

BILL ANALYSIS

Senate Research Center
77R1069 MTB-D

S.B. 311
By: Zaffirini
State Affairs
4/6/2001
As Filed

DIGEST AND PURPOSE

Currently, the General Services Commission (commission) conducts and oversees state purchasing; manages and leases state buildings, property and office space; and provides travel and telecommunications services to state agencies. The commission expires on September 1, 2001, unless the legislature continues it in existence. As proposed, S.B. 311 continues the commission until the year 2013 and implements amendments to provisions regarding telecommunications operations; electronic procurement; purchasing methods; contracting guidelines and methods; surplus property; recycling; travel reservation; commercially available activities for outsourcing; and other issues recommended by the Sunset Advisory Commission.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the General Services Commission is expressly granted to the Department of Information Resources in SECTION 3.27 (Section 2170.058, Government Code) and SECTION 6.05 (Section 2177.051, Government Code) of this bill.

Rulemaking authority is expressly granted to the Department of Information Resources in SECTION 6.05 (Section 2177.102, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Commerce is expressly granted to the General Services Commission in SECTION 6.02 (Section 2155.083, Government Code) of this bill.

Rulemaking authority is expressly granted to the General Services Commission in SECTION 8.02 (Section 2166.2525, Government Code), SECTION 9.01 (Section 2167.0021, Government Code), SECTION 10.01 (Section 2175.065, Government Code), SECTION 10.02 (Section 2175.129, Government Code), SECTION 10.02 (Section 2175.186, Government Code), and SECTION 11.01 (Section 2175.902, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ADMINISTRATIVE PROVISIONS

SECTION 1.01. Amends Section 2054.022, Government Code, to prohibit a member of the board or the executive director, rather than an employee of the Department of Information Resources (department), from certain actions or activities constituting a conflict of interest. Sets forth prohibitions for an employee of the department, other than the executive director. Makes conforming changes.

SECTION 1.02. Amends Section 2152.002, Government Code, to provide that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), the General Services Commission (commission) is abolished and this subtitle, except for Chapter 2170 and Section 2157.121, expires September 1, 2013, rather than September 1, 2001.

SECTION 1.03. Amends Section 2152.051, Government Code, to provide that the commission is

composed of five, rather than six, representatives of the public appointed by the governor with the advice and consent of the senate.

SECTION 1.04. Amends Sections 2152.054(b) and (c), Government Code, to prohibit an officer, employee, or paid consultant of a Texas trade association of business entities that contracts with the state from serving as a commission member, or being employed as a commission employee in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments. Deletes existing text pertaining to employees exempt from classification. Makes a conforming change.

SECTION 1.05. Amends Section 2152.056(c), Government Code, to require the executive director, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of the commission of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the commission, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.06. Amends Section 2152.057, Government Code, to provide that commission members serve staggered six-year terms with one or two members' terms expiring January 31 of each odd-numbered year.

SECTION 1.07. Amends Section 2152.058(c), Government Code, to provide that three, rather than four, members of the commission constitute a quorum.

SECTION 1.08. Amends Chapter 2152B, Government Code, by adding Section 2152.0581, as follows:

Sec. 2152.0581. TRAINING FOR COMMISSION MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of the commission from voting, deliberating, or being counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) Sets forth information required to be provided by the training.

(c) Provides that a person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.09. Amends Section 2152.060, Government Code, by amending Subsection (b) and adding Subsection (d), to require the commission to maintain a file on, rather than keep an information file about, each written complaint filed with the commission, rather than that the commission has authority to resolve. Sets forth standards for the file. Requires the commission to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

SECTION 1.10. Amends Chapter 2152C, Government Code, by adding Section 2152.110, as follows:

Sec. 2152.110. STATE EMPLOYEE INCENTIVE PROGRAM. Requires the executive director or the executive director's designee to provide to commission employees information and training on the benefits and methods of participation in the state employee incentive program under Chapter 2108B.

SECTION 1.11. (a) Requires the governor, to achieve the membership plan prescribed by Section 2152.051, Government Code, as amended by this Act, for the commission, to appoint only one commission member to succeed the commission members whose terms expire on January 31, 2003. Provides that the member appointed under this section is appointed for a term expiring January 31, 2009.

(b) Requires the governor, as soon as possible after September 1, 2001, to designate for abolition on January 31, 2003, one of the two membership positions with terms that expire on January 31, 2003.

SECTION 1.12. Provides that the changes in law made by this Act in the prohibitions and qualifications applying to members of the General Services Commission do not affect the entitlement of a member serving on the commission immediately before September 1, 2001, to continue to serve and function as a member of the commission for the remainder of the member's term. Provides that the changes in law apply only to a member appointed on or after September 1, 2001. Provides that this Act does not prohibit a person who is a member of the General Services Commission immediately before September 1, 2001, from being reappointed as a commission member if the person has the qualifications required for the position under Chapter 2152, Government Code, as amended by this Act.

SECTION 1.13. Provides that the change in law made by this Act to Sections 2152.051, 2152.057, and 2152.058(c), Government Code, takes effect January 31, 2003.

ARTICLE 2. OVERSIGHT OF MAJOR INFORMATION RESOURCES PROJECTS

SECTION 2.01. Amends Section 2054.003, Government Code, by adding a new Subdivision (8) and renumbering existing Subdivisions (8)-(10) as Subdivisions (9)-(11), to define “major information resources project.”

SECTION 2.02. Amends Chapter 2054F, Government Code, by adding Section 2054.1181, as follows:

Sec. 2054.1181. OVERSIGHT OF MAJOR INFORMATION RESOURCES PROJECTS.

(a) Requires the Department of Information Resources (department) to create a division in the department to oversee the implementation of major information resources projects.

(b) Sets forth performance standards and objectives for the department.

(c) Requires the division to be funded from a percentage of money appropriated to or budgeted by state agencies for the major information resources projects designated by the legislature under Section 2054.003(8)(B). Requires the legislature to prescribe the percentage or percentages, as applicable, in the General Appropriations Act.

SECTION 2.03. Repealer: Section 2054.118(d) (relating to the definition of a “major information resources project”), Government Code.

ARTICLE 3. TELECOMMUNICATIONS

SECTION 3.01. Amends Section 2054.051(e), Government Code, to delete existing text pertaining to telecommunications provided by the commission.

