

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 3042  
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Government Organization  
5/24/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, there are several statutory provisions relating to the administration of the Texas Building and Procurement Commission (TBPC) that are either unnecessary or need clarification to help TBPC operate more efficiently. C.S.H.B. 3042 makes statutory revisions to assist TBPC to operate in a more cost-efficient manner.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted the Texas Building and Procurement Commission in SECTIONS 7.15 (Section 2157.066, Government Code), 7.20 (Section 2262.051, Government Code), and 7.28 (Section 2175.061, Government Code), of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1.01 Amends Section 2152.058(b), Government Code, to require the Texas Building and Procurement Commission (TBPC) to meet at least quarterly, rather than once a month.

SECTION 1.02. Amends Subchapter B, Chapter 2152, Government Code, by adding Section 2152.065, as follows:

Sec. 2152.065. REPRESENTATION ON BOARD OR COMMITTEE. Requires the executive director or the director's designee to serve as TBPC's representative on the board or committee under certain circumstances.

SECTION 1.03. Amends Section 2152.104(a), Government Code, to require TBPC to have an appropriate number of, rather than three, associate deputy directors.

## **ARTICLE 2. FACILITIES MANAGEMENT SERVICES**

SECTION 2.01. Amends Subchapter A, Chapter 2165, Government Code, by adding Section 2165.007, as follows:

Sec. 2165.07. FACILITIES MANAGEMENT SERVICES. (a) Defines "facilities management services."

(b) Requires TBPC to provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. Provides that TBPC's duty does not apply in certain circumstances.

SECTION 2.02. Amends Subchapter B, Chapter 2165, Government Code, by adding Section 2165.057, as follows:

Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) Requires TBPC to develop and implement certain policies.

(b) Requires the state energy conservation office to provide utility management services for state agency facilities for which TBPC provides facility management services.

SECTION 2.03. Sets forth provisions relating to the transfer of the facilities management services to TBPC.

ARTICLE 3. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES.

SECTION 3.01. Amends Subchapter E, Chapter 2165, Government Code, by adding Section 2165.2035, as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES.

- (a) Defines “lease.”
- (b) Requires TBPC to develop certain uses for state-owned parking lots and garages in Austin.
- (c) Authorizes TBPC to contract with a private vendor to manage the commercial use of state-owned parking lots and garages.
- (d) Requires money received from a lease to be deposited in the general revenue fund.
- (e) Requires TBPC to submit a report to the legislature and Legislative Budget Board on a certain date.
- (f) Provides that the limitation of space allocated to private tenants does not apply to the lease of a state-owned parking lot or garage under this section.
- (g) Requires a lease to contain a certain provision.

ARTICLE 4. LEASE OF SPACE FOR STATE AGENCIES

SECTION 4.01. Amends Section 2167.001, Government Code, as follows:

Sec. 2167.001. APPLICABILITY. Provides for the application of this chapter.

SECTION 4.02. Amends Section 2167.005, Government Code, by adding Subsection (d) to authorize TBPC to revoke a delegation of authority made under this section.

SECTION 4.03. Amends Section 2167.007(c), Government Code, to authorize, rather than require, TBPC to establish a system of charges and billings.

SECTION 4.04. Amends Section 2167.054(d), Government Code, to authorize, rather than require, TBPC to perform certain actions.

SECTION 4.05. Amends Section 2167.055(d) and (f), Government Code, as follows:

- (d) Authorizes certain lease contracts to be renewed under certain terms.
- (f) Provides that the obligation of the lessor to provide lease space and of TBPC to accept the space is binding on the execution of the lease, rather than the award of the contract.

SECTION 4.06. Amends Section 2167.101, Government Code, to provide a time that money is available to pay for a lease.

SECTION 4.07. Repeals certain sections of the Government Code.

SECTION 4.08. Provides the terms under which lease contracts are governed.

#### ARTICLE 5. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

SECTION 5.01. Amends Section 2165.104(c), Government Code, relating to provisions regarding usable office space.

SECTION 5.02. Effective date of this article: September 1, 2003.

#### ARTICLE 6. WRITTEN COMMENTS BY THE GENERAL LAND OFFICE ON TEXAS BUILDING AND PROCUREMENT COMMISSION LEASES

SECTION 6.01. Provides that certain sections of the Government Code are repealed.

#### ARTICLE 7. GENERAL STATE PROCUREMENT

SECTION 7.01. Amends Section 2171.101(a), Government Code, to require a state agency to submit reports regarding fleet management on a monthly basis.

SECTION 7.02. Amends Sections 2171.102(a) and (b), Government Code, as follows:

- (a) Authorizes, rather than requires, the office of vehicle fleet management (office) to provide maintenance service for a fee to certain state agencies.
- (b) Authorizes, rather than requires, the office to negotiate certain contracts.

SECTION 7.03. Amends Sections 2171.104(c) and (d), Government Code, as follows:

- (c) Requires the management plan to address certain matters.
- (d) Requires TBPC to require a state agency to transfer and sell or dispose of certain vehicles.

