

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1066  
By: Zaffirini  
State Affairs  
4-28-97  
Committee Report (Substituted)

### **DIGEST**

Currently, state agencies and universities must deal with procurement statutes and regulations that increase the state's cost of doing business. C.S.S.B. 1066 would focus on coordinating health and human services agencies' and Disproportionate Share Program hospitals' efforts to maximize savings for procurement reform.

### **PURPOSE**

As proposed, C.S.S.B. 1066 outlines provisions regarding purchasing practices by health and human services agencies, by certain other agencies with programs related to health or human services, and by certain public and private local providers of health or human services.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to an agency under SECTION 1 (Sec. 2155.144(f), Government Code); the Health and Human Services Commission under SECTION 1 (Sec. 2155.144(g), Government Code) and SECTION 2 (Sec. 32.044(d), Human Resources Code); the public hospital under SECTION 2 (Sec. 32.043, Human Resources Code); the state agency or local unit of government under SECTION 4 (Sec. 12.055(e), Health and Safety Code); and the agency or authority under SECTION 5 (Sec. 533.016, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 2155C, Government Code, by adding Section 2155.144, as follows:

Sec. 2155.144. PROCUREMENTS BY HEALTH AND HUMAN SERVICES AGENCIES AND WORKERS' COMPENSATION COMMISSION. Provides that this section applies only to the Health and Human Services Commission (HHSC), to each health and human services agency, and to the Texas Workers' Compensation Commission. Provides that an agency to which this section applies is delegated the authority to purchase its goods and services, except as provided by this section. Sets forth certain goods and services an agency to which this section applies is authorized to acquire by the procurement method that provides the best value to the agency. Sets forth factors the agency is required to consider in determining the best value to the agency. Requires the agency to consult with and receive approval from HHSC before considering factors other than price and meeting specifications, if the agency acquires goods or services with a value that exceeds \$100,000. Authorizes the state auditor to audit the agency's acquisitions of goods and services. Authorizes the agency to adopt rules and procedures for the acquisition of goods and services under this section.

Requires HHSC to adopt rules and procedures for the acquisition of goods and services under this section that apply to all health and human services agencies, including rules adopted with HHSC's assistance that allow an agency to make purchases through a group purchasing program except when a better value is available through another procurement method. Requires the rules of those agencies to be consistent with the rules of the HHSC. Sets forth requirements and outlines provisions regarding procurement practices. Provides that to the extent of any conflict, this section prevails over any other state law relating to the procurement of goods and services except a law relating to contracting with historically underutilized businesses. Defines "health and human services agency."

SECTION 2. Amends Chapter 32B, Human Resources Code, by adding Sections 32.043 and 32.044, as follows:

Sec. 32.043. **PROCUREMENT RULES FOR PUBLIC DISPROPORTIONATE SHARE HOSPITALS.** Sets forth requirements and outlines provisions regarding procurement rules for public disproportionate share hospitals.

Sec. 32.044. **GROUP PURCHASING FOR DISPROPORTIONATE SHARE HOSPITALS.** Authorizes a public or private hospital that is designated as a disproportionate share hospital during a fiscal year to purchase goods and services in accordance with this section during the succeeding fiscal year. Provides that a purchase of goods or services made in accordance with this section is considered to satisfy any state law requiring purchases by competitive bidding or competitive proposals. Authorizes a state or local governmental entity to allow the public or private hospital to purchase goods or services by participating in one or more of the entity's contracts for the purchase of goods or services. Sets forth requirements and outlines provisions regarding group purchasing for disproportionate share hospitals.

SECTION 3. Amends Sections 12.052(a) and (b), Health and Safety Code, to provide that the expenditure of funds received by local units of government from the Texas Department of Mental Health and Mental Retardation (department) is governed by Chapter 783, Government Code, rather than Article 4413(32g), V.T.C.S. (Uniform Grant and Contract Management Act of 1981), and the rules adopted under that law, except as provided by Section 12.055. Provides that the expenditure of funds received by other state agencies from the department is governed by Title 10D, Government Code, rather than Article 601b, V.T.C.S. (State Purchasing and General Services Act), and the rules adopted under that law, except as provided by Section 12.055. Makes nonsubstantive changes.

