

BILL ANALYSIS

Senate Research Center
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S.B. 1952
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Government Organization
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DIGEST AND PURPOSE

As proposed, S.B. 1952 seeks to improve the efficiency and effectiveness of state government by taking certain measures to reduce the current budget deficit, including abolishing certain agencies and transferring their powers and duties to the Texas Department of Licensing and Regulation, transferring the Board of Vocational Nurse Examiners to the Board of Nurse Examiners, abolishing the Texas Commission on Private Security and transferring its powers and duties to the Department of Public Safety, and requiring the Texas Building and Procurement Commission to provide facilities management services to state agencies surrounding Travis County and develop a program for commercial use of state agency parking garages in Austin. S.B. 1952 also decreases the allocation of office space per state employee from 153 to 135 square feet; delays membership in the Employees Retirement System by 90 days for new employees; and requires state agencies with 100 or more full-time equivalent employees to reach a 1:11 manager/staff ratio by 2007.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Funeral Services Commission, the Texas Board of Professional Land Surveying, the Texas Department of Housing and Community Affairs, the Texas State Board of Plumbing Examiners, the State Board of Barber Examiners, the Texas Cosmetology Commission, the Texas Structural Pest Control Board, and the Texas Board of Professional Geoscientists is transferred to the Texas Department of Licensing and Regulation (TDLR) in ARTICLE 1 of this bill. Rules adopted by the abolished agencies remain in effect until amended or replaced by TDLR.

All rules of the Texas Commission on Private Security relating to a transferred power or duty remain in effect as rules of the Texas Department of Public Safety (DPS) until amended or repealed by DPS in ARTICLE 2 of this bill.

Rulemaking authority granted to the Texas Board of Nurse Examiners in ARTICLE 3 is modified in SECTION 3.09 (Sections 301.151, Occupations Code), SECTION 3.12 (Section 301.157, Occupations Code), and in SECTION 3.22 (Section 301.261, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Board of Nurse Examiners in SECTION 3.15 (Section 301.252, Occupations Code) of this bill.

Authorizes the Texas Board of Nurse Examiners to recommend to the Texas State Board of Medical Examiners the adoption of rules relating to the delegation by physicians of medical acts to registered nurses and vocational nurses licensed by the board. SECTION 3.10 (Section 301.154, Occupations Code) of this bill.

Provides that on February 1, 2004, a rule or form adopted by the Board of Vocational Nurse Examiners is a rule or form of the Board of Nurse Examiners and remains in effect until amended or replaced by that board in SECTION 3.88 of this bill.

Provides that a rule or form adopted by a state agency that relates to the transferred services is considered to be a rule or form of the Texas Building Procurement Commission and remains in effect until altered by the commission or the state energy conservation office, as appropriate (ARTICLE 5, SECTION 5.03).

Rulemaking authority is expressly granted to the Texas Building Procurement Commission in ARTICLE 8, SECTION 8.15 (Section 2157.066, Government Code) of this bill.

Rulemaking authority previously granted to the attorney general is modified and transferred to the Texas Building and Procurement Commission in ARTICLE 8, SECTION 8.20 (Section 2262.051, Government Code) of this bill.

Rulemaking authority previously granted to the attorney general is transferred to the Texas Building and Procurement Commission in ARTICLE 8, SECTION 8.23 (Section 2262.054, Government Code) of this bill.

Provides that not later than February 1, 2004, a rule or form adopted by the attorney general or state auditor under Chapter 2262, Government code, is a rule or form of the Texas Building and Procurement Commission and remains in effect until changed by the commission (ARTICLE 8, SECTION 8.27).

Rulemaking authority is expressly granted to the Texas Building and Procurement Commission in ARTICLE 8, SECTION 8.28 (Section 2175.061, Government Code) of this bill.

Rulemaking authority is expressly granted to the Board of Trustees of the Texas Employees Retirement System in ARTICLE 9, SECTION 9.02 (Section 813.514, Government Code) of this bill.

Rulemaking authority is expressly granted to the governor in ARTICLE 11, SECTION 11.03 (Section 651.004, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ABOLITION OF CERTAIN AGENCIES AND TRANSFER OF POWERS AND DUTIES TO TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTIONS 1.01-1.26. Abolishes the following agencies and transfers their powers and duties to the Texas Department of Licensing and Regulation (TDLR) on September 1, 2003:

Texas Funeral Service Commission; Texas Board of Professional Land Surveying; Texas State Board of Plumbing Examiners; State Board of Barber Examiners; Texas Cosmetology Commission; Texas Structural Pest Control Board; and, Texas Board of Professional Geoscientists.