SECTION 3.02. Amends Section 2054.091(d), Government Code, to require that 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. Requires the telecommunications planning and oversight council (council) to appoint one of its members to serve as a member of the advisory

committee.

SECTION 3.03. Amends the heading of Chapter 2054H, Government Code, to read as follows:

SUBCHAPTER H. TELECOMMUNICATIONS PLANNING
AND OVERSIGHT COUNCIL

SECTION 3.04. Amends Section 2054.201, Government Code, as follows:

Sec. 2054.201. New heading: COMPOSITION; TERMS. Sets forth the composition of the council. Provides that the appointed members of the council serve two-year terms, except that the representative of the comptroller's office serves at the discretion of the comptroller. Deletes existing text pertaining to a member's authority to select a designee. Requires members of the council who represent a state agency to abstain from any action taken by the council regarding a request for a waiver under Section 2170.051 from the state agency that is represented by the member.

SECTION 3.05. Amends Chapter 2054H, Government Code, by adding Section 2054.2011, as follows:

Sec. 2054.2011. DEFINITIONS. Defines "consolidated telecommunications system" and "centralized capitol complex telephone system."

SECTION 3.06. Amends Section 2054.202, Government Code, to require the department to provide, rather than coordinate, the staff and administrative support necessary for, rather than provided to, the council to perform its duties under this subchapter. Deletes existing text pertaining to the department, comptroller, and commission. Makes conforming changes.

SECTION 3.07. Amends Section 2054.203, Government Code, by amending Subsections (a), (b), (c), and (d) and adding Subsection (g), to require the council to establish plans and policies for a system of telecommunications services to be managed and operated by the department, rather than the commission. Requires the plan to implement a statewide network and include technical specifications that are binding on the department, rather than the commission. Requires the council to perform strategic planning for all state telecommunications services in accordance with the guiding principles of the state strategic plan for information resources management. Makes conforming changes.

SECTION 3.08. Amends Sections 2054.204(a) and (c), Government Code, to make conforming changes.

SECTION 3.09. Amends Section 2054.205, Government Code, to make conforming changes.

SECTION 3.10. Amends Chapter 2054H, Government Code, by adding Section 2054.2051, to read as follows:

Sec. 2054.2051. OVERSIGHT OF SYSTEMS. (a) Requires the council to develop service objectives for the consolidated telecommunications system and the centralized capitol complex telephone system.

(b) Requires the council to develop performance measures for the operations and staff of the consolidated telecommunications system and the centralized capitol complex telephone system.

(c) Requires the council to review every three months the status of all projects related to and the financial performance of the consolidated telecommunications system and the centralized capitol complex telephone system, including a comparison between actual

performance and projected goals.

(d) Requires the council to 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 3.11. Amends Section 2054.206, Government Code, as follows:

Sec. 2054.206. New heading: ANNUAL REPORT. Deletes existing text of this section regarding advisory agencies. Requires the council to submit an annual report to the department and to each entity served by the consolidated telecommunications system or the centralized capitol complex telephone system. Sets forth information that must be included in the report.

SECTION 3.12. Amends Section 2054.207, Government Code, as follows:

Sec. 2054.207. New heading: REPORT TO LEGISLATURE. Sets forth items to be addressed by the report. Makes a conforming change.

SECTION 3.13. Amends Section 2157.001(1), Government Code, to make a conforming change.

SECTION 3.14. Amends Section 2157.121, Government Code, by amending Subsection (b) and adding Subsection (c), to require a state agency, other than the department, to send its proposal specifications and criteria to the commission for approval or request the commission to develop the proposal specifications and criteria. Authorizes the department to acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals without regard to whether the commission makes the determination required under Subsection (a) for other state agencies.

SECTION 3.15. Amends Section 2170.001(a), Government Code, by adding Subdivision (3), to define "department."

SECTION 3.16. Amends Section 2170.002, Government Code, as follows:

Sec. 2170.002. New heading: DEPARTMENT RESPONSIBLE FOR OBTAINING TELECOMMUNICATIONS SERVICES. Makes a conforming change.

SECTION 3.17. Amends Section 2170.003, Government Code, to make a conforming change.

SECTION 3.18. Amends Section 2170.004, Government Code, to make a conforming change.

SECTION 3.19. Amends Sections 2170.005(a) and (c), Government Code, to require that the subject matter listing of programs and telephone numbers in the telephone directories must be consistent with the categorization developed by the Records Management Interagency Coordinating Council under Section 441.203, rather than 441.053. Makes conforming changes.

SECTION 3.20. Amends Section 2170.006, Government Code, to make conforming changes.

SECTION 3.21. Amends Section 2170.008, Government Code, to make conforming changes.

SECTION 3.22. Amends Sections 2170.009(a) and (c), Government Code, to make conforming changes.

SECTION 3.23. Amends Section 2170.051, Government Code, to make conforming changes.

SECTION 3.24. Amends Section 2170.052, Government Code, to make a conforming change.

SECTION 3.25. Amends Section 2170.056, Government Code, to make a conforming change.

SECTION 3.26. Amends Sections 2170.057(a), (c), and (d), Government Code, to require the department, rather than commission, to certify amounts that exceed the amount sufficient to pay certain telecommunications bills to the comptroller, and requires the comptroller to transfer the excess amounts to the credit of the statewide network applications account established by Section 2054.011, rather than 22A, Information Resources Management Act (Article 4413(32j), Revised Statutes). Makes conforming changes.

SECTION 3.27. Amends Sections 2170.058(b) and (c), Government Code, to provide that, in consideration of the duties and responsibilities given the department, rather than commission, under this chapter, rather than subtitle, it is the policy of this state that a state agency or unit of state government may not provide telecommunications products or services to the general public in competition with private enterprise unless there is a finding that providing the products or services is in the public interest. Makes conforming changes.

SECTION 3.28. Amends Section 2170.059, Government Code, to make conforming changes.

SECTION 3.29. Amends Chapter 2170B, Government Code, by adding Section 2170.060, as follows:

Sec. 2170.060. QUARTERLY REPORT. Requires the department to quarterly submit a report to the telecommunications planning and oversight council on certain specific matters.

SECTION 3.30. Repealer: Section 2054.091(e) (relating to the State Strategic Plan), Government Code.

SECTION 3.31. Repealer: Section 2170.007 (Restriction on Commission Actions), Government Code.

