

BILL ANALYSIS

Senate Research Center
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S.B. 178
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Finance
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DIGEST

Currently, under the Texas Constitution, no bill shall contain more than one subject. The one exception to this rule is the General Appropriations Act, which must contain more than one subject because it aggregates all the subjects on which the state spends money, with the limitation that the general appropriations bill must be strictly limited to the subjects and accounts of money. This bill codifies certain state agency practices and duties currently prescribed by the General Appropriations Act as general law to ensure their constitutional validity.

PURPOSE

As proposed, S.B. 178 codifies certain state agency practices and duties currently prescribed by the General Appropriations Act.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Comptroller of Public Accounts in SECTION 5 (Section 403.097, Chapter 403F, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 101.027(a), Civil Practice and Remedies Code, to authorize each governmental unit other than a unit of state government to purchase certain insurance policies. Authorizes a unit of state government to purchase such a policy only to the extent authorized or required by law.

SECTION 2. Amends Chapter 306, Government Code, by adding Section 306.007, as follows:

Sec. 306.007. MINUTES AND REPORTS ELECTRONICALLY AVAILABLE TO LEGISLATURE. Requires a state officer or board, commission, or other executive branch or judicial branch agency other than a court to make required reports and minutes of meetings of the agency's governing body available in a certain electronic format.

SECTION 3. Amends Section 321.013(c), Government Code, to require the state auditor to recommend, rather than determine, the audit plan to the legislative audit committee. Requires the state auditor to consider recommendations concerning coordination of agency functions made jointly by representatives of the Legislative Budget Board, Sunset Advisory Commission, and State Auditor's Office. Requires the state auditor to consider the extent to which a department has received a significant increase in appropriations.

SECTION 4. Amends Section 321.014(c), Government Code, to require the state auditor to file a copy of each report prepared under this section with, among others, each member of the governing body and the administrative head of each entity that is the subject of the report, rather than the chairman of the governing body.

SECTION 5. Amends Chapter 403F, Government Code, by adding Section 403.097, as follows:

Sec. 403.097. FUNDS EXPENDED IN PROPORTION TO METHOD OF FINANCING. Grants rulemaking authority to the Texas Comptroller of Public Accounts (comptroller) to ensure that appropriations are drawn from the treasury in proportion to certain methods of financing, when it is necessary to preserve cash balances in the state treasury. Authorizes the rules to include procedures relating to the deposit of receipts and the issuance of warrants. Provides that this

section does not affect other powers of the comptroller.

SECTION 6. Amends Section 403.245(b), Government Code, to require the replenishment of the petty cash account to be drawn from the appropriation from which the expenditure would otherwise have been made.

SECTION 7. Amends Section 771.008, Government Code, by adding Subsection (d), to provide that this subsection applies only if the services or resources are provided under a written contract or agreement. Requires the receiving agency to reimburse the providing agency within 30 days after the services or resources are provided and an invoice is received. Requires the receiving agency to notify in writing the providing agency of any error in the invoice, if the receiving agency does not accept the services or resources within 30 days, and make payment within 10 days after the date the problems are corrected or the error resolved. Requires the comptroller to determine the appropriate amount if the agencies cannot agree on the reimbursement amount. Authorizes the comptroller to transfer from the receiving agency, on request of the providing agency, the appropriate amount, if the receiving agency does not reimburse the providing agency or provide written notice of a problem or error within a certain period.

SECTION 8. Amends Section 811.001(7), Government Code, to redefine “compensation.”

SECTION 9. (a) Amends Chapter 2001B, Government Code, by adding Section 2001.039, as follows:

Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES. Requires a state agency to review and consider for readoption each of its rules in accordance with this section. Requires a state agency to review a rule by a certain date. Provides that the adoption of an amendment of an existing rule does not affect the dates on which the rule must be reviewed except under certain situations. Requires the state agency to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section. Provides that the procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments, except as provided by this subsection. Establishes that publishing the Texas Administrative Code citation to a rule under review satisfies certain requirements of this subchapter unless the agency readopts the rule with amendments as a result of the review. Requires a state agency’s review of a rule to include an assessment of whether the reasons for initially adopting the rule continue to exist.

