

By: Isett

H.B. No. 1516

A BILL TO BE ENTITLED

AN ACT

relating to the Department of Information Resources' management of state electronic and telecommunications services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. STATE ELECTRONIC AND TELECOMMUNICATIONS PROJECTS

SECTION 1.01. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0565 to read as follows:

Sec. 2054.0565. USE OF CONTRACTS BY OTHER GOVERNMENTAL ENTITIES. The department may allow a procurement contract entered into by the department, including a contract entered into under Section 2157.068, to be used by another state agency, a political subdivision of this state, or a governmental entity of another state.

SECTION 1.02. Section 2054.071, Government Code, is amended to read as follows:

Sec. 2054.071. IDENTITY OF MANAGER; CONSOLIDATION. (a) The individual required to sign a state agency's strategic plan under Subchapter E, or that individual's designated representative, shall serve as the agency's information resources manager.

(b) A representative designated under Subsection (a) may be designated to serve as a joint information resources manager by two or more state agencies. The department must approve the joint designation.

SECTION 1.03. Section 2054.074, Government Code, is amended

1 to read as follows:

2 Sec. 2054.074. RESPONSIBILITY TO PREPARE OPERATING PLANS.

3 (a) The information resources manager shall prepare the biennial
4 operating plans under Subchapter E.

5 (b) A joint information resources manager may, to the extent
6 appropriate, consolidate the operating plans of each agency for
7 which the manager serves under Section 2054.071.

8 SECTION 1.04. Section 2054.096, Government Code, is amended
9 by adding Subsection (c) to read as follows:

10 (c) Each state agency shall use state commodity hardware
11 configurations as a part of the agency's planning under this
12 section. The department shall specify the state commodity hardware
13 configurations in its instructions for the preparations of agency
14 strategic plans.

15 SECTION 1.05. Subchapter E, Chapter 2054, Government Code,
16 is amended by adding Section 2054.1015 to read as follows:

17 Sec. 2054.1015. PLANNED PROCUREMENT SCHEDULES FOR
18 COMMODITY HARDWARE. (a) A state agency must provide a planned
19 procurement schedule for commodity hardware to the department
20 before the agency's operating plan may be approved under Section
21 2054.102.

22 (b) The department shall use information contained in the
23 schedules to plan future vendor solicitations of commodity
24 hardware.

25 (c) A state agency shall notify the department and the
26 Legislative Budget Board if the agency makes a substantive change
27 to a planned procurement schedule for commodity hardware.

1 SECTION 1.06. Chapter 2054, Government Code, is amended by
2 adding Subchapter J to read as follows:

3 SUBCHAPTER J. TEXAS PROJECT DELIVERY FRAMEWORK

4 Sec. 2054.301. APPLICABILITY. This subchapter applies only
5 to a major information resources project.

6 Sec. 2054.302. GUIDELINES; FORMS. (a) A state agency shall
7 prepare each document required by this subchapter in a manner
8 consistent with department guidelines.

9 (b) The department shall develop and provide guidelines and
10 forms for the documents required by this subchapter.

11 (c) The department shall work with state agencies in
12 developing the guidelines and forms.

13 Sec. 2054.303. BUSINESS CASE AND STATEWIDE IMPACT ANALYSIS.

14 (a) For each proposed major information resources project, a state
15 agency must prepare:

16 (1) a business case providing the initial
17 justification for the project, including the anticipated return on
18 investment in terms of cost savings and efficiency for the project;
19 and

20 (2) a statewide impact analysis of the project's
21 effect on the state's common information resources infrastructure,
22 including the possibility of reusing code or other resources.

23 (b) The agency shall file the documents with the department
24 and the Legislative Budget Board at the same time the agency files
25 its legislative appropriations request.

26 (c) The department shall use the analysis to ensure that the
27 proposed project does not unnecessarily duplicate existing

1 statewide information resources technology.

2 Sec. 2054.304. PROJECT PLANS. (a) A state agency shall
3 develop a project plan for each major information resources
4 project.

5 (b) Except as provided by Subsection (c), the state agency
6 must file the project plan with the quality assurance team before
7 the agency:

8 (1) spends more than 10 percent of allocated funds for
9 the project; or

10 (2) first issues a vendor solicitation for the
11 project.