SECTION 3.32. Sets forth provisions pertaining to the transfer, on September 1, 2001, of certain telecommunications functions, authorities, and duties from the commission to the department.

SECTION 3.33. Requires the commission and the department to establish a transition plan for the transfer described in Section 3.32 of this Act. Sets forth items required to be included in the transition plan.

SECTION 3.34. (a) Provides that the telecommunications planning group is abolished.

(b) Requires the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, the commissioner of higher education, the chancellor of The University of Texas System, and the chancellor of The Texas A&M University System to make appointments to the council in accordance with Section 2054.201, Government Code, as amended by this Act, as soon as possible after September 1, 2001.

(c) Provides that any powers, duties, rights, contracts, appropriations, property, and records of the telecommunications planning group are transferred to the council as created by this Act.

(d) Provides that a rule, policy, plan, waiver, standard, requirement, or guideline of the telecommunications planning group continues in effect as a rule, policy, plan, waiver, standard, requirement, or guideline of the council until it is superseded by an act of the council as created by this Act or until it expires according to its terms or by operation of law.

(e) Provides that the validity of a rule, policy, plan, requirement, guideline, or procedure adopted, waiver granted, contract or acquisition made, obligation incurred, right accrued, or other action taken by or in connection with the authority of the telecommunications planning group before it is abolished under Subsection (a) of this section is not affected by the abolishment.

SECTION 3.35. Requires the council to issue the first annual report required under Section 2054.206, Government Code, as amended by this Act, not later than September 1, 2002.

ARTICLE 4. CONTRACTING GUIDELINES

SECTION 4.01. Amends Chapter 2054C, Government Code, by adding Section 2054.058, as follows:

Sec. 2054.058. CONTRACTING GUIDELINES. (a) Requires the department with the assistance of the state auditor's office and the office of the attorney general to develop contracting guidelines for state agencies. Requires the guidelines to be developed to accommodate the varying needs of state agencies. Sets forth information the department is required to include in the guidelines.

(b) Sets forth actions required of the department.

(c) Requires each state agency to comply with the contracting guidelines developed by the department under this section.

(d) Provides that the contracting guidelines developed by the department apply only to procurements made with appropriated money.

SECTION 4.02. (a) Provides that an interagency work group is created to assist the department in developing contracting guidelines for state agency use under Section 2054.058, Government Code, as added by this Act.

(b) Sets forth provisions regarding the composition of the work group.

(c) Provides that the work group expires on September 1, 2002, unless reconvened by the department, as needed.

ARTICLE 5. COMMERCIALLY AVAILABLE ACTIVITIES

SECTION 5.01. Amends Chapter 2152, Government Code, by adding Subchapter D, as follows:

SUBCHAPTER D. COMMERCIALLY AVAILABLE ACTIVITIES

Sec. 2152.151. REVIEW PROCESS. (a) Requires the commission to develop a systematic review process to identify commercially available services being performed by the commission and study the services to determine if they may be better provided by other state agency providers of the services or private commercial sources.

(b) Sets forth actions required of the commission in reviewing its services.

(c) Requires each commercially available service performed by the commission to be reviewed at least once every six years.

(d) Requires the commission to consult with the State Council on Competitive Government as necessary in planning and conducting its reviews under this subchapter.

Sec. 2152.152. **COST COMPARISON AND CONTRACT CONSIDERATIONS.** (a) Requires the commission to consider all of its direct and indirect costs in determining the cost of providing a service.

(b) Requires the commission, in comparing the cost of providing a service, to include the cost of supervising the work of a private contractor, and cost to the state of the commission's performance of the service, including certain specific costs.

Sec. 2152.153. **CONTRACTING WITH ANOTHER STATE AGENCY OR PRIVATE SOURCE.** (a) Authorizes the commission, if the commission determines that a service can be performed with a comparable or better level of quality at a savings to the state of at least 10 percent by using other state agency providers of the service or a private commercial source, to contract with other state agency providers of the services or private commercial sources for the service.

(b) Provides that the commission maintains responsibility for providing a contracted service. Requires the commission to set measurable performance standards for a contractor.

Sec. 2152.154. **PROHIBITION.** Prohibits the commission from beginning to provide a service it did not already provide as of September 1, 2001, unless, after conducting an in-depth analysis on cost in accordance with Section 2152.152 and on availability of a service, it determines that it can perform the service at a higher level of quality or at a lower cost than other state agency providers of the service or private commercial sources.

ARTICLE 6. ELECTRONIC COMMERCE; TRAVEL

SECTION 6.01. Amends Section 2155.062(a), Government Code, to authorize the commission, in purchasing goods and services, to use, but not be limited to, certain procedures.

SECTION 6.02. Amends Sections 2155.083(c), (d), (f), (k), and (l), Government Code, to require the commission, rather than the Texas Department of Commerce, each business day to produce and post a business daily in an electronic format. Deletes existing text pertaining to certain information services. Requires each state agency, rather than the department and each state agency, to cooperate with the commission in making the electronic business daily available. Makes conforming changes.

SECTION 6.03. Amends Section 2171.052, Government Code, by adding Subsection (e), to require the commission to maintain at least one contract with a provider of travel services that offers reservation and ticketing services in person or by telephone.

SECTION 6.04. Amends Chapter 2171 B, Government Code, by adding Section 2171.0521, as follows:

Sec. 2171.0521. **ONLINE RESERVATION AND TICKETING SYSTEM.** (a) Requires the department, in consultation with the commission, to establish an online travel reservation and ticketing system for use by state agencies participating in the commission's contracts for travel services. Requires the department, in consultation with the commission, to enter into contracts with private or public entities to establish a secure system for use by state employees traveling on state business. Requires the reservations to be made with a state-issued credit card.

(b) Requires the commission, when the online reservation and ticketing system becomes fully operational, as determined by the department, to assume management and administrative responsibility for the system. Requires the commission, in consultation with the department, to enter into contracts with private or public entities to maintain all or part of the system.

(c) Provides that the preference in Section 2171.052(c) for a resident entity of this state does not apply to this section.

(d) Authorizes a state agency to use the online reservation and ticketing system to make travel reservations for a state employee traveling on state business.

SECTION 6.05. Amends Chapter 2177, Government Code, read as follows:

CHAPTER 2177. ELECTRONIC COMMERCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2177.001. DEFINITION. Defines "department." Redesignates existing Section 2177.001 as Section 2177.051, with amendments.