SECTION 4. Amends Chapter 12E, Health and Safety Code, by adding Sections 12.055 and 12.056, as follows:

Sec. 12.055. **CERTAIN PURCHASES MADE WITH DEPARTMENT FUNDS.** Authorizes a state agency or local unit of government that expends funds received from the department for the acquisition of goods and services to satisfy the requirements of Section 12.052 or of another state requiring procurements by competitive bidding or competitive sealed proposals by procuring goods or services with those funds in accordance with Section 12.056 or in accordance with Section 2155.144, Government Code; if the entity is a state agency subject to that law, Section 32.043 or 32.044, Human Resources Code; if the entity is a public hospital subject to those laws, or this section, if the entity is not covered by Subdivision (1) or (2). Sets forth goods and services a state agency or local unit of government under Subsection (a)(3) is authorized to acquire by the method that provides the best value to the state agency or local unit of government. Requires a state agency or local unit of government to document that the state agency or local unit of government considered all relevant factors under Subsection (c) in making the acquisition. Sets forth items the state agency or local unit of government is authorized to consider in determining the best value subject to Subsection (d). Authorizes the state auditor or the department to audit the state agency's or local unit of government's acquisitions of goods and services under this section. Authorizes the state agency or local unit of government to adopt rules and procedures for the acquisition of goods and services.

Sec. 12.056. **PARTICIPATION IN DEPARTMENT PURCHASING CONTRACTS OR GROUP PURCHASING PROGRAM.** Authorizes the department to allow a state agency, local unit of government, or private entity that expends funds received by the department to purchase goods or services using those funds by participating in a contract the department has made to purchase goods or services or a group purchasing program established or designated by the department that offers discounts to providers of health services.

SECTION 5. Amends Chapter 533A, Health and Safety Code, by adding Sections 533.016 and 533.017, as follows:

Sec. 533.016. **CERTAIN PROCUREMENTS OF GOODS AND SERVICES BY SERVICE**

PROVIDERS. Outlines provisions regarding certain procurements of goods and services by service providers. Sets forth goods or services an agency or authority under Subsection (a)(3) is authorized to acquire by any procurement method that provides the best value to the agency or authority. Requires the agency or authority to document that the agency or authority considered all relevant factors under Subsection (c) in making the acquisition. Sets forth factors the agency or authority is required to consider in determining the best value subject to Subsection (d). Requires the state agency to consult with and receive approval from HHSC before considering factors other than price and meeting specifications if a state agency to which this section applies acquires goods or services with a value that exceeds \$100,000. Authorizes the state auditor or the department to audit the agency's or authority's acquisitions of goods and services under this section to the extent state money or federal money appropriated by the state is used to make the acquisitions. Authorizes the agency or authority to adopt rules and procedures for the acquisition of goods and services under this section.

Sec. 533.017. PARTICIPATION IN DEPARTMENT PURCHASING CONTRACTS OR GROUP PURCHASING PROGRAM. Outlines provisions regarding participation in department purchasing contracts or a group purchasing program.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Section 2155.144, Government Code, regarding procurements by health and human services agencies and the Workers' Compensation Commission.

SECTION 2.

Amends Chapter 32B, Human Resources Code, by adding Sections 32.043 and 32.044, regarding procurement rules for public disproportionate share hospitals and group purchasing for disproportionate share hospitals.

SECTION 4.

Amends Chapter 12E, Health and Safety Code, by adding Sections 12.055 and 12.056, regarding certain procurements made with department funds and participation in department purchasing contracts or group purchasing program.

SECTION 5.

Amends Chapter 533A, Health and Safety Code, by adding Section 533.016, regarding certain procurements of goods and services by service providers