(b) Provides that the duties prescribed by this subsection apply only to state agency rules that are in effect on September 1, 1999, and have not already been reviewed in accordance with Section 167, Article IX, Chapter 1452, Acts of the 75th Legislature, Regular Session (General Appropriations Act). Requires a state agency to review each of those rules in accordance with Section 2001.039, Government Code, and in accordance with this subsection not later than August 31, 2003. Requires each state agency to develop and send to the secretary of state a plan for reviewing its existing rules by August 31, 2000 for publication in the Texas Register. Requires the plan to state the date by which the agency will begin review for each rule.

(c) Establishes the effective date of an existing rule initially reviewed under Subsection (b).

SECTION 10. Amends Chapter 2052D, Government Code, by adding Section 2052.304, as follows:

Sec. 2052.304. USE OF CERTAIN PRINTING STOCK. Prohibits a state officer or board, court, commission, or other agency in the executive or judicial branch of state government from publishing a report on certain stock unless a fee is imposed.

SECTION 11. Amends Section 2054.003(6), Government Code, to redefine “information resources.”

SECTION 12. Amends Chapter 2054F, Government Code, by adding Sections 2054.121 and 2054.122, as follows:

Sec. 2054.121. COORDINATION AMONG INSTITUTIONS OF HIGHER EDUCATION. Requires a higher education institution to coordinate its use of information technologies with other such institutions.

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. Requires a state agency every

calendar quarter to coordinate agency technology training with department technology training. Requires the agency to use department technology training if it meets certain requirements.

SECTION 13. Amends Chapter 2101C, Government Code, by adding Section 2101.0377, as follows:

Sec. 2101.0377. **REPORTING ACCOUNTING IRREGULARITIES TO STATE AUDITOR.** Requires the comptroller to report an agency or institution to the state auditor for accounting irregularities for appropriate action.

SECTION 14. Amends Chapter 2155B, Government Code, by adding Section 2155.084, as follows:

Sec. 2155.084. **PURCHASES FROM FEDERAL GOVERNMENT.** Authorizes the General Services Commission (GSC) or the governing body of a higher education institution to negotiate the purchases of goods needed by a state agency or higher education institution with the appropriate federal agency. Authorizes the governing body of a higher education institution to act directly or through GSC or another state agency. Prohibits the price of goods purchased from the federal government from exceeding fair market value. Authorizes GSC or the governing body of a higher education institution to waive the requirement of a bidder's bond and performance bond, in negotiating purchases of goods from the federal government.

SECTION 15. Amends Section 2155.132(a), Government Code, to require GSC to report a state agency that has not followed the GSC's rules related to delegated purchases to members of the state agency's governing body, among others.

SECTION 16. Amends Section 2155.268, Government Code, to prohibit a state agency from maintaining or using its own bidders list. Provides that the prohibition does not apply to the Department of Transportation or to a higher education institution, but higher education institutions should use the master bidders list when possible. Deletes text granting rulemaking authority to the GSC to prescribe the categories of purchases for which a state agency's specialized bidders list may be used. Deletes text allowing a state agency to use its own bidders list in certain situations. Makes conforming changes.

SECTION 17. Amends Chapter 2155H, Government Code, by adding Section 2155.4441, as follows:

Sec. 2155.4441. **PREFERENCE UNDER SERVICE CONTRACTS.** Requires a state agency that contracts for services to require the contractor to purchase products and materials produced in this state when they are available at a comparable price and time as materials produced out of this state.

SECTION 18. Amends Chapter 2158A, Government Code, by adding Section 2158.0031, as follows:

Sec. 2158.0031. **PURCHASE PREFERENCE FOR AMERICAN VEHICLES.** Requires a state agency authorized to purchase vehicles to purchase economical, fuel-efficient U.S.-made vehicles unless such a purchase would be detrimental to the vehicle's use.

SECTION 19. Amends Section 2165.104(c), Government Code, to prohibit GSC from allocating usable office space to a state agency under Article I, II, V, VI, VII, or VIII of the General Appropriations Act or to the Texas Higher Education Coordinating Board, the Texas Education Agency, the State Board for Educator Certification, the Telecommunications Infrastructure Board, or the Office of Court Administration of the Texas Judicial System beyond a certain amount of space per employee. Requires any agency that allocates its own office space to achieve the same ratio. Makes conforming changes.