Sec. 2177.002. SMALL AND HISTORICALLY UNDERUTILIZED BUSINESSES. Requires the commission and the department to ensure that small and historically underutilized businesses have maximum access to electronic commerce opportunities.

SUBCHAPTER B. ELECTRONIC PROCUREMENT MARKETPLACE

Sec. 2177.051. ELECTRONIC PROCUREMENT MARKETPLACE. (a) Requires the department, in consultation with the commission, to establish, rather than establish and manage, an electronic procurement marketplace. Sets forth information the marketplace is authorized to contain.

(c) Requires the department, in consultation with the commission, to integrate the centralized master bidders list and the business daily into the electronic procurement marketplace.

(e) Requires the commission, when the electronic procurement marketplace becomes fully operational, as determined by the department, to assume management and administrative responsibility for the marketplace. Authorizes the commission, in consultation with the department, to enter into contracts with private or public entities to maintain all or part of the databases comprising the marketplace.

(g) Requires, rather than authorizes, a state agency, before developing a contract for the procurement of a good or service, to use the electronic procurement marketplace to determine the most appropriate method for acquiring the good or service.

(h) Sets forth information the marketplace is authorized to contain.

Makes conforming and nonsubstantive changes.

SUBCHAPTER C. ELECTRONIC COMMERCE NETWORK

Sec. 2177.101. EXCEPTIONS. (a) Provides that this subchapter does not apply to procurements for major construction projects, as defined by the commission in consultation with the department, such as procurements made under Chapter 223 (Bids and Contracts for Highway Projects), Transportation Code. Requires the commission, in defining a major construction project, to base its decision on whether the nature of the project, any related contract or specifications, or other considerations are of a type that would make electronic procurement inappropriate.

(b) Provides that the exceptions listed under Section 2166.003(a) apply to this subchapter.

Sec. 2177.102. ELECTRONIC COMMERCE NETWORK. Redesignates existing Section 2177.002 as Section 2177.102. Authorizes the department, in consultation with the commission, to adopt rules relating to the design and use of the electronic commerce network. Deletes existing text pertaining to compliance with department rules. Requires each state agency to participate in the network and participate in contracts entered into by the department or the commission for the establishment or support of the network. Deletes existing text pertaining to capabilities of participation. Authorizes the commission to adopt rules relating to the management or support of the network, rather than to administer this section, and require participating state agencies, political subdivisions, and other public entities to designate a network coordinator. Provides that the requirements of this subchapter, rather than this section and Section 2177.003, are in addition to the requirements of other law relating to the solicitation of bids, proposals, or expressions of interest for a procurement by the commission or another state agency. Makes conforming and nonsubstantive changes.

Sec. 2177.103. PARTICIPATION BY STATE AGENCIES IN ELECTRONIC COMMERCE NETWORK. Redesignates existing Section 2177.003 as Section 2177.103. Requires each state agency to send to the commission for posting on the electronic commerce network information on each procurement contract the commission, in consultation with the department, determines is appropriate for electronic procurement in a certain manner, including certain procurements. Deletes existing text pertaining to an agency's purchasing authority.

SECTION 6.06. Repealer: Section 2155.083(b) (relating to the definition of "department"), Government Code.

SECTION 6.07. Sets forth provisions pertaining to the transfer, on September 1, 2001, of certain functions, authorities, and duties from the commission to the department.

SECTION 6.08. Sets forth provisions regarding the administration of the transfer prescribed by this article.

SECTION 6.09. Provides that once the electronic procurement marketplace and the electronic commerce network under Chapter 2177, Government Code, and the online reservation and ticketing system under Chapter 2171, Government Code, become fully operational as determined by the department, all funds, obligations, contracts, property, and records of the department related to the marketplace, network, and system become the funds, obligations, contracts, property, and records of the commission.

SECTION 6.10. Sets forth provisions pertaining to the transfer, on September 1, 2001, of certain functions, authorities, and duties from the Texas Department of Economic Development to the commission.

SECTION 6.11. Requires the department to have the online reservation and ticketing system created under Section 2171.0521, Government Code, as added by this Act, fully operational by September 1, 2002.

ARTICLE 7. STATE CEMETERY

SECTION 7.01. Amends Section 2165.256(a), Government Code, to require the State Cemetery Committee (committee) to develop a budget for the operations of the committee relating to the State Cemetery and determine the salary of employees of the committee whose duties primarily relate to the operation of the State Cemetery.

SECTION 7.02. Amends Section 2165.2561, Government Code, by amending Subsection (k) and adding Subsections (n)-(u), as follows:

- (k) Requires the legislature to separately appropriate money to the committee within the appropriations to the commission for all matters relating to the operation of the State Cemetery. Deletes existing text regarding funds appropriated and budgeted by the commission.
- (n) Sets forth certain conditions that are grounds for a member's removal from the committee.
- (o) Provides that the validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.
- (p) Requires the executive director, if the executive director of the commission has knowledge that a potential ground for removal exists, to notify the presiding officer of the committee of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the committee, who is required to then notify the governor and the attorney general that a potential ground for removal exists.
- (q) Requires the executive director of the commission or the executive director's designee to provide to members of the committee, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.
- (r) Prohibits a person who is appointed to and qualifies for office as a member of the committee from voting, deliberating, or being counted as a member in attendance at a meeting of the committee until the person completes a training program that complies with this subsection. Sets forth certain information the training program must provide the person.
- (s) Provides that a person appointed to the committee is entitled to reimbursement, as provided by Chapter 660 and the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.
- (t) Requires the committee to develop and implement policies that clearly separate the policymaking responsibilities of the committee and the management responsibilities of the executive director of the commission and staff of the cemetery.
- (u) Requires the committee to develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

SECTION 7.03. (a) Provides that the changes in law made by this Act in the prohibitions and qualifications applying to members of the committee do not affect the entitlement of a member serving on the committee immediately before September 1, 2001, to continue to serve and function as a member of the committee for the remainder of the member's term. Provides that the changes in law apply only to a member appointed on or after September 1, 2001. Provides that this Act does not prohibit a person who is a member of the committee immediately before September 1, 2001, from being reappointed as a committee member if the person has the qualifications required for the position under Chapter 2165, Government Code, as amended by this Act.