12 (c) The Texas Building and Procurement Commission may not
13 issue a vendor solicitation for a project unless the project plan
14 has been filed under this section.

15 (d) If a project will involve vendor solicitations, the
16 project plan must include a procurement plan with anticipated
17 service levels and performance standards for each vendor.

18 Sec. 2054.305. INDEPENDENT VALIDATION AND VERIFICATION.

19 (a) A state agency shall budget for and incorporate an independent
20 validation and verification plan with the project plan required
21 under Section 2054.304.

22 (b) The department shall establish standards for:

23 (1) validation services provided by vendors; and

24 (2) validation services provided by state agencies,
25 including standards regarding department approval of
26 agency-provided validation services.

27 (c) If a state agency decides to perform validation services

1 for its own project, the agency's validation services providers
2 must operate independently from the agency's project delivery
3 teams.

4 (d) In addition to the plan required under Subsection (a), a
5 state agency shall periodically submit an independent validation
6 and verification report to the agency's executive director and to
7 the department. The department shall determine the frequency and
8 content of the report in its guidelines.

9 Sec. 2054.306. POST-IMPLEMENTATION REVIEW. After
10 implementation of a major information resources project, a state
11 agency shall prepare a post-implementation review. The agency
12 shall provide the review to the agency's executive director and to
13 the department.

14 Sec. 2054.307. APPROVAL BY STATE AGENCIES. A state
15 agency's executive director, its designated project manager, and
16 the agency employee in charge of information security for the
17 agency must approve and sign each document required by this
18 subchapter.

19 SECTION 1.07. Chapter 2054, Government Code, is amended by
20 adding Subchapter L to read as follows:

21 SUBCHAPTER L. STATEWIDE INFORMATION CENTERS

22 Sec. 2054.375. DEFINITION. In this subchapter, "statewide
23 information center" means a statewide information center
24 established or operated under this subchapter.

25 Sec. 2054.376. APPLICABILITY. This subchapter applies to
26 all information resources technologies, including consolidated
27 data center services and telecommunications services provided

1 under Chapter 2170, that are:

2 (1) obtained by a state agency using state money; or

3 (2) used by a state agency.

4 Sec. 2054.377. SCOPE OF OPERATION OF CENTERS. (a) The
5 department may operate statewide information centers to provide two
6 or more state agencies, on a cost-sharing basis, services relating
7 to:

8 (1) information resources and information resources
9 technology; and

10 (2) the deployment and development of statewide
11 applications.

12 (b) The department may operate a statewide information
13 center directly or contract with another person to operate the
14 center.

15 Sec. 2054.378. RULES. The department shall adopt rules and
16 guidelines to implement this subchapter and Chapter 2170.

17 Sec. 2054.379. FEES. The department shall set and charge a
18 fee to each state agency that receives a service from a statewide
19 information center in an amount sufficient to cover the direct and
20 indirect cost of providing the service.

21 Sec. 2054.380. STATEWIDE INFORMATION CENTERS FOR DATA OR
22 DISASTER RECOVERY SERVICES; USE REQUIRED. (a) The department
23 shall manage the operations of statewide information centers that
24 provide data center services or disaster recovery services for two
25 or more state agencies, including management of the operations of
26 the center on the campus of Angelo State University.

27 (b) The department by rule shall describe the data services

1 provided by statewide information centers.

2 (c) Each state agency shall use statewide information
3 centers for data center services and for disaster recovery
4 services.

5 (d) A state agency may not spend appropriated money to
6 contract or issue purchase orders for data center services or
7 disaster recovery services unless the executive director approves
8 the expense. The department may establish appropriate thresholds
9 and procedures for securing approval under this subsection.

10 Sec. 2054.381. TELECOMMUNICATIONS SERVICES. The
11 department shall manage a statewide information center to provide a
12 system of telecommunications services for all state agencies in
13 accordance with this chapter and Chapter 2170.

14 Sec. 2054.382. ESTABLISHMENT OF ADDITIONAL CENTERS. (a)
15 The department may establish additional statewide information
16 centers as provided by this section.

