BILL ANALYSIS

Senate Research Center
Administration Committee
7-24-91

C.S.H.B. 78
1st Called Session
By: Gibson
Senate Committee Substitute

BACKGROUND

The Texas Sunset Commission has issued a report on the State Purchasing and General Services Commission. This legislation is based on the recommendations of the Sunset Commission.

PURPOSE

As proposed, C.S.H.B. 78 provides for the continuation, functions, and change of name of the State Purchasing and General Services Commission, the transfer of responsibility for architectural barrier programs from the commission to the Texas Department of Licensing and Regulation, the transfer of responsibility for the personal property accounting system from the commission to the comptroller, and the acquisition by the commission and other entities of property and services. Provides penalties.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the General Services Commission, the Department of Information Resources, the governor, and various state agencies.

SECTION BY SECTION ANALYSIS

PART 1. CREATION AND ADMINISTRATION OF GENERAL SERVICES DEPARTMENT

Section 1.01. Amends Title 20, V.T.C.S., by adding Article 601k, as follows:

Sec. 1. DEFINITIONS. Defines "board," "department," and "director."

Sec. 2. DEPARTMENT. Provides that the General Services Department (department) is an agency of the state.

Sec. 3. APPLICATION OF SUNSET ACT. Provides that the department is subject to the Sunset Act, and is abolished September 1, 2003, unless continued in existence.

Sec. 4. COMPOSITION OF DEPARTMENT. Provides that the Board of General Services, composed of nine members, is the governing board of the department. Provides for the appointment and terms of members. Requires appointments to the board to be made on an equal opportunity basis.

Sec. 5. REMOVAL OF BOARD MEMBERS. Provides grounds and procedures for removing board members.

Sec. 6. CONFLICT OF INTEREST. Prohibits board members and employees of the department from having certain financial interests. Prohibits certain persons from serving on the board as an employee of the department.

Sec. 7. OFFICERS; COMPENSATION; MEETINGS. Provides for the appointed of the presiding officer by the governor and the selection of other officers by the board members. Requires the board to meet at least quarterly. Provides that board members do not receive compensation for service on the board but are entitled to reimbursement for expenses.

Sec. 8. GENERAL POWERS AND DUTIES. Authorizes the board to adopt rules for its internal management and control. Requires the board to perform the duties assigned to it by law. Provides that the board has the powers and duties assigned by law to the State Purchasing and General Services Commission and its predecessors. Requires the board to make reports to the governor and the legislature on its activities. Authorizes the board to make recommendations in its reports, and to issue other reports. Authorizes the board to appoint an advisory committee.

Sec. 9. DIRECTOR; DIVISION OF DEPARTMENTAL DUTIES. Provides that the executive director is appointed by the governor, with the advice and consent of the senate, to a two-year term expiring on February 1 of each odd-numbered year. Requires the executive director to execute a bond, to manage the affairs of the department, and to provide administrative support to the members of the board. Sets forth the duties of the board and specifically prohibits the involvement of the board in daily operations of the department. Authorizes the board to delegate duties to the executive director.

Sec. 10. PERSONNEL. Sets forth policies, procedures, and guidelines relating to the personnel of the department.

Sec. 11. FISCAL REPORT. Requires the department to file an annual fiscal report.

Sec. 12. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Requires the department to maintain files of complaints, to make available to the public and appropriate state agencies information of public interest, and to prepare and maintain a plan to provide access to the department's programs to the disadvantaged.

PART 2. DEPARTMENT FUNCTIONS UNDER STATE PURCHASING AND GENERAL SERVICES ACT

SECTION 2.01. Amends Section 1.02(1), Article 601b, V.T.C.S. (State Purchasing and General Services Act), to provide that commission means the department.

SECTION 2.02. Amends Section 1.03. Article 601b, V.T.C.S., as amended by H.B. No. 799, Acts of the 72nd Legislature, Regular Session, 1991, by adding Subsections (e) and (f), as follows:

(e) Requires the commission to appoint an advisory committee with at least three members composed of owners of disadvantaged businesses. Provides that a committee member serves at the will of the commission. Provides that a committee member does not receive compensation but is entitled to reimbursement. Requires the committee, in cooperation with the Department of Commerce Office of Minority Business Development, to study the commission's rules and procedures that relate to bidding, purchasing, and contracting with the state in general. Requires the committee to recommend changes in law to the legislature, and changes in rules to the commission, that are necessary to facilitate the participation of disadvantaged businesses in state contracting. Requires the commission to issue a report outlining such recommendations and outlining the results of efforts undertaken by the commission pursuant to Subsection (b) of this section. Requires the report to be submitted to the governor and to the presiding officer of each house of the legislature prior to January 1, 1993.

(d) Provides that this section and Sections 3.10(b) and 5.36 of this Act does not exempt the commission from competitive procurement requirements provided by law.

SECTION 2.03. Amends Section 3.01(c), Article 601b, V.T.C.S., to provide that the term "services" does not include services to which Article 601i, V.T.C.S., applies.