SECTION 7.04. Amends Chapter 2151, Government Code, by adding Section 2151.005, as follows:

Sec. 2151.005. EXEMPTIONS RELATED TO LEGAL SERVICES. Provides that this subsection does not apply to certain legal areas.

SECTION 7.05. Amends Section 2155.078(k), Government Code, requiring continuing education and relating to maintenance of the certification level.

SECTION 7.06. Amends Section 2155.141, Government Code, as follows:

Sec. 2155.141. New heading: PURCHASES FOR AUXILIARY ENTERPRISE NOT WITHIN COMMISSION'S PURCHASING AUTHORITY. Provides that TBPC's authority does not extend to certain purchases of goods and services.

SECTION 7.07. Amends Section 2155.144, Government Code, by adding Subsection (b-1) to provide that an agency under this section is not delegated authority to procure certain common commodities or services.

SECTION 7.08. Amends Subchapter C, Chapter 2155, Government Code, by adding Section 2155.148, as follows:

Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS STATEWIDE EMERGENCY PERSONNEL RETIREMENT FUND. (a) Provides that the fire fighters' pension commissioner (commissioner) is delegated certain purchasing functions.

(b) Requires the commissioner to acquire goods or services in a certain manner.

(c) Requires TBPC to procure goods or services for the commissioner on request.

SECTION 7.09. Amends Subchapter I, Chapter 2155, Government Code, by adding Section 2155.510, as follows:

Sec. 2155.510. REBATES. (a) Authorizes TBPC to collect a rebate from a vendor.

(b) Requires TBPC to ensure that purchases made with federal funds are reported.

SECTION 7.10. Amends the heading to Subchapter B, Chapter 2157, Government Code, to read as follows:

#### SUBCHAPTER B. CATALOG PURCHASE METHOD

SECTION 7.11. Amends Section 2157.061, Government Code, as follows:

Sec. 2157.061. New heading: USE OF CATALOG PURCHASE METHOD REQUIRED UNLESS BEST VALUE AVAILABLE ELSEWHERE. Makes a conforming change.

SECTION 7.12. Amends Section 2157.0611, Government Code, as follows:

Sec. 2157.0611. REQUIREMENT TO EVALUATE THREE OFFERS WHEN POSSIBLE. Makes conforming changes.

SECTION 7.13 Amends Section 2157.062, Government Code, as follows:

Sec. 2157.062. New heading: BASIC REQUIREMENTS FOR CATALOG VENDOR. Lists the minimum required of a catalog information systems vendor.

SECTION 7.14. Amends Section 2157.063(a), Government Code, to make a conforming change.

SECTION 7.15. Amends Section 2157.066, Government Code, by amending Subsections (a), (b), and (f) and adding Subsection (g), as follows:

(a)-(f) Make conforming changes.

(g) Requires TBPC to adopt rules that specify the requirements for a catalog information systems vendor's maintenance of Internet catalogs.

SECTION 7.16. Amends Section 2157.067(a), Government Code, to make a conforming change.

SECTION 7.17. Amends Section 2157.068 (b), Government Code, to make a conforming change.

SECTION 7.18. Amends Chapter 2254, Government Code, by adding Subchapter D, as follows:

#### SUBCHAPTER D. OUTSIDE LEGAL SERVICES

Sec. 2254.151. DEFINITION. Defines "state agency."

Sec. 2254.152. APPLICABILITY. Provides that this subchapter does not apply to a contingent fee contract for legal services.

Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED. Authorizes a state agency to contract for outside legal services.

Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT.  
Authorizes the attorney general to require state agencies to obtain outside legal services through a competitive procurement process.

SECTION 7.19. Amends Section 2262.001, Government Code, by adding Subdivision (1-a) to define “commission.”

SECTION 7.20. Amends Sections 2262.051(a) and (b), Government Code, as follows:

(a) Requires TBPC, rather than the attorney general, along with certain other agencies to develop or periodically update a contract management guide.

(b) Authorizes TBPC, rather than the attorney general, to adopt rules necessary to develop or update the guide.

SECTION 7.21. Amends Section 2262.052(b), Government Code, to make a conforming change.

SECTION 7.22. Amends Section 2262.053(a), Government Code, to require certain entities to develop and administer a training program for contract managers. Makes conforming and nonsubstantive changes.

SECTION 7.23. Amends Section 2262.054, Government Code, to make a conforming change.

SECTION 7.24. Amends Section 2262.101, Government Code, to make conforming changes.

SECTION 7.25. Repealer: Sections 2155.142, 2157.001(2), 2157.064, 2157.065, 2157.066(c) and (d), and 2261.001(e), Government Code.

SECTION 7.26. Makes application of the changes in law made by this acticle to Section 2155.141, Government Code, prospective.

SECTION 7.27. (a) Defines “commission.”

(b) Provides that certain powers and duties are transferred to TBPC, not later than February 1, 2004.

SECTION 7.28. Amends Section 2175.061, Government Code, to authorize TBPC, by rule, determine the best method of disposal for surplus and salvage property of the state under this chapter.

SECTION 7.29. Amends Section 2175.134(a), Government Code, to require 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 21.75, to be deposited to the credit of the general revenue fund of the state treasury, rather than appropriate appropriation item of the state agency for which the sale was made.

