated telecommunications system” have the meanings assigned by Section 2054.201.

SECTION 1.08. (a) On the effective date of this Act, the telecommunications planning and oversight council is abolished.

(b) A rule, form, plan, policy, or order of the telecommunications planning and oversight council is continued in effect as a rule, form, plan, policy, or order of the Department of Information Resources until superseded by a rule or other appropriate action of the Department of Information Resources.

SECTION 1.09. (a) The following provisions of the Government Code are repealed:

(1) Section 2054.201;

(2) Section 2054.202;

(3) Section 2054.2025; and

(4) Section 2170.060.
(b) In accordance with Section 311.031, Government Code, Section 2054.2025, Government Code, is continued in effect for the limited purpose of applying in relation to an act performed before the effective date of this Act.

ARTICLE 2. PROVISIONS RELATING TO OTHER PROGRAMS ADMINISTERED BY THE DEPARTMENT OF INFORMATION RESOURCES

SECTION 2.01. Section 2054.003(12), Government Code, is amended to read as follows:

(12) “Project” means an initiative that:

(A) provides information resources technologies and creates products, services, or results within or among elements of a state agency; and

(B) [that ideally] is characterized by well-defined parameters, specific objectives, common benefits, planned activities, a scheduled completion date, and an established budget with a specified source of funding.

SECTION 2.02. Section 2054.095(b), Government Code, is amended to read as follows:

(b) Except as otherwise modified by the Legislative Budget Board or the governor, instructions under Subsection (a) must require each state agency's strategic plan to include:

(1) a description of the agency's information resources management organizations, policies, and practices, including the extent to which the agency uses its project management practices, as defined by Section 2054.152 (internal quality assurance procedures);

(2) a description of how the agency's information resources programs support and promote its mission, goals, and objectives and the goals and policies of the state strategic plan for information resources; and

(3) other planning components that the department may prescribe.

SECTION 2.03. Sections 2054.1015(b) and (c), Government Code, are amended to read as follows:

(b) The department may require a state agency to provide to the department a planned procurement schedule for commodity items if the department determines that the information in the schedule can be used to provide a benefit to the state. If required by the department, a state agency must provide a planned procurement schedule for commodity items to the department before the agency's operating plan may be approved under Section 2054.102.

(c) The department shall use information contained in the schedules to plan future vendor solicitations of commodity items or for any other activity that provides a benefit to the state.

SECTION 2.04. Section 2054.152, Government Code, is amended to read as follows:

Sec. 2054.152. DEFINITION. In this subchapter, “project management practices” includes the documented and repeatable activities through which a state agency applies knowledge, skills, tools, and techniques to satisfy project activity requirements.

SECTION 2.05. Section 2170.004, Government Code, is amended to read as follows:

Sec. 2170.004. CONTRACTS WITH ENTITIES OTHER THAN STATE AGENCIES. The department may contract for use of the consolidated telecommunications system with:

(1) each house of the legislature;

(2) a legislative agency;

(3) an agency that is not a state agency as defined by Section 2151.002;

(4) a political subdivision, including a county, municipality, or district; [and]

(5) a private institution of higher education accredited by a recognized accrediting agency, as defined by Section 61.003, Education Code, that:

(A) engages in distance learning, as defined by Section 57.021, Utilities Code; and

(B) receives federal funds for distance learning initiatives; and

(6) an assistance organization, as defined by Section 2175.001.
SECTION 2.06. Subchapter I, Chapter 39, Education Code, is amended by adding Section 39.205 to read as follows:

Sec. 39.205. SOFTWARE STANDARDS. (a) The Department of Information Resources, in cooperation with the commissioner, shall adopt performance and interoperability standards for software used by school districts for financial accounting or attendance reporting.

(b) Standards adopted under this section must ensure that the software will enable a school district to share and report information in a timely manner for purposes of financial management, operational decision-making, and transparency of district operations to the public.

(c) The Department of Information Resources:

(1) shall include compliance with standards adopted under this section as a requirement in any solicitation for software anticipated to be used for a purpose described by Subsection (a);

(2) shall require a vendor awarded a contract in response to a solicitation described by Subdivision (1) to certify that the software complies with the standards adopted under this section; and

(3) may negotiate state contract pricing for software that complies with the standards adopted under this section.

SECTION 2.07. The following provisions of the Government Code are repealed:

(1) Section 2054.051(d);
(2) Section 2054.0551;
(3) Section 2054.123;
(4) Section 2171.0521; and
(5) Chapter 2177.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Section 2151.0041(c), Government Code, is amended to read as follows:

(c) Unless otherwise provided by the legislature by law, on September 1, 2011:

(1) the powers and duties transferred to the comptroller under Section 2151.004(d) and under House Bill 3560, Acts of the 80th Legislature, Regular Session, 2007, are transferred to the Texas Facilities Commission;

(2) a reference in law to the comptroller relating to a power or duty transferred under this subsection means the Texas Facilities Commission;

(3) a rule or form adopted by the comptroller relating to a power or duty transferred under this subsection is a rule or form of the Texas Facilities Commission and remains in effect until altered by the commission;