- (b) Provides that Section 2165.2561(r), Government Code, as added by this Act, does not apply to a member of the committee until March 1, 2002.

SECTION 7.04. Provides that the changes in law made by this Act to the State Cemetery's budget and appropriations process apply beginning with the fiscal year beginning on September 1, 2003.

ARTICLE 8. CONTRACTING METHODS FOR CONSTRUCTION OF STATE FACILITIES

SECTION 8.01. Amends Chapter 2166F, Government Code, by adding Section 2166.2511, as follows:

Sec. 2166.2511. DEFINITIONS. Defines “architect,” “contractor,” “engineer,” “facility,” “fee,” and “general conditions.”

SECTION 8.02. Amends Chapter 2166F, Government Code, by adding Section 2166.2525, as follows:

Sec. 2166.2525. DETERMINATION OF CONTRACTING METHOD. Requires the commission to adopt rules that determine the circumstances for use of each method of contracting allowed under this subchapter for design and construction services. Requires the commission, in developing the rules, to solicit advice and comment from design and construction professionals regarding the criteria the commission will use in determining which contracting method is best suited for a project.

SECTION 8.03. Amends Chapter 2166F, Government Code, by adding Section 2166.2526, as follows:

Sec. 2166.2526. EVALUATION OF BIDS AND PROPOSALS FOR CONSTRUCTION SERVICES. (a) Requires the commission, for each project, to establish, before advertising, which method of contracting provides the best value for the commission or using agency.

(b) Requires the commission, under each method of contracting, to base its selection among the offerors on criteria established by the commission. Requires the commission to publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors.

(c) Requires the commission to document the basis of its selection of an offeror and to make the evaluations public not later than the seventh day after the date the contract is awarded.

SECTION 8.04. Amends Section 2166.253, Government Code, as follows:

Sec. 2166.253. New heading: LOWEST AND BEST BID METHOD. (a) Authorizes the commission to use the lowest and best bid method for a project. Requires the commission, in using that method, to follow the procedures provided by Subsections (b)-(g).

Reletters existing text of Subsections (a) - (d) as Subsections (b) - (e) and makes conforming changes.

(f) Requires a contract to be awarded to the qualified bidder making the lowest and best bid in accordance with the law on awarding a state contract.

(g) Authorizes the commission to reject all bids.

SECTION 8.05. Amends Chapter 2166F, Government Code, by adding Section 2166.2531, as follows:

Sec. 2166.2531. DESIGN-BUILD METHOD. (a) Defines “design-build contract,” “design-build firm,” and “design criteria package.”

(b) Authorizes the commission to use the design-build method for a project. Requires the commission and the design-build firm, in using that method and in entering into a contract for the services of a design-build firm, to follow the procedures provided by Subsections (c)-(k).

(c) Authorizes the commission to designate an engineer or architect to act as its representative. Requires any engineer or architect designated, if the commission’s engineer or architect is not a full-time employee of the commission, to be selected on the basis of demonstrated competence and qualifications in accordance with Chapter 2254A.

(d) Requires the commission to prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. Requires the commission to also prepare a design criteria package that includes more detailed information on the project. Requires that if the preparation of the design criteria package requires engineering or architectural services that constitute certain practices of engineering or architecture, those services must be provided in accordance with the applicable law.

(e) Requires the commission or its representative to publish the request for qualifications in a manner prescribed by the commission.

(f)(1) Requires the commission or its representative to evaluate statements of qualifications and select a design-build firm in two phases.

(2) Requires, in phase one, the commission or its representative to prepare a request for qualifications and evaluate each offeror’s experience, technical competence, and capability to perform, the past performance of the offeror’s team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Requires each offeror to certify to the commission that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications. Requires the commission or its representative to qualify a maximum of five offerors to submit additional information and, if the commission or its representative chooses, to interview for final selection.

(3) Requires, in phase two, the commission or its representative to evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. Authorizes the commission or its representative to request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. Prohibits the commission or its representative from requiring offerors to submit detailed engineering or architectural designs as part of the proposal. Requires the commission or its representative to rank each proposal submitted on the basis of the criteria specified in the request for qualifications. Requires the commission or its representative to select the design-build firm that submits the proposal offering the best value for the

commission or using agency on the basis of the published selection criteria and on its ranking evaluations. Requires the commission or its representative to first attempt to negotiate a contract with the selected offeror. Requires the commission, if the commission or its representative is unable to negotiate a satisfactory contract with the selected offeror, to end, formally and in writing, all negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(g) Requires the engineers or architects of a design-build firm selected under Subsection (f), following the selection of that firm, to complete the design, submitting all design elements for review and determination of scope compliance by the commission's engineer or architect before or concurrently with the beginning of construction.

(h) Requires an engineer to have responsibility for compliance with certain engineering design requirements and all other applicable requirements of The Texas Engineering Practice Act, Article 3271a, V.T.C.S.. Requires an architect to have responsibility for compliance with the requirements of Chapter 478 (Regulation of Practice of Architecture), Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, V.T.C.S.).

(i) Requires the commission to provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the commission. Requires the commission to select those services for which it contracts in accordance with Section 2254.004.

(j) Requires the design-build firm to supply a signed and sealed set of construction documents for the project to the commission at the conclusion of construction.

(k) Provides that a payment or performance bond is not required for, and is prohibited from providing coverage for, the portion of a design-build contract under this section that includes design services only. Requires the penal sums of the performance and payment bonds delivered to the commission, if a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, to each be in an amount equal to the project budget, as specified in the design criteria package. Requires the design-build firm to deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the commission to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

SECTION 8.06. Amends Chapter 2166F, Government Code, by adding Section 2166.2532, as follows:

Sec. 2166.2532. CONSTRUCTION MANAGER-AT-RISK METHOD. (a) Authorizes the commission to use the construction manager-at-risk method for a project. Requires the commission, in using that method and in entering into a contract for the services of a construction manager-at-risk, to follow the procedures prescribed by this section.

(b) Provides that a construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the commission regarding construction during and after the design of the facility.

(c) Requires the commission, before or concurrently with selecting a construction

manager-at-risk, to select or designate an engineer or architect who is required to prepare the construction documents for the project and who has full responsibility for complying with Article 3271a, V.T.C.S., or Article 249a, V.T.C.S., as applicable. Requires the commission, if the engineer or architect is not a full-time employee of the commission, to select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004. Prohibits the commission's engineer or architect for a project from serving, alone or in combination with another, as the construction manager-at-risk.