SECTION 7.30. Amends Section 2175.182(a), Government Code, to delete text relating to a state agency maintaining ownership of property throughout the disposal process.

SECTION 7.31. Amends Section 2175.185(b), Government Code, to delete text requiring the comptroller, on receiving notice under this section, to debit and credit the proper appropriations.

SECTION 7.32. Amends Section 2175.191(a), Government Code, to make a conforming change.

SECTION 7.33. Amends Section 2175.361, Government Code, to redefine “federal act” and “federal property.”

SECTION 7.34. Amends Section 2175.362(a), Government Code, to provide that TBPC is the designated state agency under 40 U.S.C. Section 549 and any other federal law providing for the disposal of federal surplus property. Deletes text relating to Section 484j of the federal act.

SECTION 7.35. Amends Section 2175.364, Government Code, to authorize TBPC to take certain actions. Makes conforming changes.

SECTION 7.36. Amends Section 2175.367, Government Code, to authorize TBPC to enter into certain agreements. Makes conforming changes.

SECTION 7.37. Repealer: Sections 2175.134(b) and 2175.191(b), Government Code.

SECTION 7.38. Makes the changes in law made by this article to Chapter 2175, Government Code, prospective.

SECTION 7.39. Amends Section 2166.001(8), Government Code, to redefine “small construction project.”

SECTION 7.40. Amends Section 2166.2531, Government Code, to delete budget from the list of items for which TBPC is required to prepare a request for qualifications.

SECTION 7.41. Amends Sections 2166.2532(e) and (g), Government Code, as follows:

(e) Deletes estimated budget from the list of items to be included in a request for proposals prepared by TBPC.

(g) Deletes text requiring TBPC, at the appropriate step, to also read aloud the fees and prices, if any, stated in each proposal as the proposal.

SECTION 7.42. Amends Sections 2166.2533(d) and (f), as follows:

(d) Makes a conforming change.

(f) Deletes text relating to prices required to be stated in each proposal.

SECTION 7.43. Amends Subchapter F, Chapter 2166, Government Code, by adding Section 2166.260, as follows:

Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED. Prohibits a state agency from spending more than the amount authorized for the cost of a project unless the governor and the Legislative Budget Board (LBB) approve the expenditure. Requires each change to approved project plans, once the cost of a project reaches the amount authorized for the project, to be approved by the governor and LBB.

SECTION 7.44. Amends Section 2166.302, Government Code, as follows:

(a) Makes a conforming and a nonsubstantive change.

(b) Provides that TBPC is not required to adopt uniform general conditions for small construction projects, as defined by Section 2166.001.

SECTION 7.45. Amends Section 2166.305(b), Government Code, to provide that the committee consists of certain individuals.

SECTION 7.46. Repealer: Section 2166.201, Government Code.

SECTION 7.47. Makes the changes in law made by this article to Sections 2166.2531, 2166.2532, and 2166.2533, Government Code, prospective.

## ARTICLE 8. TRAVEL SERVICES CONTRACTS

SECTION 8.01. Amends Sections 2171.052(b) and (c), Government Code, as follows:

(b) Authorizes, rather than requires, the central travel office to negotiate contracts with private travel agents, with travel and transportation providers, and with credit card companies that provide travel services and other benefits to the state. Makes a conforming change.

(c) Deletes text relating to allowing contracts to provide travel services by as many private travel agents as possible. Makes a conforming change.

SECTION 8.02. Repealer: Section 2171.052(e), Government Code.

## ARTICLE 9. SCHOOL BUS SAFETY STANDARDS

SECTION 9.01. Amends Section 34.002(a), Education Code, to require the Department of Public Safety (DPS), with the advice of the Texas Education Agency, to establish safety standards for school buses used to transport students in accordance with Section 34.003, rather than 34.002, Education Code. Deletes text relating to the General Services Commission giving advice to DPS.

SECTION 9.02. Amends Sections 547.7015(a) and (b), Transportation Code, as follows:

(a) Requires DPS, rather than the General Services Commission, with the advice of DPS, to adopt and enforce certain rules.

(b) Makes a conforming change.

SECTION 9.03. Provides that rules that were adopted under Section 547.7015, Transportation Code, before the effective date of this article are continued in effect as rules of DPS until the rules are amended, repealed, or superseded by an action of DPS.

## ARTICLE 10. CENTRAL SUPPLY STORE; REPAIR FACILITY

SECTION 10.01. Amends Section 2172.001(a), Government Code, to authorize, rather than require, TBPC to operate a central supply store at which only state agencies, the legislature, and legislative agencies may obtain small supply items. Requires TBPC, if TBPC operates a central supply store, to devise an appropriate method of billing a using entity for the supplies.

SECTION 10.02 Amends Section 2172.002(a), Government Code, to authorize, rather than require, TBPC to maintain a facility for repairing office machines and to offer repair services to certain entities located in Austin.

SECTION 10.03. Repealer: Section 2172.001(b) (requiring TBPC to operate a central supply store), Government Code.

## ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. Effective date: upon passage or September 1, 2003.