SECTION 2.04. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.012, to require the commission to the extent possible to focus its efforts under this article on purchases and contracts that involve relatively large amounts of money.

SECTION 2.05. Amends Section 3.022(f), Article 601b, V.T.C.S., to provide criteria the commission is required to consider in determining which proposal is most advantageous to the state.

SECTION 2.06. Amends Sections 3.08(a), (c), (e), and (f), Article 601b, V.T.C.S., as follows:

(a) Increases the limit on the amount state agencies are authorized to pay for supplies, materials, and equipment, from $500 to $5,000.

(c) Provides that competitive bidding, whether formal or informal, is not required for a purchase by a state agency if the purchase does not exceed $1,000, or a greater amount prescribed by rule of the commission.

(e) Prohibits the commission from requiring that unrelated purchases be combined into one purchase order in order to exceed the specified dollar limits.

(f) Requires agencies making purchases under this section, for which competitive bidding is required, to attempt to obtain at least three competitive bids from sources which normally offer for sale the merchandise being purchased, and to comply with Section 3.101 of this article.

SECTION 2.07. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.101, as follows:

Sec. 3.101. BIDDERS LISTS. (a) Provides that this section: applies to all purchases under this article for which competitive bidding or competitive sealed proposals are required; applies to all state agencies that make purchases under this article, including the commission and agencies that make purchases under Section 3.06 of this article; and does not apply to purchases made under Section 3.11 of this article.

(b) Provides for the development of a uniform registration form for application to do business with the commission or with any state agency.

(c) Provides for a bidders list of vendors to be maintained by each state agency. Requires each agency to solicit bids or proposals from all eligible vendors on the list when the agency proposes to make a purchase that will cost more than $5,000.

(d) Authorizes a state agency to charge applicants a registration fee and to charge registrants an annual renewal fee, in an amount designed to recover the agency's costs in developing and maintaining its bidders list and in soliciting bids or proposals under this section. Requires an agency to set the amounts of the fees by rule.

(e) Requires each state agency to adopt procedures for developing and maintaining its bidders list.

(f) Requires each state agency to establish by rule a vendor classification process under which only vendors that may be able to make a bid or proposal on a particular purchase are solicited under this section.

(g) Authorizes the commission to establish by rule a process by which the requirement for soliciting bids or proposals from eligible vendors on the bidders list may be waived for appropriate state agencies, or appropriate purchases, in circumstances in which the requirement is not warranted. Authorizes the commission to also assist state agencies regarding issues that arise under this section.

SECTION 2.08. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.102, as follows:

Sec. 3.102. CERTAIN BIDS AND CONTRACTS PROHIBITED. Prohibits a state agency from accepting a bid or award or contract that includes proposed financial participation by a person who received compensation from the agency in the preparation of the specifications or request for proposals on which the bid or contract is based. Authorizes a bidder or contract participant to provide free technical assistance to an agency under this section.

SECTION 2.09. Amends Section 3.11(b), Article 601b, V.T.C.S., to make a technical change in the language.

SECTION 2.10. Amends Section 3.17, Article 601b, V.T.C.S., as follows:

Sec. 3.17. SPECIFICATIONS AND STANDARDS PROGRAM; TEST AND INSPECTION PROGRAM. (a) Creates this subsection from the existing text.

(b) Creates this subsection from the existing text and requires the commission to establish and maintain a program of testing and inspecting to ensure that materials, supplies, services, and equipment meet specifications, and to make contracts for testing. Requires the commission to adopt rules that provide for the inspecting and testing of costly purchases that the commission determines should be inspected and tested. Provides for the removal of a vendor's name from the bidders list.

SECTION 2.11. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.201, as follows:

Sec. 3.201. PREFERENCE FOR PRODUCTS MADE FROM RECYCLED MATERIALS. Requires the commission to give preference to products made of recycled materials in purchases made under this Act if certain conditions are met.

SECTION 2.12. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.202, to require the commission to give preference to energy efficient products in purchases under this Act.

SECTION 2.13. Amends Section 3.23, Article 601b, V.T.C.S., as follows:

Sec. 3.23. New title: CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE. Provides that the commission is authorized to make contracts with the Texas Department of Criminal Justice for the purchase of supplies, equipment, services, and materials for use by other state agencies.

SECTION 2.14. Amends Section 3.29, Article 601b, by amending Subsection (a) and adding Subsections (g) and (h), as follows:

(a) Prohibits a state agency from purchasing or leasing a vehicle designed or used primarily for the transportation of persons that has more than 160 SAE net horsepower.

(g) Sets forth criteria under which a vehicle is considered to be capable of using compressed natural gas or other alternative fuels.

(h) Provides conditions under which the commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels.

SECTION 2.15. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.301, to authorize the commission to issue a state credit card to a state agency that may be used by the agency to make purchases that do not exceed $250.

SECTION 2.16. Amends Article 3, Article 601b, V.T.C.S., by adding Section 3.32, as follows:

Sec. 3.32. SAFETY STANDARDS FOR ELECTRICAL ITEMS. Prohibits the commission or another state agency from purchasing an electrical item unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration.

