

BILL ANALYSIS

Senate Research Center

H.B. 1516
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Government Organization
5/19/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Department of Information Resources (department) currently oversees cooperative contracts through which governmental entities may purchase information technology commodities and technical services. The department also manages the state data centers in San Angelo and Austin. There are opportunities for increased cost savings and effectiveness by authorizing the department to consolidate information technology services shared by state entities, additional volume purchasing of those services, and improving management of major information projects.

H.B. 1516 excludes telecommunications procurements from department oversight. Additionally, the data of federal databases and networks used for criminal justice and homeland security purposes is not required to be transferred to the state data center to preserve federal certification.

H.B. 1516 improves management of major information projects and enables the department to conduct procurements for information technology that promote efficiency and effectiveness and provide the best value for the State of Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Information Resources in SECTION 1.07 (Sections 2054.379 and 2054.382, Government Code) of this bill.

Rulemaking authority previously granted to the Department of Information Resources is modified in SECTION 1.08 (Section 2157.068, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. STATE ELECTRONIC PROJECTS

SECTION 1.01. Amends Subchapter C, Chapter 2054, Government Code, by adding Section 2054.0565, as follows:

Sec. 2054.0565. **USE OF CONTRACTS BY OTHER GOVERNMENTAL ENTITIES.** Authorizes the Department of Information Resources (department) to include terms in a procurement contract entered into by the department, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, or a governmental entity of another state. Provides that a political subdivision that purchases an item or service using a contract under this section satisfies any other law requiring the political subdivision to seek competitive bids for that item or service.

SECTION 1.02. Amends Section 2054.071, Government Code, as follows:

Sec. 2054.071. **New heading: IDENTITY OF MANAGER; CONSOLIDATION.** Authorizes an agency representative to be designated to serve as a joint information resources manager by two or more state agencies. Requires the department to approve the joint designation.

SECTION 1.03. Amends Section 2054.074, Government Code, to authorize a joint information resources manager, to the extent appropriate, to consolidate the operating plans of each agency for which the manager serves under Section 2054.071.

SECTION 1.04. Amends Section 2054.096, Government Code, by adding Subsection (c), to require each state agency, other than an institution of higher education, to use state commodity hardware configurations as a part of the agency's planning under this section. Requires the department to specify the state commodity hardware configurations in its instructions for the preparations of agency strategic plans.

SECTION 1.05. Amends Subchapter E, Chapter 2054, Government Code, by adding Section 2054.1015, as follows:

Sec. 2054.1015. **PLANNED PROCUREMENT SCHEDULES FOR COMMODITY ITEMS.** Defines "commodity items" and "state agency." Requires a state agency to provide a planned procurement schedule for commodity items to the department before the agency's operating plan may be approved under Section 2054.102. Requires the department to use information contained in the schedules to plan future vendor solicitations of commodity items. Requires a state agency to notify the department, the Legislative Budget Board (LBB), and the State Auditor's Office (SAO), if the agency makes a substantive change to a planned procurement schedule for commodity items.

SECTION 1.06. Amends Chapter 2054, Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. TEXAS PROJECT DELIVERY FRAMEWORK

Sec. 2054.301. **APPLICABILITY.** Provides that this subchapter applies only to a major information resources project.

Sec. 2054.302. **GUIDELINES; FORMS.** Requires a state agency to prepare each document required by this subchapter in a manner consistent with department guidelines. Requires the department, in consultation with the LBB and state auditor's office, to develop and provide guidelines and forms for the documents required by this subchapter and to work with state agencies in developing the guidelines and forms.

Sec. 2054.303. **BUSINESS CASE AND STATEWIDE IMPACT ANALYSIS.** Requires a state agency, for each proposed major information resources project, to prepare a business case and statewide impact analysis that include specific information and to file the documents with the department, the LBB, and the state auditor's office when the agency files its legislative appropriations request. Requires the department to use the analysis to ensure that the proposed project does not unnecessarily duplicate existing statewide information resources technology.

Sec. 2054.304. **PROJECT PLANS.** Requires a state agency to develop a project plan for each major information resources project and, except as provided by Subsection (c), to file the project plan with the quality assurance team and the Texas Building and Procurement Commission (TBPC) before the agency takes certain actions. Prohibits the TBPC from issuing a vendor solicitation for a project and the agency from posting a vendor solicitation for the project in the state business daily under Section 2155.083 unless the project plan has been filed under this section.

Sec. 2054.305. **PROCUREMENT PLAN AND METHOD FOR MONITORING CONTRACTS.** Requires the state agency, before issuing a vendor solicitation for a project, to develop a procurement plan with anticipated service levels and performance standards for each vendor and a method to monitor changes to the scope of each contract, consistent with department guidelines.