(d) Requires the commission to provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the commission. Requires the commission to select those services for which it contracts in accordance with Section 2254.004.

(e) Requires the commission to select the construction manager-at-risk in either a one-step or two-step process. Requires the commission to prepare a request for proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable; a statement as to whether the selection process is a one-step or two-step process; and other information that may assist the commission in its selection of a construction manager-at-risk. Requires the commission to state the selection criteria in the request for proposals or qualifications, as applicable. Authorizes the selection criteria to include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. Authorizes the commission, if a one-step process is used, to request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. Prohibits the commission, if a two-step process is used, from requesting fees or prices in step one. Authorizes the commission, in step two, to request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

(f) Requires the commission to publish the request for qualifications in a manner prescribed by the commission.

(g) Requires the commission, at each step, to receive, publicly open, and read aloud the names of the offerors. Requires the commission, at the appropriate step, to also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Requires the commission or its representative, within 45 days after the date of opening the proposals, to evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(h) Requires the commission or its representative to select the offeror that submits the proposal that offers the best value for the commission or using agency based on the published selection criteria and on its ranking evaluation. Requires the commission or its representative to first attempt to negotiate a contract with the selected offeror. Requires the commission or its representative, if the commission or its representative is unable to negotiate a satisfactory contract with the selected offeror, to end negotiations, formally and in writing, with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(i) Requires a construction manager-at-risk to publicly advertise, in the manner

prescribed by the commission, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. Authorizes a construction manager-at-risk to seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the commission determines that the construction manager-at-risk's bid or proposal provides the best value for the commission or using agency.

(j) Requires the construction manager-at-risk and the commission or its representative to review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or commission. Requires all bids or proposals to be made public after the award of the contract or within seven days after the date of final selection of bids and proposals, whichever is later.

(k) Requires the commission, if the construction manager-at-risk reviews, evaluates, and recommends to the commission a bid or proposal from a trade contractor or subcontractor but the commission requires another bid or proposal to be accepted, to compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the commission's requirement that another bid or proposal be accepted.

(l) Authorizes the construction manager-at-risk, if a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, to itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(m) Provides that if a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the commission must each be in an amount equal to the project budget, as set forth in the request for qualifications. Requires the construction manager-at-risk to deliver the bonds not later than the 10th day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the commission to ensure that the construction manager-at-risk will furnish the required performance and payment bonds when a guaranteed maximum price is established.

SECTION 8.07. Amends Chapter 2166F, Government Code, by adding Section 2166.2533, as follows:

Sec. 2166.2533. COMPETITIVE SEALED PROPOSAL METHOD. (a) Authorizes the commission to select a contractor for a project using the competitive sealed proposal method prescribed by this section.

(b) Requires the commission to select or designate an engineer or architect to prepare construction documents for the project. Provides that the selected or designated engineer or architect has full responsibility for complying with Article 3271a, V.T.C.S., or Article 249a, V.T.C.S., as applicable. Requires the commission, if the engineer or architect is not a full-time employee of the commission, to select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

- (c) Requires the commission to provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the commission. Requires the commission to select those services for which it contracts in accordance with Section 2254.004 and to identify them in the request for proposals.
- (d) Requires the commission to prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. Requires the commission to state in the request for proposals the selection criteria that will be used in selecting the successful offeror.
- (e) Requires the commission to publish notice of the request for proposals in a manner prescribed by the commission.
- (f) Requires the commission to receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Requires the commission, within 45 days after the date of opening the proposals, to evaluate and rank each proposal submitted in relation to the published selection criteria.
- (g) Requires the commission to select the offeror that offers the best value for the commission or using agency based on the published selection criteria and on its ranking evaluation. Requires the commission to first attempt to negotiate a contract with the selected offeror. Authorizes the commission and its engineer or architect to discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. Requires the commission, if the commission is unable to reach a contract with the selected offeror, to end negotiations, formally and in writing, with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
- (h) Provides that the commission, in determining the best value for the commission or using agency, is not restricted to considering price alone but is authorized to consider any other factor stated in the selection criteria.

SECTION 8.08. Amends Section 2166.255, Government Code, as follows:

Sec. 2166.255. New heading: AMOUNT OF CONTRACT. Deletes existing Subsections (a) and (b) regarding the award of a contract.

SECTION 8.09. Makes application of the changes in law made by this Act to the commission's contract procedures, prospective to September 1, 2001.

ARTICLE 9. LEASING OF STATE OFFICE SPACE

SECTION 9.01. Amends Chapter 2167A, Government Code, by adding Section 2167.0021, as follows:

Sec. 2167.0021. BEST VALUE STANDARD FOR LEASE OF SPACE. (a) Requires the commission to lease space for the use of a state agency on the basis of obtaining the best value for the state.

(b) Requires the commission to adopt rules establishing guidelines for the determination of best value in a lease contract. Sets forth items the commission is authorized to consider in determining the best value.

(c) Provides that this section does not prohibit the commission from leasing space from the offeror that offers the space at the lowest cost if the commission determines that doing so obtains the best value for the state.

SECTION 9.02. Amends Section 2167.003, Government Code, to require the commission or the private brokerage or real estate firm assisting the commission, in leasing space for the use of a state agency, to give first consideration to a building that is designated as a historic structure under Section 442.001 or to a building that has been designated a landmark by a local governing authority, if certain conditions are met. Requires the commission, at the end of a biennium, to report to the legislature the commission's reasons for rejecting during the biennium the lease of any historic structure that was offered as, rather than in a bid to, lease space to the state. Makes a conforming change.

SECTION 9.03. Amends Section 2167.005, Government Code, as follows:

Sec. 2167.005. New heading: DELEGATION OF AUTHORITY TO STATE AGENCIES. Authorizes the commission to delegate to a state agency, including an institution of higher education, the authority to enter into lease contracts for space. Deletes existing text regarding payments made from money other than appropriations from the general revenue fund. Deletes existing text regarding an institution of higher education.

SECTION 9.04. Amends Section 2167.006(b), Government Code, to make conforming changes.

SECTION 9.05. Amends Section 2167.052, Government Code, by amending Subsection (a) and adding Subsection (c), to authorize space to be leased from a private source through certain processes, including direct negotiation. Requires the commission to use the method for leasing space that provides the best value for the state.