Transfers the authority to administer the Manufactured Housing Act from the Texas Department of Housing and Community Affairs to TDLR.

Requires the governor to appoint an advisory committee of seven persons to advise TDLR in administering this chapter. Repeals certain statutes of the Occupations Code and the Texas Geoscience Practice Act.

ARTICLE 2. ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

SECTION 2.01. Abolishes the Texas Commission on Private Security and transfers all its powers and functions to the Department of Public Safety.

ARTICLE 3. ABOLITION OF BOARD OF VOCATIONAL NURSES EXAMINERS

DIVISION 1. SINGLE NURSING BOARD

SECTIONS 3.01-3.55. Abolishes the Board of Vocational Nurse Examiners and transfers their powers to the Board of Nurse Examiners. Applies standard Sunset language continuing the Board of Nurse Examiners until September 1, 2007, rather than September 1, 2005.

DIVISION 2. CONFORMING AMENDMENTS

SECTIONS 3.56-3.84. Makes conforming amendments to proposed text (pages 50-71 of bill).

DIVISION 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.85-3.89. Makes the following repeals, transitions, and effective dates:

SECTION 3.85. Repealer: On February 1, 2004, the following laws are repealed:

- (1) Chapter 302, Occupations Code; and
- (2) Section 303.002(a) (relating to adopting rules in consultation with the Board of Vocational Nurse Examiners), Occupations Code.

SECTION 3.86. Requires the Sunset Advisory Commission to review the Board of Nurse Examiners under Chapter 325, Government Code (Texas Sunset Act), for the 79th Legislature. Requires the Sunset Advisory Commission to limit the scope of its review to recommending the adoption of applicable across-the-board recommendations.

SECTION 3.87. (a) Provides that this section provides for the appointment of members to the Board of Nurse Examiners for terms beginning February 1, 2004, to establish the staggering of members' terms in accordance with Sections 301.051 and 301.054, Occupations Code, as amended by this Act.

(b) Provides that the term of one of two registered nurse members of the Board of Nurse Examiners scheduled to expire in 2007 expires January 31, 2004. Requires those members to agree or draw lots to determine whose term expires on that date. Requires the governor, effective February 1, 2004, to appoint one person who is a nurse faculty member of a school of nursing offering vocational nurse training to fill that vacancy and to serve a term expiring January 31, 2007.

(c) Requires the governor, effective February 1, 2004, to appoint one person who must serve as a public member of the Board of Nurse Examiners with a term expiring January 31, 2009, as provided under Section 301.051, Occupations Code, as amended by this Act.

(d) Requires the governor, effective February 1, 2004, to appoint three additional members to the Board of Nurse Examiners to serve in the position of vocational nurse, as provided under Section 301.051, Occupations Code, as amended by this Act. Requires the governor, in appointing those members, to appoint one person to a term expiring January 31, 2005, one to a term expiring January 31, 2007, and one to a term expiring January 31, 2009.

SECTION 3.88. (a) Provides that on February 1, 2004:

- (1) all functions and activities performed by the Board of Vocational Nurse Examiners immediately before that date are transferred to the Board of Nurse Examiners;
- (2) a rule or form adopted by the Board of Vocational Nurse Examiners is a rule or form of the Board of Nurse Examiners and remains in effect until amended or replaced by that board;
- (3) a reference in law or an administrative rule to the Board of Vocational Nurse Examiners means the Board of Nurse Examiners;

(4) a complaint, investigation, or other proceeding before the Board of Vocational Nurse Examiners is transferred without change in status to the Board of Nurse Examiners, and the Board of Nurse Examiners assumes, as appropriate and without a change in status, the position of the Board of Vocational Nurse Examiners in an action or proceeding to which the Board of Vocational Nurse Examiners is a party;

(5) all money, contracts, leases, property, and obligations of the Board of Vocational Nurse Examiners are transferred to the Board of Nurse Examiners;

(6) a license issued by the Board of Vocational Nurse Examiners is a license of the Board of Nurse Examiners;

(7) an employee of the Board of Vocational Nurse Examiners, except for the Board of Vocational Nurse Examiners' executive director, becomes an employee of the Board of Nurse Examiners; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Board of Vocational Nurse Examiners is transferred to the Board of Nurse Examiners.