Sec. 2054.306. **POST-IMPLEMENTATION REVIEW.** Requires a state agency, after implementation of a major information resources project, to prepare a post-implementation review and to provide the review to the agency's executive director, the department, and SAO.

Sec. 2054.307. **APPROVAL OF DOCUMENTS AND CONTRACT CHANGES.** Requires a state agency's executive director, information resources manager, designated

project manager, and the agency employee in charge of information security for the agency to approve and sign each document required by this subchapter and, if the department requires the approval and signatures, any other document related to this subchapter. Requires the state agency's executive director to approve a proposed contract amendment or change order for a major information resources project if the amendment or change order changes the monetary value of the contract by more than 10 percent or significantly changes the completion date of the contract.

SECTION 1.07. Amends Chapter 2054, Government Code, by adding Subchapter L, as follows:

SUBCHAPTER L. STATEWIDE TECHNOLOGY CENTERS

Sec. 2054.375. DEFINITION. Defines "statewide technology center."

Sec. 2054.376. APPLICABILITY. (a) Provides that this subchapter applies to certain information resource technologies, other than telecommunications services.

(b) Provides that this subchapter does not apply to certain entities.

Sec. 2054.377. INSTITUTIONS OF HIGHER EDUCATION. Prohibits the department from establishing or expanding a statewide technology center that includes participation by an institution of higher education unless the Information Technology Council for Higher Education agrees to the establishment or expansion.

Sec. 2054.378. SCOPE OF OPERATION OF CENTERS. Authorizes the department to operate statewide technology centers to provide two or more state agencies, on a cost-sharing basis, specific services and to operate a statewide technology center directly or contract with another person to operate the center.

Sec. 2054.379. RULES. Requires the department to adopt rules and guidelines to implement this subchapter.

Sec. 2054.380. FEES. Requires the department to set and charge a fee to each state agency that receives a service from a statewide technology center in an amount sufficient to cover the direct and indirect cost of providing the service.

Sec. 2054.381. CONTRACTING; HISTORICALLY UNDERUTILIZED BUSINESSES. Requires the department, in any procurement related to the establishment of a statewide technology center, to maximize vendor competition and, to the extent feasible and cost-effective, interoperability. Requires the department, in contracting under this subchapter, to follow the requirements of Chapter 2161 (Historically Underutilized Businesses) and related rules regarding historically underutilized businesses. Requires the department to provide to all qualified businesses the opportunity to compete for department contracts under this subchapter.

Sec. 2054.382. STATEWIDE TECHNOLOGY CENTERS FOR DATA OR DISASTER RECOVERY SERVICES; USE REQUIRED. Requires the department to manage the operations of statewide technology centers that provide data center services or disaster recovery services for two or more state agencies, including management of the operations of the center on the campus of Angelo State University, and, by rule, to describe the data services provided by statewide technology centers. Prohibits a state agency from spending appropriated money to contract or issue purchase orders for data center services or disaster recovery services, including maintenance of those services, unless the executive director of the department (executive director) approves the expense. Authorizes the department to establish appropriate thresholds and procedures for securing approval under this subsection. Prohibits the LBB from granting prior approval under Section 2054.386, in relation to services provided under this section.

Sec. 2054.383. ESTABLISHMENT OF ADDITIONAL STATEWIDE TECHNOLOGY CENTERS. Authorizes the department to establish additional statewide technology centers as provided by this section and prohibits the department from establishing a

center under this section unless the governor approves the establishment, the LBB approves the expenditures necessary for the establishment, and the executive director determines in writing that consolidating operations or services of selected state agencies will promote efficiency and effectiveness and provide the best value for the state. Requires the executive director, in the written determination under this section, to identify the selected state agencies that will be required to participate in the new center.

Sec. 2054.384. COST AND REQUIREMENTS ANALYSIS. Requires the department to conduct a cost and requirements analysis for each state agency that the department intends to select for participation in a statewide technology center. Requires a selected state agency to identify its particular requirements, operations costs, and requested service levels for the department. Authorizes the department to require a state agency to validate or resubmit data related to these factors. Requires the department to fulfill the requirements and service levels of each state agency to the extent possible.

Sec. 2054.385. NOTICE OF SELECTION. Requires the department, after completion of the costs and requirements analysis under Section 2054.384, to provide notice to each state agency selected to receive services or operations through the statewide technology center. Sets forth information which is required to be included in the notice.

Sec. 2054.386. INTERAGENCY CONTRACT; PRIOR APPROVAL OF EXPENDITURES. (a) Prohibits a state agency that is selected under Section 2054.385 to receive services or to have operations performed through a statewide technology center, except as provided by Subsection (b), from spending appropriated money for the identified operations and services without the prior approval of the LBB.

