

BILL ANALYSIS

Senate Research Center
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S.B. 360
By: Lucio
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DIGEST AND PURPOSE

Under Texas' current competitive process, the Council of Competitive Government (CCG) is authorized to identify competitive opportunities throughout state agencies and to respond to suggestions for competition from private vendors. At present, however, nothing in state law requires the agencies themselves to identify such opportunities, or to catalog their own commercially-available activities. Such stipulations at the federal level have made the Federal Activities Inventory Reform (FAIR) Act of 1998 a valuable vehicle for initiating public-private competition, thus reducing operating costs and increasing efficiency. As proposed, S.B. 360 requires state agencies to: endeavor to limit the size and use of funds as effectively and efficiently as possible in the performance of essential government functions; endeavor not to perform a function if a private entity can perform that function better and at a lower cost; identify (as determined by CCG rule) each agency function that is also commercially available in the private sector, link each identified function with the state agency employees or positions that perform that function, and select a reasonable percentage of the functions identified to compete with the private sector; and annually report the percentage and specific projects identified and summarize the results of the competition to the CCG and in their strategic plan.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Council on Competitive Government in SECTION 1 (Section 2163.004) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10D, Government Code, by adding Chapter 2163, as follows:

CHAPTER 2163. GOVERNMENT COMPETITION WITH THE PRIVATE SECTOR.

Sec. 2163.001. DEFINITION. Defines "council."

Sec. 2163.002. SIZE OF STATE AGENCIES; PERFORMANCE OF ESSENTIAL GOVERNMENT FUNCTIONS. Requires a state agency to endeavor to limit its size and use its funds as effectively and efficiently as possible in the performance of essential government functions.

Sec. 2163.003. LIMIT ON FUNCTIONS THAT AGENCY MAY PERFORM. Requires a state agency to endeavor not to perform a function if a private entity can perform that function better and at a lower cost.

Sec. 2163.004. IDENTIFICATION OF COMMERCIALY AVAILABLE ACTIVITIES; STRATEGIC PLANS. Requires a state agency, as determined by State Council on Competitive Government (council) rule, to identify each function that it performs that is also commercially available in the private sector. Requires the agency to link each identified function with the state agency employees or positions that perform that function and to include the findings in its strategic plan under Section 2056.002.

Sec. 2163.005. PERFORMANCE TARGETS AND COMPETITION WITH PRIVATE SECTOR. (a) Requires a state agency to annually select a reasonable percentage of the functions identified under Section 2163.004 and subject specific selected functions to competition with the private sector by using an appropriate competitive procurement process allowed under state law under which private businesses may offer to perform a selected function.

(b) Authorizes the division or part of the agency that performs a function subjected to competition under Subsection (a) to participate in the competitive procurement process as if the division or part were a private business. Authorizes the division or part, if the bid, proposal, or other applicable kind of offer submitted by the division or part provides the best value for the state, to continue to perform the function but in accordance with the bid, proposal, or other applicable kind of offer the division or part submitted. Requires the Texas Incentive and Productivity Commission, under such circumstances, to treat the successful bid, proposal, or other applicable kind of offer as a suggestion submitted by a state employee group and consider whether the employees of the division or part are eligible for a bonus under Section 2108.0236 or a recognition award under Section 2108.0235.

Sec. 2163.006. REPORTING. Requires the agency to annually report the percentage and specific projects identified under section 2163.005(a) and summarize the results of the competition to the council and in the agency's strategic plan under Section 2056.002.

SECTION 2. Defines "state agency." Requires each state agency to make a list of all functions that it performs, including services that it provides, that are also commercially available in the private sector. Requires each state agency, not later than June 1, 2002, to electronically report its list to the governor's office.

SECTION 3. Effective date: upon passage or September 1, 2001.