(4) all obligations, contracts, proceedings, cases, negotiations, funds, and employees of the comptroller relating to a power or duty transferred under this subsection are transferred to the Texas Facilities Commission;

(5) all property and records in the custody of the comptroller relating to a power or duty transferred under this subsection and all funds appropriated by the legislature for purposes related to a power or duty transferred under this subsection are transferred to the Texas Facilities Commission; and

(6) Section 122.0011, Human Resources Code, and the following provisions of the Government Code expire:

(A) Sections 2151.004(c) and (d);
(B) Section 2155.0011;
(C) Section 2155.086;
(D) Section 2155.087;
(E) Section 2156.0011;
(F) Section 2157.0011;
(G) Section 2158.0011;
(H) Section 2161.0011;
(I) Section 2163.0011;
(J) Section 2170.0011;
(K) Section 2171.0011;
(L) Section 2172.0011;
(M) Section 2176.0011; and
(N) Section 2177.0011; and
(O) Section 2262.0011.

SECTION 3.02. Section 2155.264, Government Code, is amended to read as follows:

Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR ACQUISITION OVER $15,000. A state agency that proposes to make a purchase or other acquisition that will cost more than $15,000 shall solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region. A state agency may also solicit bids or proposals through the use of on-line electronic transmission or the electronic commerce network.

SECTION 3.03. Section 2156.003, Government Code, is amended to read as follows:

Sec. 2156.003. SOLICITATION OF BIDS THROUGH BIDDERS LIST; BID INVITATIONS. (a) The comptroller shall electronically maintain a bidders list that is integrated into the electronic procurement marketplace established by the Department of Information Resources. If the comptroller determines that it is in the state's best interest, the comptroller may also maintain the list on paper. The comptroller may add or delete names from the list according to applicable standards provided by Section 2156.007.

(b) An invitation to bid on an item to be purchased may be sent electronically to a vendor on the bidders list who has expressed a desire to bid on that type of item.

(c) The comptroller may use the bidders list in making a purchase by any purchase method.

SECTION 3.04. Section 2156.005, Government Code, is amended to read as follows:

Sec. 2156.005. BID SUBMISSION AND OPENING; PUBLIC INSPECTION. (a) A bidder must submit a sealed bid to the comptroller or to the state agency making a purchase. The bid must be identified on the envelope as a bid.

(b) Subsection (a) does not apply to bids submitted through the use of facsimile transmission or on-line electronic transmission, or the electronic commerce network. The comptroller may adopt rules to ensure the identification, security, and confidentiality of bids submitted through the use of facsimile transmission or on-line electronic transmission, or the electronic commerce network.

(c) The comptroller or other state agency making a purchase shall open bids at the time and place stated in the invitation to bid.

(d) The comptroller shall keep a tabulation of all bids received by the comptroller available for public inspection under rules adopted by the comptroller. State agencies making purchases shall adopt the comptroller's rules related to bid opening and tabulation.

SECTION 3.05. Section 2156.063, Government Code, is amended to read as follows:

Sec. 2156.063. SOLICITATION OF BIDS. The comptroller and each state agency making a purchase shall solicit bids under this subchapter by:

(1) direct mail;
(2) telephone;
(3) telegraph;

974
(4) facsimile transmission; or
(5) on-line electronic transmission; or
(6) posting on the electronic commerce network.

SECTION 3.06. Section 81.057, Natural Resources Code, is amended to read as follows:
Sec. 81.057. EXEMPTION FROM CERTAIN PURCHASING RULES. The commission
is not required to follow any purchasing procedures prescribed by or under Subchapter E,
Chapter 2155, Government Code, [the following laws] when the commission makes a purchase
in connection with the remediation of surface locations or well plugging:
[(1) Subchapter E, Chapter 2155, Government Code; and
(2) Subchapters B and C, Chapter 2177, Government Code].

SECTION 3.07. The following provisions are repealed:
(1) Section 2155.508(c), Government Code; and
(2) Section 271.083(c), Local Government Code.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2009.
Passed by the House on April 22, 2009: Yeas 149, Nays 0, 1 present, not voting; passed
by the Senate on May 21, 2009: Yeas 31, Nays 0.
Approved June 19, 2009.
Effective September 1, 2009.

CHAPTER 394

H.B. No. 1721

AN ACT
relating to taking or attempting to take a weapon from an employee or official of a correctional facility.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The heading to Section 38.14, Penal Code, is amended to read as follows:
Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER,
EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY, PAROLE OFFICER,
OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION 2. Sections 38.14(b), (c), (d), and (e), Penal Code, are amended to read as follows:
(b) A person commits an offense if the person intentionally or knowingly and with force
takes or attempts to take from a peace officer, employee or official of a correctional facility,
parole officer, or community supervision and corrections department officer the officer’s,
employee’s, or official’s firearm, nightstick, stun gun, or personal protection chemical dispens-
ing device with the intention of harming the officer, employee, or official or a third person.

(c) The actor is presumed to have known that the peace officer, employee or official of a
correctional facility, parole officer, or community supervision and corrections department officer was a peace officer, employee or official of a correctional facility, parole officer, or
community supervision and corrections department officer if:
(1) the officer, employee, or official was wearing a distinctive uniform or badge indicat-
ing his employment,

975