17 (b) The department may not establish a center under this
18 section unless the executive director determines in writing that
19 consolidating operations or services of selected state agencies
20 will promote efficiency and effectiveness and provide the best
21 value for the state.

22 (c) The department shall provide at least 30 days' notice to
23 the board of the department's intent to establish a new statewide
24 information center that will require entering into an interagency
25 contract under Section 2054.385(b).

26 (d) Not earlier than the 31st day after the date the board
27 receives the notice under Subsection (c), the board shall approve

1 or disapprove the establishment of the statewide information
2 center. The department may not establish the center unless the
3 board approves of the establishment.

4 Sec. 2054.383. USE OF STATEWIDE INFORMATION CENTERS
5 REQUIRED. (a) If the department becomes aware that a state agency
6 is not using a statewide information center for operations or
7 services in accordance with the interagency contract entered into
8 under Section 2054.385(b) and as directed by the department, the
9 department shall notify the comptroller, the Legislative Budget
10 Board, and the affected state agency of the violation.

11 (b) After notification under Subsection (a), the state
12 agency may not spend appropriated money for operations or services
13 the agency was selected to receive through a statewide information
14 center without the prior approval of the executive director.

15 Sec. 2054.384. NOTICE OF SELECTION. (a) After
16 establishment of a statewide information center has been approved
17 under Section 2054.382(d), the department shall provide notice to
18 each state agency selected to receive services through the center.
19 The notice must include:

20 (1) a copy of the determination of the executive
21 director under Section 2054.382(b);

22 (2) the state agency operations selected for
23 consolidation at a statewide information center;

24 (3) the scope of services to be provided to the agency;
25 and

26 (4) the implementation schedule for that agency.

27 (b) Each state agency shall identify its particular

1 requirements and requested service levels for the department. The
2 department shall fulfill the requirements and service levels of
3 each state agency to the extent possible and to the extent that
4 money is available for those purposes.

5 Sec. 2054.385. INTERAGENCY CONTRACT; PRIOR APPROVAL OF
6 EXPENDITURES. (a) A state agency that is selected under Section
7 2054.384 to receive services or to have operations performed
8 through a statewide information center may not, except as provided
9 by Subsection (b), spend appropriated money for the identified
10 operations and services without the prior approval of the
11 Legislative Budget Board.

12 (b) Unless the Legislative Budget Board grants prior
13 approval for the selected state agency to spend appropriated money
14 for the identified operations or services in another specified
15 manner, the selected agency shall enter into an interagency
16 contract with the department to receive the identified services and
17 have the identified operations performed through the statewide
18 information center. Amounts charged to the selected agency under
19 the interagency contract shall be based on the fees set by the
20 department under Section 2054.379 but may not exceed the amounts
21 expected to be necessary to cover the direct and indirect costs of
22 performing operations and providing services under the contract.

23 (c) Not later than the 15th business day after the date the
24 selected state agency is notified of its selection under Section
25 2054.384, the agency may request the Legislative Budget Board to
26 grant its prior approval for the agency to spend appropriated money
27 for the identified operations or services in a manner other than

1 through an interagency contract with the department under
2 Subsection (b).

3 (d) The request to the Legislative Budget Board must:

4 (1) be in writing;

5 (2) include a copy of the selection determination made
6 by the executive director; and

7 (3) demonstrate that the decision of the executive
8 director to select the agency will probably:

9 (A) fail to achieve meaningful cost savings for
10 the state; or

11 (B) result in an unacceptable loss of
12 effectiveness or operational efficiency.

13 (e) If the Legislative Budget Board determines that an
14 interagency contract between the department and the selected state
15 agency under Subsection (b) will fail to achieve meaningful cost
16 savings for the state or result in an unacceptable loss of
17 effectiveness or operational efficiency at the selected agency, the
18 Legislative Budget Board may grant its prior approval for the
19 selected agency to spend appropriated money for the identified
20 operations or services in another specified manner, in which event
21 the selected agency is not required to enter into an interagency
22 contract under Subsection (b).