(b) Requires the selected state agency, unless the LBB grants prior approval for the agency to spend appropriated money for the identified operations or services in another specified manner, to enter into an interagency contract with the department to receive the identified services and have the identified operations performed through the statewide technology center. Requires amounts charged to the selected agency under the interagency contract to be based on the fees set by the department under Section 2054.380 but prohibits those amounts from exceeding the amounts expected to be necessary to cover the direct and indirect costs of performing operations and providing services under the contract. Authorizes a state agency, before executing an interagency contract or alternatively receiving prior approval from the LBB, to only spend appropriated money for the selected service or operation if the executive director approves the expense.

(c) Authorizes the selected state agency, not later than the 30th business day after the date the agency is notified of its selection under Section 2054.385, to request the LBB to grant its prior approval for the agency to spend appropriated money for the identified operations or services in a manner other than through an interagency contract with the department under Subsection (b).

(d) Sets forth requirements for the request to the LBB.

(e) Authorizes the LBB, if the LBB determines that an interagency contract between the department and the selected state agency under Subsection (b) will fail to achieve meaningful cost savings for the state or result in an unacceptable loss of effectiveness or operational efficiency at the selected state agency, to grant its prior approval for the selected agency to spend appropriated money for the identified operations or services in another specified manner, in which event the selected agency is not required to enter into an interagency contract under Subsection (b).

(f) Requires the LBB to notify the state agency, the executive director, and the comptroller of public accounts (comptroller) of its decision.

Sec. 2054.387. INTERAGENCY CONTRACT; COMPLIANCE WITH SERVICE LEVELS. Requires the department to ensure compliance with service levels agreed to in an interagency contract executed under this subchapter.

Sec. 2054.388. TRANSFER OF OWNERSHIP. (a) Authorizes the department, subject to the governor's approval, to require a state agency that enters into an interagency contract under Section 2054.386 to transfer to the department ownership, custody, or control of resources that the department, in consultation with the agency, determines are used to support the operations or services selected under Section 2054.385. Sets forth specific resources which may be included.

(b) Requires the department to advise the governor, the lieutenant governor, the speaker of the house of representatives, the LBB, and SAO regarding the expected savings to be received for each state agency from which ownership, control, or custody is transferred under this section.

(c) Requires the department and the state agency to work to reconcile any federal funding issues that arise out of a transfer under this section. Requires the department, subject to the governor's approval, to exclude applicable resources from the transfer if the federal funding issues cannot be reconciled.

(d) Provides that Chapter 2175 (Surplus and Salvage Property) does not apply to information resources or information resources technologies transferred under this section.

Sec. 2054.389. TRANSITION SCHEDULES. Requires the department to establish transition schedules for the transfer of state agency operations and services to statewide technology centers under this subchapter.

Sec. 2054.390. MIGRATION OF SERVICES. Requires the department to prioritize the migration of services to the statewide technology center system established under this subchapter based on the size of the current technology center operational environment at a state agency, with the largest 25 technology center environments ranking highest in priority. Requires the department, unless the executive director determines that a migration under this section is not cost-effective, to ensure the migration of at least three technology center environments to the statewide technology center system each fiscal year. Provides that this requirement expires September 1, 2013. Requires a state agency to comply with the department's request to migrate under this section. Requires any consolidation plan adopted by the department to execute this section to prioritize and fully use the existing capacity of the State Data Center located on the campus of Angelo State University.

Sec. 2054.391. USE OF STATEWIDE TECHNOLOGY CENTERS REQUIRED. Prohibits a state agency from transferring services from a statewide technology center unless the executive director and the governor approve the transfer. Requires the department, if the department becomes aware that a state agency is not using a statewide technology center for operations or services in accordance with the interagency contract entered into under Section 2054.386 and as directed by the department, to notify the comptroller, the LBB, SAO, and the affected state agency of the violation. Prohibits the state agency, after notification under this section, from spending appropriated money for operations or services the agency was selected to receive through a statewide technology center without the prior approval of the executive director.

SECTION 1.08. Amends Section 2157.003, Government Code, to redefine "best value."

SECTION 1.09. Amends Section 2157.063(b), Government Code, to make modifications to the list of items the agency is required to consider in determining which goods or services are in the state's best interest.

SECTION 1.10. Amends Section 2157.68. Government Code, as follows:

Sec. 2157.068. New heading: PURCHASE OF COMMODITY ITEMS. (a) Deletes existing definition of "commodity software items" and "department." Defines "commodity items."