SECTION 2.17. Amends Article 4, Article 601b, V.T.C.S., by adding Section 4.081, to set forth the procedure for the naming of buildings owned by the state.

SECTION 2.18. Amends Section 4.09, Article 601b, V.T.C.S., to make a conforming change to add a reference to other provisions of this Act.

SECTION 2.19. Amends Sections 4.12(g) and (m), Article 601b, V.T.C.S., to require the commission to carry out the provisions of this section through a chief of Capitol security, selected by the executive director of the commission. Sets forth requirements for the chief of Capitol security.

Requires the commission to implement when possible a centralized electronic access system to provide security for state buildings in the Capitol Complex.

Requires nothing herein contained to be construed to abridge the authority of the commission to grant permission to use any grounds adjacent to any state building for such use as may be provided by preexisting law.

SECTION 2.20. Redesignates Subsection (l), Section 4.15, Article 601b, V.T.C.S., as added by Section 1, Chapter 1244, Acts of the 71st Legislature, Regular Session, 1989, as Subsection (m).

SECTION 2.21. Amends Article 4, Article 601b, V.T.C.S., by adding Section 4.18, to require the commission to assess service fees to agencies that are housed in state-owned or leased buildings for commission services.

SECTION 2.22. Amends Section 5.01A(a), Article 601b, V.T.C.S., to make conforming changes.

SECTION 2.23. Amends Section 5.12, Article 601b, V.T.C.S., to delete the definition of "commission" and make nonsubstantive changes.

SECTION 2.24. Amends Section 5.14(d), Article 601b, V.T.C.S., to make conforming changes.

SECTION 2.25. Amends Section 5.13(d), Article 601b, V.T.C.S., to make technical changes in the existing text.

SECTION 2.26. Amends Section 5.16, Article 601b, V.T.C.S., to make conforming changes relating to the 10-Year Strategic Plan required to be adopted under this Act.

SECTION 2.27. Amends Section 5.18(b), Article 601b, V.T.C.S., to make a technical change in the language.

SECTION 2.28. Amends Sections 5.19(b) and (c), Article 601b, V.T.C.S., to make technical changes in the existing text.

SECTION 2.29. Amends Section 5.20(c), Article 601b, V.T.C.S., to require the commission to allow bidders at least 30 days after the date that the commission issues the bid documents to respond to an invitation to bid, but the commission is authorized to shorten the period to prevent undue additional costs to a state agency for emergency projects, to prevent or remove a hazard to life or property.

SECTION 2.30. Amends Section 5.22, Article 601b, V.T.C.S., by amending Subsection (b) and by adding Subsection (c), as follows:

(b) Requires the commission to adopt rules that state the criteria used to evaluate the competence and qualifications of private architects/engineers. Requires the commission to develop rules in consultation with the Texas Board of Architectural Examiners and the State Board of Registration for Professional Engineers. Requires the commission to allow each private architect/engineer selected for an interview at least 30 days after the date the commission notifies the architect/engineer to prepare for the interview.

(c) Creates this subsection from the existing text and makes a conforming change.

SECTION 2.31. Amends Section 5.26(b), Article 601b, V.T.C.S., to make a nonsubstantive change.

SECTION 2.32. Amends Sections 5.34(a) and (b), Article 601b, V.T.C.S., to make conforming changes.

SECTION 2.33. Amends Section 5.35, Article 601b, V.T.C.S., to require the commission to develop a Ten Year Strategic Plan containing recommendations for the best use of state-owned and leased space. Requires biennial updating of plan.

SECTION 2.34. Amends Article 5, Article 601b, V.T.C.S., to require the commission to develop standardized space requirements.

SECTION 2.35. Amends Section 6.01, Article 601d, V.T.C.S., to amend the definition of "space" to include residential space for a Texas Department of Mental Health and Mental Retardation program.

SECTION 2.36. Amends Section 6.02(b), Article 601b, V.T.C.S., to make a conforming change.

SECTION 2.37. Amends Section 6.03, Article 601b, V.T.C.S., to require, rather than authorize, the commission to consolidate agency requests for space, to the extent possible.

SECTION 2.38. Amends Section 6.05(b), Article 601b, V.T.C.S., as amended by Section 3, Chapter 779 and Section 5, Chapter 1244, Acts of the 71st Legislature, Regular Session, 1989, to make a nonsubstantive change.

SECTION 2.39. Amends Sections 6.05(d) and (j), Article 601b, V.T.C.S., to make conforming changes.

SECTION 2.40. Amends Section 6.06, Article 601b, V.T.C.S. (Elimination of Barriers to Handicapped Persons in State Buildings), to make a nonsubstantive change.

SECTION 2.41. Amends Section 6.07, Article 601b, V.T.C.S., to provide guidelines for occupancy of leased space by state agencies.