(b) Provides that before February 1, 2004, the Board of Vocational Nurse Examiners may agree with the Board of Nurse Examiners to transfer any property of the Board of Vocational Nurse Examiners to the Board of Nurse Examiners to implement the transfer required by this section.

(c) Requires the Board of Vocational Nurse Examiners, in the period beginning on the effective date of this Act and ending on January 31, 2004, to continue to perform functions and activities under Chapter 302, Occupations Code, or other law as if that chapter had not been repealed or other law had not been amended by this Act, and provides that the former law is continued in effect for that purpose.

SECTION 3.89. Provides that Division 2 of this article takes effect February 1, 2004.

ARTICLE 4. IMPOSITION OF CERTAIN FEES

SECTIONS 4.01-4.05. Increases fees on landscape architects, interior designers, land surveyors, and property tax consultants by \$200, with \$50 allocated to the Foundation School Account and \$150 to the general revenue fund. Makes application of the change in law made by this article prospective.

ARTICLE 5. FACILITIES MANAGEMENT SERVICES

SECTIONS 5.01-5.02. Requires the Texas Building and Procurement Commission to provide facilities management services in relation to all state agency facilities in or adjacent to Travis County, excluding higher education, military, prison, or Capitol facilities or facilities determined by the Texas Building and Procurement Commission to be completely residential. Requires the state energy conservation office to provide utility management services for state agency facilities.

SECTION 5.03. Transfers all powers and duties of a state agency that relate to the facilities management services treated by Sec. 2165.007(b), Government Code, as added by this Act, to the Texas Building and Procurement Commission or the state energy conservation office, as appropriate. Sets forth provisions relating to specifications of the transfer including providing that a rule or form adopted by a state agency that relates to the transferred services is considered to be a rule or form of the Texas Building and Procurement Commission and remains in effect until altered by the commission or the state energy conservation office, as appropriate.

ARTICLE 6. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

SECTION 6.01. Requires the Texas Building and Procurement Commission to develop a program for commercial use of state agency parking garages in Austin.

ARTICLE 7. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

SECTIONS 7.01-7.02. Lowers the allocation of office space per state employee from 153 to 135 square feet. Makes application of this article prospective only to a lease for usable office space entered into or renewed on or after September 1, 2003.

ARTICLE 8. GENERAL STATE PROCUREMENT

SECTIONS 8.01-8.46. Transfers some purchasing functions from the Office of the Attorney General and the State Auditor's Office, and grants the Texas Building and Procurement Commission broader authority to dispose of surplus property and place proceeds from sales into the general revenue fund. Deletes from the list of items to be considered by institutions of higher education in determining best value, the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification in the request for bids for use of the unique material specified. Adds provisions relating to a state agency contracting for outside legal services. Prohibits an agency from spending more than the amount authorized for the cost of a project unless the governor and the Legislative Budget Board approve the expenditure.

ARTICLE 9. RETIREMENT SYSTEM CREDIT ESTABLISHED BY STATE EMPLOYEES

SECTIONS 9.01-9.03. Sets forth provisions relating to delaying the contributions for new employees to the Employees Retirement System of Texas account for 90 days.

ARTICLE 10. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS

SECTION 10.01-10.02. Reduces human resources staffing in state agencies with 500 or more full-time equivalent employees by consolidating some human resources functions. Requires the State Council on Competitive Government to determine the cost-effectiveness of consolidating or contracting out the human resources functions in state agencies with fewer than 500 full-time equivalent employees

ARTICLE 11. AGENCY STAFFING AND PRODUCTIVITY

SECTIONS 11.01-11.07. Authorizes state agencies, to enhance the recruitment of competent personnel, to offer an employee at the time of hiring a one-time recruitment payment not to exceed \$5,000. Authorizes state agencies, to enhance the retention of competent personnel, to offer an employee under certain conditions a one-time retention payment not to exceed \$5,000. Sets forth provisions relating to a management performance program. Requires state agencies with 100 or more full-time equivalent employees to reach a 1:11 manager to staff ratio by August 31, 2007. Repealer: Section 656.048(b) (relating to the governor's approval of training and education rules adopted by agencies).

ARTICLE 12. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

SECTIONS 12.01-12.02. Changes the rules that determine the date on which a demutualized insurance company's proceeds become unclaimed property.

ARTICLE 13. EFFECTIVE DATE

SECTION 13.01. Provides that except as otherwise provided by this Act, this Act takes effect September 1, 2003.