SECTION 9.06. Amends Sections 2167.053(a) and (c), Government Code, to require the commission, when space is leased through competitive bidding, to determine the bid that provides the best value for the state, rather than the lowest and best bid, after considering moving costs, the cost of time lost in moving, the cost of telecommunications services, and other relevant factors. Makes conforming changes.

SECTION 9.07. Amends Sections 2167.054(a), (g), and (i), Government Code, to delete existing text regarding competitive bidding. Requires the commission to make a written award of a lease to the offeror whose proposal provides the best value for, rather than is the most advantageous to, the state, considering price and the evaluation factors in the request for proposals. Deletes existing text regarding the use of other factors or criteria. Requires a state agency, if the competitive sealed proposal procedure for leasing space is used by the state agency, rather than an institution of higher education, that has been delegated leasing authority under Section 2167.005, to follow the procedures outlined by this section and any rules adopted by the commission.

SECTION 9.08. Amends Chapter 2167B, Government Code, by adding Section 2167.0541, as follows:

Sec. 2167.0541. USE OF PRIVATE FIRMS TO OBTAIN SPACE. Authorizes the commission to contract with one or more private brokerage or real estate firms to assist the commission in obtaining lease space for state agencies on behalf of the commission under this chapter. Authorizes a private brokerage or real estate firm with which the commission contracts under Subsection (a) to assist the commission in leasing facilities under this chapter.

SECTION 9.09. Amends Section 2167.055(b), Government Code, to requires a lease contract entered into under Section 2167.053 or 2167.054 to reflect the provisions contained in the invitation for bids or request for proposals, the successful bid or proposal, and the award of the contract.

SECTION 9.10. Amends Chapter 2167C, Government Code, by adding Sections 2167.105 and 2167.106, as follows:

Sec. 2167.105. **REPORT ON NONCOMPLIANCE.** Requires the commission, if the commission determines that a state agency has not complied with the commission's rules or with other state law related to leasing requirements, to report the noncompliance to the members of the state agency's governing body and to the governor, lieutenant governor, and speaker of the house of representatives. Requires the commission to include in its report an estimate of the fiscal impact resulting from the noncompliance.

Sec. 2167.106. **ANNUAL REPORT.** Requires the staff of the commission to annually submit a report to the commission regarding opportunities for delegating leasing authority to state agencies with statewide operations. Requires the report to include comments from state agencies with statewide operations.

SECTION 9.11. Provides that a lease contract entered into by the commission before September 1, 2001, under Chapter 2167, Government Code, is governed during the remaining term of the lease by Chapter 2167, Government Code, as it existed immediately before September 1, 2001, and the prior law is continued in effect for this purpose. Provides that Chapter 2167, Government Code, as amended by this Act, applies to the renewal of a lease described by this section.

ARTICLE 10. SURPLUS PROPERTY

SECTION 10.01. Amends Section 2175.065, Government Code, to authorize the commission to authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the commission its ability to dispose of the property under Subchapters C and E in a manner that results in cost savings to the state, under commission rules adopted under this chapter. Requires the commission to establish by rule the criteria for determining that a delegation of authority to a state agency results in cost savings to the state.

SECTION 10.02. Amends Chapters 2175C and 2175D, Government Code, as follows:

SUBCHAPTER C. New heading: DIRECT TRANSFER OR OTHER DISPOSITION OF SURPLUS OR SALVAGE PROPERTY BY STATE AGENCY

Sec. 2175.121. New heading: **APPLICABILITY.** Provides that this subchapter applies only to surplus or salvage property to which Subchapter D does not apply.

Redesignates existing Section 2175.121 as Section 2175.122.

Sec. 2175.123. **DETERMINING METHOD OF DISPOSAL.** Requires a state agency, based on the condition of the property, to determine whether the property is surplus property that should be offered for transfer under Section 2175.125 or sold to the public or whether it is salvage property, and inform the commission of its determination.

Redesignates Sections 2175.122 - 2175.126 as Sections 2175.124 - 2175.128 with the following amendments.

Sec. 2175.124. Requires the commission, after a determination that, rather than on receiving notice from, a state agency has surplus property, rather than surplus or salvage property, to inform other state agencies, political subdivisions, and assistance organizations of the property's kind, number, location, and condition.

Sec. 2175.125. Makes a conforming change.

Sec. 2175.127. Makes a conforming change.

Sec. 2175.128. Requires a state agency, if a disposition of the state agency's surplus or salvage data processing equipment is not made under Section 2175.125 or 2175.184, rather than this subchapter, to transfer the equipment to the Texas Department of Criminal Justice. Prohibits the state agency from collecting a fee or other reimbursement from the Texas Department of Criminal Justice for the surplus or salvage data processing equipment.

Deletes the title to Subchapter D and adds a new Subchapter D at a location to follow.

Redesignates Section 2175.181 as Section 2175.129 with the following amendments.

Sec. 2175.129. New heading: **DISPOSITION BY COMPETITIVE BIDDING, AUCTION, OR DIRECT SALE**. Requires the commission, if a disposition of a state agency's surplus property is not made under Section 2175.125, rather than Subchapter C, to sell the property by competitive bid, auction, or direct sale to the public, or delegate to the state agency authority to sell the property by competitive bid, auction, or direct sale to the public, rather than bidding. Requires the commission or a state agency to which authority is delegated under Subsection (a)(2) or under Section 2175.065 to determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. Requires the commission to adopt rules establishing guidelines for making that determination. Makes conforming and nonsubstantive changes.

Sec. 2175.130. **DISPOSITION BY DIRECT SALE TO PUBLIC**. (a) Authorizes the commission or a state agency, if the commission or agency to which authority is delegated under Section 2175.129(a)(2) or 2175.065 determines that selling the property by competitive bid or auction would not maximize the resale value of the property to the state, to sell surplus or salvage property directly to the public. Requires the commission, in cooperation with the state agency that declared the property as surplus, or a state agency to which authority is delegated under Section 2175.129(a)(2) or 2175.065 to set a fixed price for the property.

Redesignates existing Sections 2175.182 - 2175.186 as Sections 2175.131 - 2175.135 with the following amendments.

Sec. 2175.131. Requires the commission or a state agency disposing of property by a method other than direct transfer under this subchapter to collect a fee from the purchaser. Requires the commission or state agency to set the fee at an amount that meets certain criteria.