SECTION 20. Amends Chapter 2170A, Government Code, by adding Sections 2170.009 and 2170.010, as follows:

Sec. 2170.009. **PAY TELEPHONES AUTHORIZED.** Authorizes a pay telephone to be located in the Capitol Complex only with GSC's approval. Requires GSC to collect the revenue from the installation and operation of the pay telephone and deposit the revenue in the general revenue fund. Authorizes the installation of a pay telephone in a state-owned or state-leased building or state-owned land only with the approval of the state entity in charge and control of the building or land. Requires the entity to collect the revenue from the installation and operation of the pay telephone and deposit the revenue in the general revenue fund, unless the disposition of

the revenue is covered by law. Requires GSC or other state entity to account for the revenue in the entity's annual report.

Sec. 2170.010. UNLISTED TELEPHONE NUMBERS PROHIBITED. Prohibits a state agency and its officers and employees from buying, renting, or paying toll charges for an unlisted telephone number, unless certain conditions are met.

SECTION 21. Amends Section 2170.051, Government Code, as follows:

Sec. 2170.051. New heading: MANAGEMENT AND USE OF SYSTEM. Requires a state agency to use the consolidated telecommunications system to the fullest extent possible. Prohibits a state agency from acquiring telecommunications services unless GSC makes certain determinations. Prohibits a state agency from entering into or renewing a contract with a carrier or other provider of telecommunications services without obtaining a certain waiver from GSC. Requires GSC to evaluate requests for waivers based on cost-effectiveness to the state government as a whole. Authorizes a waiver to be granted only for a specific period and will expire on the stated date unless an extension is approved by GSC. Prohibits a contract for telecommunications services obtained under a waiver from extending beyond the expiration date of the waiver.

SECTION 22. Amends Section 2170.057(b), Government Code, to require receipts attributable to the centralized capitol complex telephone system to be deposited in the revolving fund account for the administration of this chapter, but separately identified within the account.

SECTION 23. Amends Section 2201.002, Government Code, by adding Subsection (c), to prohibit the Texas capital trust fund from being used to pay salaries.

SECTION 24. Amends Chapter 2203, Government Code, by adding Sections 2203.004 and 2203.005, as follows:

Sec. 2203.004. REQUIREMENT TO USE STATE PROPERTY FOR STATE PURPOSES. Authorizes state property to be used only for state purposes. Prohibits a person from entrusting state property to a state officer or employee or any other person if the property is not to be used for state purposes.

Sec. 2203.005. VENDING MACHINES AUTHORIZED. Authorizes a vending machine to be located in certain buildings or properties only with the approval of certain authorities. Requires the approval to be recorded in the minutes of the meeting of the authority approving the use. Requires the state agency to file with GSC a copy of all contracts between the state agency and the vendor relating to the vending machine and a written description of the location of the vending machine. Requires all net revenue the state agency receives in connection with the vending machine to be accounted for as state money and deposited in the general revenue fund unless otherwise governed by law. Requires the state agency to account for the revenue in the agency's annual report. Authorizes a vending machine to be located in certain buildings served by a vendor associated with the Texas Commission for the Blind only under certain conditions.

SECTION 25. Amends Chapter 2204A, Government Code, by adding Sections 2204.002 and 2204.003, as follows:

Sec. 2204.002. RESTRICTION ON ACQUISITION OF REAL PROPERTY. Prohibits a state agency from accepting real property as a gift or devise or spend appropriated money to purchase real property without legislative authorization.

Sec. 2204.003. GIFTS OF REAL PROPERTY TO INSTITUTIONS OF HIGHER EDUCATION. Authorizes a higher education institution to accept real property as a gift or devise from a private entity for certain purposes only if certain authorities from the higher education institution certify to the Legislative Budget Board that additional appropriations will not be necessary to operate, maintain, repair, or construct a building on the property.

SECTION 26. Amends Section 2251.030, Government Code, as follows:

Sec. 2251.030. New heading: PROMPT OR EARLY PAYMENT DISCOUNT. Requires a

state agency to negotiate a prompt payment discount with a vendor whenever possible. Requires a state agency to submit the necessary payment documents or information to the comptroller in advance of the prompt or early payment deadline to allow the comptroller or the agency to pay the vendor in time to obtain the discount.