SECTION 2.42. Amends Section 6.111, Article 601b, V.T.C.S. (Delegation of Authority to Institutions of Higher Education), to make a nonsubstantive change.

SECTION 2.43. Amends Section 8.01(a), Article 601b, V.T.C.S., to delete in this section the provision that requires all personal property belonging to the state to be accounted for by the head of the agency that has possession of the property.

SECTION 2.44. Reenacts Section 8.01(b), Article 601b, V.T.C.S., as amended by S.B. 1004, Acts of the 72nd Legislature, Regular Session, 1991.

SECTION 2.45. Amends Section 8.02(b), Article 601b, V.T.C.S., to require all personal property owned by the state to be accounted for by the head of the agency that has possession of the property. Makes nonsubstantive conforming changes.

SECTION 2.46. Amends Section 9.11, Article 601b, V.T.C.S. (Purchase of Legislative Chairs), to authorize an elected officer, an appointed officer, or an executive head of a state agency within the departments of the state government to purchase the chair used by the officer or employee during his or her tenure upon the vacation of an office or the termination of employment. Deletes language regarding chairs on the floor of the legislature.

SECTION 2.47. Amends Section 11.01(b), Article 601b, V.T.C.S. (Transfer of Powers and Duties; References), to provide that any reference in the statutes to the State Board of Control or the State Purchasing and General Services Commission means the General Services Commission.

SECTION 2.48. Amends Section 11.02, Article 601b, V.T.C.S., as amended by Chapters 778 and 779, Acts of the 71st Legislature, Regular Session, 1989, to make nonsubstantive conforming changes.

SECTION 2.49. Amends Section 14.01, Article 601b, V.T.C.S., as follows:

> Sec. 14.01. DIVISION. Requires the commission, in the adoption of rules to implement this article, to include rules related to: the structure of travel agency contracts that the commission makes; the procedures the commission uses in requesting and evaluating bids or proposals for travel agency contracts from providers; and the use of negotiated contract rates for travel services by state agencies.

SECTION 2.50. Amends Section 14.02, Article 601b, V.T.C.S., to require the central travel office to assist state agencies in minimizing travel expenses and obtaining the most economical travel arrangements. Requires state agencies to use the services provided by the central travel office. Sets forth guidelines relating to travel by officers and employees of state agencies.

SECTION 2.51. Amends Section 14.03(b), Article 601b, V.T.C.S, to make conforming changes.

SECTION 2.52. Amends Section 14.04, Article 601b, V.T.C.S., to require fees collected by the travel division to be deposited in the state treasury unless a different disposition is required under federal law.

SECTION 2.53. Amends Article 601b, V.T.C.S., by adding Article 15, to consolidate the state's fleet of vehicles. Requires tracking of vehicle use. Requires a vehicle not used 70% of the time to be transferred to the commission.

> Prohibits an agency from assigning a vehicle to a person unless that person uses the vehicle at least 75% of the time that the vehicle is available for use during normal business hours.
>
> Provides that the commission is the sole purchaser of vehicles for the state.

PART 3. SCHOOL BUSES

SECTION 3.01. Amends Section 21.165, Education Code, as follows:

> Sec. 21.165. New title: PURCHASE THROUGH GENERAL SERVICES DEPARTMENT. (a) Requires the purchase of motor vehicles (including buses, bus chassis, bus bodies, tires, and tubes) by the General Services Department to be made in compliance with the provisions of this section.
>
> (b) Makes a conforming change and a technical change.
>
> (f) Makes a conforming change.
>
> (g) Requires the board of county school trustees or board of trustees of a school district to pay for the article or

articles requisitioned as directed by the General Services Commission.

SECTION 3.02. Amends Section 21.174, Education Code, by adding Subsections (h) and (i), as follows:

(h) Sets forth criteria under which a vehicle is considered to be capable of using compressed natural gas or other alternative fuels.

(i) Sets forth conditions under which the commission may extend the date by which a vehicle powered by traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels.

SECTION 3.03. Amends Section 21.180, Education Code (Purchase of Vehicles), by deleting language regarding appropriations of motor vehicles and making a nonsubstantive conforming change.

SECTION 3.04. Amends Sections 21.182(a), (d), and (h), Education Code (Contracts for Use, Acquisition, or Lease of School Buses), to clarify the procedure for the leasing of buses, or a lease-purchase agreement. Provides that the competitive bidding requirements of Section 21.901 apply to each contract in the form of a lease, or a lease with an option to purchase under, this section. Deletes language regarding county or district school board contracts.

SECTION 3.05. Amends Section 21.901, Education Code, to require each contract proposed, whenever possible, to be made by any Texas public school board for the lease of one or more school buses, including a lease with an option to purchase, to be submitted to competitive bidding when the contract is valued at $10,000 or more.

PART 4. ARCHITECTURAL BARRIERS

SECTION 4.01. Transfers Article 7, Article 601b, V.T.C.S., to Title 132A, V.T.C.S., redesignates it as Article 9101, V.T.C.S., and amends it, as follows:

Art. 9101. ARCHITECTURAL BARRIERS

Sec. 1. POLICY. Makes a technical change in the language.