Sec. 2175.134. Requires proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services, and the amount of the fee collected under Section 2175.131, to be deposited to the credit of the appropriate appropriation item of the state agency for which the sale was made. Makes conforming changes.

Sec. 2175.135. Makes conforming changes.

SUBCHAPTER D. DISPOSITION OF SURPLUS OR SALVAGE PROPERTY BY COMMISSION

Sec. 2175.181. **APPLICABILITY**. Provides that this subchapter applies only to surplus and salvage property located in certain counties. Provides that this subchapter does not apply to a state agency delegated the authority to dispose of surplus or salvage property under Section 2175.065.

Sec. 2175.1815. **ALTERNATIVE APPLICABILITY**. Provides that this subchapter,

notwithstanding Section 2175.181, until January 1, 2003, applies only to a state agency selected by the commission to participate in the disposal process created under this subchapter. Provides that Subchapter C applies to a state agency that is not selected by the commission to participate under this subchapter. Provides that this section expires January 1, 2003.

Sec. 2175.182. STATE AGENCY TRANSFER OF PROPERTY TO COMMISSION.

Provides that the commission is responsible for the disposal of surplus or salvage property under this subchapter. Authorizes the commission to take physical possession of the property. Provides that a state agency maintains ownership of property throughout the disposal process. Requires the commission, based on the condition of the property, to determine whether the property is surplus property that should be offered for transfer under Section 2175.184 or sold to the public or whether it is salvage property. Requires the commission to cooperate with the comptroller's office to ensure the accurate designation and tracking of the property.

Sec. 2175.183. COMMISSION NOTICE TO OTHER ENTITIES. Requires the commission, on taking responsibility for surplus property under this subchapter, to inform other state agencies, political subdivisions, and assistance organizations of the property's kind, number, location, and condition.

Sec. 2175.184. DIRECT TRANSFER. Authorizes a state agency, political subdivision, or assistance organization, during the 30 days following dissemination of information under Section 2175.183, to coordinate with the commission for a transfer of the property at a price established by the commission in cooperation with the transferring agency. Provides that a transfer to a state agency has priority over any other transfer during this period.

Sec. 2175.185. NOTICE OF TRANSFER TO COMPTROLLER; ADJUSTMENT OF APPROPRIATIONS AND PROPERTY ACCOUNTING RECORDS. Requires a participating state agency, if property is transferred to the state agency under Section 2175.184, to report the transaction to the comptroller. Requires the comptroller, on receiving notice under this section, to, if necessary, debit and credit the proper appropriations and adjust state property accounting records.

Sec. 2175.186. DISPOSITION BY COMPETITIVE BIDDING, AUCTION, OR DIRECT SALE. Requires the commission, if a disposition of a state agency's surplus property is not made under Section 2175.184, to sell the property by competitive bid, auction, or direct sale to the public. Requires the commission to determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. Requires the commission to adopt rules establishing guidelines for making that determination.

Sec. 2175.187. DISPOSITION BY DIRECT SALE TO PUBLIC. Authorizes the commission, if the commission determines that selling the property by competitive bid or auction would not maximize the resale value of the property to the state, to sell surplus property directly to the public. Requires the commission to set a fixed price for the property in cooperation with the state agency that owns the property.

Sec. 2175.188. PURCHASER'S FEE. Requires the commission, for property that is sold under Section 2175.186 or 2175.187, to collect a fee from the purchaser. Requires the commission to set the fee at an amount that meets certain criteria.

Sec. 2175.189. ADVERTISEMENT OF SALE. Requires the commission, if the value of an item or a lot of property to be sold is estimated to be more than \$5,000, to advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

Sec. 2175.190. REPORTING SALE; PROPERTY ACCOUNTING ADJUSTMENT. (a)

Requires the commission, on the sale by the commission of surplus or salvage property, to report the property sold and the sale price to the state agency that owned the property and to the comptroller. Requires the comptroller, if property reported under this section is on the state property accounting system, to remove the property from the property accounting records.

Sec. 2175.191. PROCEEDS OF SALE. Requires proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services, and the amount of the fee collected under Section 2175.188, to be deposited to the credit of the appropriate appropriation item of the state agency for which the sale was made. Requires the portion of sale proceeds equal to the cost of advertising the sale and the cost of selling the surplus or salvage property, including the cost of auctioneer services, if any, to be deposited in the state treasury to the credit of the appropriation item of the commission.

Sec. 2175.192. PURCHASER'S TITLE. Provides that a purchaser of surplus property at a sale conducted under Section 2175.186 or 2175.187 obtains good title to the property if the purchaser has in good faith complied with the conditions of the sale and applicable commission rules.

Sec. 2175.193. CONTRACTS FOR DESTRUCTION OF PROPERTY. Requires the commission to contract for the disposal of property under Subchapter E in a manner that maximizes value to the state.

SECTION 10.03. Provides that this article takes effect January 1, 2002.

ARTICLE 11. PAPER RECYCLING PROGRAM

SECTION 11.01. Amends Section 2175.902, Government Code, as follows:

Sec. 2175.902. New heading: MANDATORY PAPER RECYCLING PROGRAM. (a) Requires the commission to establish a mandatory recycling program for a state agency that occupies a building under its control. Deletes existing text regarding a recycling program in each building and procedures for collecting all paper recycling. Requires the commission, by rule, to:

- establish guidelines and procedures for collecting and recycling of paper;
- set recycling goals and performance measures;
- require state agencies to designate a recycling coordinator;
- provide employee and custodial education and training;
- provide feedback and recognition to state agencies when appropriate; and
- inform state agencies when proper recycling methods are not used.

(b) Authorizes the commission, if the commission finds that a state agency's recycling program meets or exceeds the standards created under Subsection (a), to delegate its responsibility under this section, rather than subsection, to a state agency located in a, rather than each, building under its control.

(c) Reletters existing text of Subsection (b) as Subsection (c). Requires the commission or a state agency with delegated responsibility under Subsection (b), rather than Subsection (a), to sell the paper for recycling to the highest bidder.

(d) Authorizes the commission to enter into an interagency agreement to provide recycling services to a state agency otherwise excluded from the program.

ARTICLE 12. EFFECTIVE DATE

SECTION 12.01. Effective date: September 1, 2001, except as otherwise provided by this Act.