SECTION 27. Amends Section 2252.901, Government Code, as follows:

Sec. 2252.901. New heading: **CONTRACTS WITH FORMER OR RETIRED AGENCY EMPLOYEES**. Prohibits a state agency from entering into certain service contracts with a former or retired employee of the agency before the first anniversary on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. Prohibits a state agency that contracts at any time with a retired agency employee to perform substantially similar services as the employee did in the year before retirement from paying the employee from any source of revenue above a maximum rate. Defines “employment contract.” Makes conforming changes.

SECTION 28. Amends Chapter 2254A, Government Code, by adding Section 2254.0031, as follows:

Sec. 2254.0031. **INDEMNIFICATION**. Authorizes a state governmental entity to require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent act or omissions of the contractor or the contractor’s employees. Prohibits a state governmental entity from requiring a contractor to indemnify or hold harmless the state for claims or liabilities resulting from negligent acts or omissions of the state governmental entity or its employees.

SECTION 29. Amends Chapter 205B, Labor Code, by adding Section 205.019, as follows:

Sec. 205.019. **REIMBURSEMENT FROM NON-TREASURY FUNDS**. Requires any state instrumentality that reimburses GSC with non-treasury funds to reimburse GSC by writing a check for deposit into a certain account. Requires a deposit under this section to be made by a certain date. Requires GSC to send a copy of each statement of amounts due from each state instrumentality that reimburses GSC with non-treasury funds to the comptroller and the state auditor. Requires the state auditor to review affected entities for compliance with this section.

SECTION 30. Amends the chapter heading to Chapter 506, Labor Code, as follows:

CHAPTER 506. New heading: MISCELLANEOUS PROVISIONS APPLICABLE TO GOVERNMENT EMPLOYEES

SECTION 31. Amends Chapter 506, Labor Code, by adding Section 506.002, as follows:

Sec. 506.002. **REIMBURSEMENT FROM NON-TREASURY FUNDS**. Requires any state instrumentality that reimburses the general revenue fund with non-treasury funds for certain workers’ compensation payments to reimburse the general revenue fund by writing a check to the comptroller with certain conditions and by a certain date. Requires the workers’ compensation division of the Office of the Attorney General to send to the comptroller and the state auditor a copy of certain statements of amounts due that reimburse the general revenue fund with non-treasury funds for workers’ compensation payments. Requires the state auditor to review affected entities for compliance with this section.

SECTION 32. Amends Chapter 11D, Natural Resources Code, by adding Section 11.0791, as follows:

Sec. 11.0791. **OTHER PROVISIONS REGARDING ACCESS TO STATE LANDS**. Requires a state governmental entity that sells state land to require that the state have the right of ingress and egress to remaining state land in the immediate area by an easement to a public thoroughfare.

SECTION 33. Amends Chapter 11D, Natural Resources Code, by adding Section 11.083, as follows:

Sec. 11.083. **RETENTION OF MINERAL RIGHTS**. Requires the state to retain the mineral rights to state land that is sold unless it is impractical to do so.

SECTION 34. Amends Section 31.401, Natural Resources Code, to require the General Land Office to review and approve any contract entered into by a state agency for the acquisition of a certain amount of natural gas used to meet its energy requirements. Requires the commissioner of GSC to inform the comptroller each month of the amount of savings attributable if the General Land Office is able to substitute a contract using in-kind royalty gas from state-owned lands for a contract under which the state agency acquires its own natural gas supplies. Makes conforming changes.

SECTION 35. Repealer: Section 403.273(d), Government Code (stating state property may be used only for state purposes).

SECTION 36. Provides that Section 2165.104(c), Government Code, does not apply to the Texas Higher Education Coordinating Board or the State Board for Educator Certification until the expiration of all leases under which the board occupies space on the effective date of this Act.

SECTION 37. Provides a derivation table for provisions of the General Appropriations Act divided by codified law and source provisions.

SECTION 38. Effective date: September 1, 1999.

SECTION 39. Emergency clause.