Sec. 2. APPLICATION. (a) Transfers the powers and responsibilities in this section to the Texas Department of Licensing and Regulation. Provides that compliance is determined by the department. Requires the department to maintain determination files and requires the files to include certain information.

(c) Makes conforming changes.

(d) Requires the standards and specifications, except as otherwise provided in Subsection (e) of this section, to be adhered to in buildings defined as "public accommodation" by Section 301(7) of the Americans with Disabilities Act of 1990 (P.L. 101-336) which are constructed or substantially renovated, modified, or altered on or after January 1, 1992. Deletes specific language relating to buildings.

(e) Requires the commissioner of licensing and regulation (commissioner) to have the authority to waive or modify accessibility standards and specifications when application of such standards and specifications is considered by the commissioner to be irrelevant to the nature, use, or function of a building or facility covered by this article. Makes conforming and technical changes.

(f) Requires all buildings and facilities covered by this article to provide restroom facilities in conformance with the minimum plumbing facilities standards set forth in Appendix C of the Uniform Plumbing Code.

Sec. 3. SCOPE. Makes a technical change in the language.

Sec. 4. DEFINITIONS. Adds the definitions for "commission," "commissioner," "department," "architect," and "engineer."

Sec. 5. RESPONSIBILITIES FOR ENFORCEMENT. Changes references to the agency that has administrative authority for the program from the commission to the Texas Department of Licensing and Regulation. Authorizes the commissioner to contract with other state agencies, political subdivisions, nonprofit organizations, and private independent contractors to perform the commissioner's review and inspection functions for privately financed buildings that are not leased by the state or a political subdivision, and to terminate those contracts for cause. Requires the department to, from time to time, inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this law and its application. Authorizes the department to enter into cooperative agreements to integrate information into publications of other entities.

(b) Requires the commissioner to have all necessary powers to require compliance with the commissioner's rules and regulations. Authorizes administrative penalties to be assessed for violations of the architectural barriers statute.

(c) Makes conforming changes in the existing text. Deletes the authorization of rulemaking.

(d) Requires licensed architects and engineers to submit plans and specifications to the department in compliance with the architectural barriers statute, and sets forth submission requirements. Requires the department to report violations of the architectural barriers statute by licensed engineers and architects to the State Board of Registration of Professional Engineers and the Texas Board of Architectural Examiners.

(e) Specifies inspection requirements for new construction and renovations for compliance with architectural barriers requirements. Deletes the exemption of the University of Texas System from oversight by the architectural barriers program.

Sec. 6. Requires the commission to assess fees for performing its functions.

Sec. 7. (a)-(d) Establishes an advisory committee of building professionals and a majority of disabled persons to review and recommend changes to rules and procedures of the architectural barriers program.

Sec. 8. Provides that all references in law to the former architectural barriers statute, Article 7, Article 601b, V.T.C.S., mean this article.

SECTION 4.02. Amends Section 11(b), Article 249a, V.T.C.S., as amended by S.B. 429, Acts of the 72nd Legislature, Regular Session, 1991, to authorize the board to revoke or suspend a registration certificate for failing to timely provide plans and specifications to the department as required by Article 9101, V.T.C.S.

SECTION 4.03. Amends Section 22(a), Article 3271a, V.T.C.S. (The Texas Engineering Practice Act), as follows:

(a) Requires the State Board of Registration for Professional Engineers to revoke, suspend, or refuse to renew a registration, to reprimand a registrant, to deny an application for registration, or to probate any suspension of any registrant who is determined to be censurable for a failure to timely provide plans and specifications to the Texas Department of Licensing and Regulation as required by Article 9101, V.T.C.S., in addition to the enumerated reasons in the existing text.

PART 5. OTHER MATTERS RELATING TO STATE ACQUISITION AND USE OF PROPERTY AND SERVICES

SECTION 5.01. Amends Section 4, Article 601b, V.T.C.S. (Texas Public Finance Authority Act), to increase from three to six the number of members of the governing board.

SECTION 5.02. Amends Section 9, Article 601d, V.T.C.S. (Texas Public Finance Authority Act), as follows:

Sec. 9. ISSUANCE OF BONDS.

(b) Requires the board of directors of the authority (board), when the acquisition or construction of a building has been authorized in accordance with this Act under Section 5.34, Article 601b, V.T.C.S., to promptly issue and sell bonds in the name of the authority under this Act to finance the acquisition or construction of the building.

SECTION 5.03. Amends Section 27, Article 601d, V.T.C.S., as amended by Chapters 786 and 1042, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 27. PURCHASE AND RENOVATION OF TEXAS EMPLOYMENT COMMISSION PROPERTY. (a) Requires the commission to purchase the buildings and parking facilities in or near the Capitol Complex, at a sales price that shall not exceed the maximum amount of funds authorized for the acquisition and renovation in Chapter 700, Acts of the 68th Legislature, Regular Session, 1983. Deletes language regarding an agreement between the Texas Employment Commission and the commission.