(b) Requires the department to negotiate with catalog information systems vendors to attempt to obtain a favorable price for all of state government on licenses for commodity, rather than commodity software, items.

(c) Requires the department, to make certain efforts in contracting for commodity items under this section.

(d) Authorizes the department to charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the department in an amount that is sufficient to recover costs associated with the administration of this section. Makes a conforming change.

(e) Makes conforming changes.

(f) Requires a state agency to make a purchase under this section in accordance with a contract developed by the department unless the agency obtains an exemption, rather than a waiver, from the department or express prior approval from the LBB for the expenditure necessary for the purchase. Makes a conforming change.

(g) Provides that the LBB's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f). Requires a state agency to request an exemption from the department under Subsection (f) before seeking prior approval from the LBB under Subsection (f).

(h) Requires the department, in cooperation with state agencies, to establish guidelines for the classification of commodity items under this section. Authorizes the department to determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

SECTION 1.11. Amends Sections 2170.051(c) and (d), Government Code, as follows:

(c) Prohibits a state agency from acquiring telecommunications services unless the department's executive director, rather than the telecommunications planning and oversight council (council), makes certain determinations.

(d) Makes conforming changes.

SECTION 1.12. Amends Subchapter B, Chapter 2170, Government Code, by adding Section 2170.061, as follows:

Sec. 2170.061. ACQUISITION WITHOUT COMPETITIVE BID; USE OF CERTAIN DISASTER-RELATED NETWORK AND STATEWIDE TECHNOLOGY CENTERS.

(a) Defines "network."

(b) Authorizes the department to acquire telecommunications services from the network without competitive bids for a purpose described by this section.

(c) Authorizes the department to use the network only as provided by this section.

(d) Authorizes the department, under certain emergency conditions, to divert telecommunications services traffic to the network to avoid service interruption. Requires traffic, after resolution of the emergency and on a determination that the consolidated telecommunications system is operational, to be diverted back to the consolidated telecommunications system.

(e) Authorizes the department to also use the network to transfer data that is not time sensitive to or from a statewide technology center established and operated by the department under Subchapter L, Chapter 2054.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 2054.003, Government Code, by adding Subdivision (8-a), to define "institution of higher education."

SECTION 2.02. Amends Section 2157.001, Government Code, to redefine "automated information system" and define "department."

SECTION 2.03. Amends Section 2157.005(a), Government Code, to make a nonsubstantive change.

SECTION 2.04. Amends Sections 2157.121(b) and (c), Government Code, to make nonsubstantive changes.

SECTION 2.05. Amends Section 2157.181(a), Government Code, to make a nonsubstantive change.

SECTION 2.06. Amends Section 2157.182, Government Code, to make nonsubstantive changes.

SECTION 2.07. Amends Section 2157.184, Government Code, to make a nonsubstantive change.

ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.01. Repealer: Sections 2054.201(c) (Composition; Terms) and 2055.061 (State Data Center), Government Code.

SECTION 3.02. Requires the department to conduct a statewide assessment of information technology security resources and practices of state agencies and, not later than December 31, 2005, to report the results of its assessment to the governor, the lieutenant governor, the speaker of the house of representatives, and SAO. Provides that the assessment and report prepared under this section are confidential and that Chapter 552 (Public Information), Government Code, does not apply to the assessment or the report.

SECTION 3.03. Requires the department, in coordination with the LBB, TBPC, and the comptroller, to analyze current automated information systems of state agencies to determine how the systems may be combined to more effectively synchronize strategic planning, budgeting, and reporting of technology expenditures, assets, and projects. Requires the department, not later than December 31, 2005, to report the results of its analysis to the governor, lieutenant governor, the speaker of the house of representatives, and the state auditor's office.

SECTION 3.04. (a) Defines "department" and "state agency."

(b) Requires each state agency, not later than March 31, 2006, to enter into an interagency contract with the department for services that the agency is required to obtain through a statewide technology center under Subchapter L, Chapter 2054, Government Code, as added by this Act, that establishes a time line for the transfer of ownership of resources to the department in accordance with Subchapter L.

(c) Requires the department, not later than August 31 of 2006 and 2007, to report on the status of the statewide technology center system migration and consolidation under Section 2054.390, Government Code, as added by this Act, describing reviews and transfers during the fiscal year, and an update on the status of any contracts relating to the statewide technology centers. Requires the department to file the report with the

governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the house and senate committees with primary oversight of the department, the chairs of the senate finance and the house of representatives appropriations committees, SAO, and each member of the LBB.

SECTION 3.05. Makes application of the changes in law made by this Act with regard to contracts prospective.

SECTION 3.06. Effective date: September 1, 2005.