(b) Deletes language regarding the purchase of the office buildings and parking facilities. Makes a clarifying change. Deletes language authorizing the commission to take possession of the office buildings and parking facilities in or near the Capitol Complex occupied by the TEC.

SECTION 5.04. Amends Chapter 51Z, Education Code, by adding Section 51.926, as follows:

Sec. 51.926. WRITTEN CONTRACTS OR AGREEMENTS BETWEEN CERTAIN INSTITUTIONS. (a) Defines "governing board" and "institution of higher education."

(b) Provides that a written contract or agreement for the furnishing of resources or services that is between institutions of higher education with a common governing board is not subject to the requirements of Chapter 771, Government Code, if the governing board has adopted rules providing for governing board review and approval of those contracts.

Sec. 51.297. ENERGY CONSERVATION MEASURES. Authorizes the governing board of an institution of higher education to enter into a contract for energy conservation measures, and sets forth guidelines relating to such a contract.

SECTION 5.05. Amends Chapter 12E, Health and Safety Code, by adding Section 12.053, as follows:

Sec. 12.053. INVENTORY REQUIREMENTS. Provides that all equipment and supplies that are purchased under certain conditions that are to be used to promote and maintain public health are exempt from the statewide personal property accounting system administered by the comptroller described in Chapter 403K, Government Code.

SECTION 5.06. Amends Chapter 403, Government Code, by adding Subchapter L, to establish a property accounting system for all personal property belonging to the state.

SECTION 5.07. Amends Section 481.027, Government Code, by amending Subsections (a) and (b) and adding Subsections (e) and (f), as follows:

(a) Provides that Chapter 771 does not apply to interagency contracts between "State of Texas" offices entered into under this subsection. Requires any purchase for local procurement or contract in excess of $5,000 to be approved by the executive director prior to its execution.

(b) Makes a conforming change.

(e) Provides that only Articles 8 and 9, Article 601b, V.T.C.S., apply to the operation and maintenance of the offices in foreign countries.

(f) Authorizes the commission, at the request of a state agency, to provide to the agency services exempted from the application of Article 601b, V.T.C.S., under Subsection (e). Provides requirements for the commission.

SECTION 5.08. Amends Section 497.026(b), Government Code, as renumbered and amended by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, to provide that the institutional division of the Texas Department of Criminal Justice determines whether the division is unable to fill a requisition for an article or product.

SECTION 5.09. Amends Section 497.027, Government Code, as renumbered by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding 497.027(c), as follows:

(c) Authorizes an agency or political subdivision purchasing goods under this subchapter to purchase goods or articles from the division without complying with any other state law otherwise requiring the agency or political subdivision to request competitive bids for the article or product.

SECTION 5.10. Amends Article 4348e, V.T.C.S., to require the General Services Department, the Department of Information Resources, and the comptroller to coordinate their duties to ensure the effective and efficient implementation of the uniform statewide accounting system.

SECTION 5.11. Amends Section 3 Article 4413(32j), V.T.C.S. (Information Resources Management Act), to define "telecommunications services," and "geographic information systems."

SECTION 5.12. Amends Section 6, Article 4413(32j), V.T.C.S., to make conforming changes.

SECTION 5.13. Amends Section 7(a), Article 4413(32j), to delete references to qualifications required of board members.

SECTION 5.14. Amends Section 8(a), Article 4413(32j), to prohibit a member of the board or an employee of the department from having certain financial ties to the information resources technologies industry or soliciting or accepting any gift, favor, or service that would reasonably tend to influence the person in the discharge of official duties or that the person knows or should know is being offered with the intent to influence official conduct.

SECTION 5.15. Amends Section 9, Article 4413(32j), V.T.C.S., by amending Subsection (i) and (j) and adding Subsections (n)-(v), as follows:

(i) Authorizes the department to accept the loan of information resources technologies and use loaned technologies for not more than one year after the date of acceptance for the purpose of evaluation and presentation.

(j) Makes a conforming change.

(n) Requires the department to focus its oversight efforts on matters involving relatively large amounts of money.

(o) Requires internal development costs to be considered in all plans required by the department under this article.

(p) Authorizes the department to issue requests for information and proposals relating to all existing or proposed interagency projects, interagency use of a common application, or other interagency use of information resources technologies.

(q) Requires the department to certify the cost-effectiveness and technical validity of all statewide or interagency implementations of information resources technologies.

(r) Requires the department to develop a disaster recovery plan for state agency information resources and information resources technologies for consideration by the division of emergency management in the office of the governor. Authorizes the division to include all or part of the plan in the state emergency management plan. Authorizes the department to provide training and technical assistance to state agency personnel related to disaster recovery procedures for information resources and information resources technologies.

(s) Requires the department to plan, establish, and manage the operation of a system of telecommunications services in coordination with the comptroller.

(t) Authorizes the department to accept grants.

(u) Authorizes the department to obtain information resources technologies or the right to use information resources technologies on behalf of state government and to make the technologies available for use by state agencies.

(v) Requires the department to develop standard specifications and evaluation criteria to be included in bids relating to the purchase or lease of information resources technologies.

SECTION 5.16. Amends Article 4413(32j), by adding Section 9A, to provide for the shared use of resources among state agencies.

SECTION 5.17. Amends Article 4413(32j), V.T.C.S., to authorize the department to adopt rules governing state agency procedures relating to the security of information contained in or accessible by state agency information resources technologies. Requires the rules to include certain provisions.

(b) Authorizes the department to provide training and technical assistance in information access policy to certain state agency personnel.

(c) Authorizes a state agency to take appropriative measures related to information access that are in addition to the measures taken by the agency as prescribed by department rule.

SECTION 5.18. Amends Section 11, Article 4413(32j), V.T.C.S., to provide for the appointment of the executive director of the DIR by the governor, with the advice and consent of the senate, to a two-year term. Sets forth the duties and powers of the executive director.

SECTION 5.19. Amends Section 12(a), Article 4413(32j), V.T.C.S., to require the strategic plan adopted under this section to include a consideration of the comparative costs and advantages to the state when state agency needs are met within the agency, on an interagency basis, and through a contract with the private sector, and to identify functions that may be accomplished more cost-effectively through contracts with the private sector.

SECTION 5.20. Amends Sections 14(a) and (c), Article 4413(32j), V.T.C.S., as follows:

(a) Requires each state agency to prepare and submit to its governing body for approval an agency strategic plan for information resources management. Makes a conforming change.

(c) Requires each agency strategic plan to include an assessment of the extent to which the agency could achieve its objectives through a contract with another agency or with the private sector.

SECTION 5.21. Amends Section 15, Article 4413(32j), V.T.C.S., to require each state agency's biennial information resources operating plan to include the information required under this section with the specificity required by the department.

SECTION 5.22. Amends Section 16, Article 4413(32j), by amending Subsections (b) and (d) and adding Subsections (e) and (f), as follows:

(b) Requires each agency's operating plan to include an update of the estimated costs required under this article and any additional information required for projects under this article.

(d) Requires an agency to amend its operating plan at the direction of the department when a significant phase of the systems development life cycle of a project is commenced or completed.

(e) Requires an amendment under Subsection (d)(3) or (4) of this section to include the cost of accomplishing the application or proposed project under the method of implementation proposed by the agency.

(f) Creates this subsection from existing text.

SECTION 5.23. Amends Sections 17(b), (c), (d), (e), (g), and (i), Article 4413(32j), V.T.C.S., as follows:

(b) through (g) Authorize the department to approve or conditionally approve all or part of a plan or disapprove all or part of a plan. Makes conforming changes.

(i) Authorizes the department, as a consequence of evaluating an initial or final operating plan, to require a state agency to submit or obtain comprehensive information and documentation in the format prescribed by the department.

SECTION 5.24. Amends Article 4413(32j), by adding Section 17A, as follows:

Sec. 17A. COMPARATIVE COST REVIEW FOR INTERNALLY DEVELOPED APPLICATION OR PROJECT. Authorizes the department to conduct a comparative cost review for an application or project that a state agency has developed or implemented or proposes to develop or implement internally. Authorizes the department to take certain actions in conducting the review. Authorizes the department to require an agency to issue a request for bids or proposals on certain findings of the review process.

SECTION 5.25. Amends Section 18, Article 4413(32j), V.T.C.S., as follows:

Sec. 18. New title: AUTHORIZATION FOR PROJECT DEVELOPMENT AND IMPLEMENTATION. (a) Prohibits a state agency from spending appropriated money to take an action related to project development or project implementation unless that action is consistent with an appropriate final operating plan or plan amendment that has already received final approval from the department, or the agency submits a project update and the department approves the project amendment. Requires the agency to submit specifications and documentation to the department relating to a proposed project that are sufficiently detailed and complete to allow the department to perform a meaningful and thorough review. Requires the department to adopt rules relating to the form and content of the specifications and

documentation to be submitted to the department. Requires the department to make certain determinations.

(b) and (c) Make conforming changes.

(d) Creates this subsection from existing text.

(e) Requires a state agency, it it determines that a project action will include making a acquisition that may be obtained from only one source, to state to the department the reasons for that determination.

SECTION 5.26. Amends Article 4413(32j), by adding Section 18A, to set forth procedures to be followed by agencies entering into interagency contracts for the receipt of information resources technologies.

SECTION 5.27. Amends Section 19, Article 4413(32j), V.T.C.S., as follows:

Sec. 19. INFORMATION RESOURCES MANAGERS. (a) Authorizes a senior staff member designated by the person required to sign an agency's strategic plan to serve as the agency's information resources manager.

(b) Authorizes a state agency, if the department agrees, to designate the department as the agency's information resources manager.

(d) Requires the department to adopt rules regarding the initial and continuing education and training requirements for information resources managers. Authorizes the department to create a certification program for information resources managers and require that information resources managers be certified as prescribed by the department.

SECTION 5.28. Amends Sections 20(a) and (c), Article 4413(32j), V.T.C.S., to make conforming changes.

SECTION 5.29. Amends Section 21(b), Article 4413(32j), V.T.C.S., to make conforming changes.

SECTION 5.30. Amends Article 4413(32j), V.T.C.S., by adding Section 21A, to designate the DIR as the state agency responsible for obtaining telecommunications services. Requires the DIR to provide centralized telephone service for state agencies, each house of the legislature, and legislative agencies in the Capitol Complex. Authorizes the DIR to perform contract management services on a full cost recovery basis for state agencies that have contracts with local exchange carriers for equipment and services. Authorizes the DIR to contract with a private firm for this function if the contract would result in savings to the state.

SECTION 5.31. Amends Article 4413(32j), V.T.C.S., by adding Section 21B, to provide for the use of intercity voice communications system by certain higher education students.

SECTION 5.32. Amends Article 4413(32j), V.T.C.S., by adding Section 21C, to provide for the establishment of a technology evaluation system within the DIR to improve telecommunications through research and development.

SECTION 5.33. Amends Section 22, Article 4413(32j), V.T.C.S., to require the DIR to develop a system of billings and charges for services provided in operating and administering for consolidated telecommunications system that allocates the total cost to each entity receiving services, based on proportionate usage.

SECTION 5.34. Amends Title 20, V.T.C.S., by adding Article 601i, to provide for the provision of consulting services to state agencies.

SECTION 5.35. Amends Title 20, V.T.C.S., by adding Article 601i, to provide for the provision of information technology consulting services to state agencies.

PART 6. MISCELLANEOUS TRAVEL REGULATIONS

SECTION 6.01. Prescribes general regulations for state agencies, including changes to partial per diem allowances.

SECTIONS 6.02-6.04. Make conforming changes to reflect the addition of Article 6823c, V.T.C.S.

SECTION 6.05. Repealer: Article 6823a, V.T.C.S. (Travel Regulations Act of 1959).

SECTION 6.06. Makes a conforming change.

SECTION 6.07. Repealer: Section 2, Article 6823b, V.T.C.S., as added by Section 6.01, S.B. 1, Acts of the 72nd Legislature, Regular Session, 1991.

SECTION 6.08. Makes application of Article 6823c, V.T.C.S., as added by this Act, prospective.

PART 7. CENTRALIZED PERSONNEL SERVICES

SECTION 7.01. Creates the Texas Office of Personnel Services (TOPS). Assigns September 1, 2001, as the sunset date for TOPS. Provides for a director of TOPS, appointed by the governor. Provides for the operation of TOPS and the TOPS board.

UNIFORM GUIDELINES; OTHER RESPONSIBILITIES OF OFFICE. Requires the TOPS board by rule to develop and adopt uniform guidelines for state agency personnel practices. Requires each state agency to implement personnel policies based on the guidelines, with an exception.

GENERAL POWERS AND DUTIES OF THE OFFICE; DELEGATION. Sets forth the general duties of TOPS. Requires TOPS to establish and provide training programs to ensure that all state agencies and employees are apprised of all employee benefits and related programs and to ensure that those programs are available to all eligible employees. Allows the board to delegate powers and duties to the director.

PAYROLL DEDUCTIONS. Allows state employees to authorize deductions from their payroll each pay period for membership in a state employee organization. Requires the comptroller to charge an administrative fee for the deductions and to determine by rule the most efficient administration of collecting the deductions.

SECTION 7.02. Requires the Texas Employment Commission (TEC), through the division, to be the recipient of all applications for state employment and to establish a statewide applicant database. Requires the TEC, together with TOPS, to receive job postings from state agencies, to maintain a joint statewide database of available jobs, and to establish rules for providing certain information to job applicants and employers.

SECTIONS 7.03-7.21. Make conforming changes to reflect the transfer of duties to TOPS.

SECTION 7.22. Provides for initial appointments to the TOPS board.

SECTION 7.23. Abolishes the Texas Incentive and Productivity Commission September 1, 1993. Provides that any reference to the commission means TOPS. Provides for the transition.

SECTION 7.24. Effective date for this part: January 1, 1992.

PART 8. REPEALER

SECTIONS 8.01. (a) Repealer: Sections 2.01-2.07, 2.09, 3.27, and 6.051(b), Article 601b, V.T.C.S.

Articles 10 and 99, Article 601b, V.T.C.S.

Article 6252-11c, V.T.C.S.

Section 12(d), Article 4413(32j), V.T.C.S.

Article 8, Article 601b, V.T.C.S.

PART 9. TRANSITIONAL MATTERS

SECTIONS 9.01-9.15. Sets forth instructions and provisions concerning various transitional matters.

PART 10. EFFECTIVE DATE; EMERGENCY CLAUSE

SECTION 10.01. Effective date: September 1, 1991, except as otherwise provided.

SECTION 10.02. Emergency clause.