23 (f) The Legislative Budget Board shall notify the state
24 agency, the executive director, and the comptroller of its
25 decision.

26 Sec. 2054.386. TRANSFER OF OWNERSHIP. (a) The department
27 may require a state agency that enters into an interagency contract

1 under Section 2054.385(b) to transfer to the department ownership,
2 custody, or control of resources that the department determines are
3 necessary to provide the operations or services, through the
4 statewide information center, for which the agency was selected.

5 These resources may include:

- 6 (1) information resources;
7 (2) information resources technologies;
8 (3) full-time equivalent positions; and
9 (4) any other resources determined necessary by the

10 department.

11 (b) The department shall advise the governor, the
12 lieutenant governor, and the speaker of the house of
13 representatives regarding the expected savings to be received for
14 each state agency from which ownership, custody, or control is
15 transferred under this section.

16 Sec. 2054.387. TRANSITION SCHEDULES. The department shall
17 establish transition schedules for the transfer of state agency
18 operations and services to statewide information centers under this
19 subchapter.

20 SECTION 1.08. Section 2157.068, Government Code, is amended
21 to read as follows:

22 Sec. 2157.068. PURCHASE OF COMMODITY [~~SOFTWARE~~] ITEMS. (a)
23 In this section, "commodity[+]

24 [~~(1) "Commodity software~~] items" means commercial
25 software, hardware, or technology services [~~for personal~~
26 ~~computers~~] that are [~~is~~] generally available to businesses or the
27 public and for which the department determines that a reasonable

1 demand exists in state agencies.

2 ~~[(2) "Department" means the Department of Information~~
3 ~~Resources.]~~

4 (b) The department shall negotiate with catalog information
5 systems vendors to attempt to obtain a favorable price for all of
6 state government on licenses for commodity ~~[software]~~ items, based
7 on the aggregate volume of purchases expected to be made by the
8 state. The terms and conditions of a license agreement between a
9 vendor and the department under this section may not be less
10 favorable to the state than the terms of similar license agreements
11 between the vendor and retail distributors.

12 (c) The department may charge a reasonable administrative
13 fee to a state agency, ~~[or]~~ political subdivision of this state, or
14 governmental entity of another state that purchases commodity
15 ~~[software]~~ items through the department in an amount that is
16 sufficient to recover costs associated with the administration of
17 this section.

18 (d) The department shall compile and maintain a list of
19 commodity ~~[software]~~ items available for purchase through the
20 department that have a lower price than the prices for commodity
21 ~~[software]~~ items otherwise available to state agencies under this
22 chapter. The department shall make the list available on the world
23 wide web or on a suitable successor to the world wide web if the
24 technological developments involving the Internet make it
25 advisable to do so.

26 (e) The department may adopt rules regulating a purchase by
27 a state agency of a commodity ~~[software]~~ item under this section,

1 including a requirement that, notwithstanding other provisions of
2 this chapter, the agency must make the purchase in accordance with a
3 contract developed by the department unless the agency obtains a
4 waiver from the department.

5 (f) The department shall, in cooperation with state
6 agencies, establish guidelines for the classification of commodity
7 items under this section. The department may determine when a
8 statewide vendor solicitation for a commodity item will reduce
9 purchase prices for a state agency.

10 SECTION 1.09. Section 2170.051, Government Code, is amended
11 to read as follows:

12 Sec. 2170.051. MANAGEMENT AND USE OF SYSTEM. (a) The
13 department shall manage the operation of a system of
14 telecommunications services for all state agencies. [~~Each agency~~
15 ~~shall identify its particular requirements for telecommunications~~
16 ~~services and the site at which the services are to be provided.~~]

17 (b) The consolidated telecommunications system is a
18 statewide information center service provided under this chapter
19 and Subchapter L, Chapter 2054 [~~department shall fulfill the~~
20 ~~telecommunications requirements of each state agency to the extent~~
21 ~~possible and to the extent that money is appropriated or available~~
22 ~~for that purpose].~~

23 (c) A state agency shall use the consolidated
24 telecommunications system to the fullest extent possible. [~~A state~~
25 ~~agency may not acquire telecommunications services unless the~~
26 ~~telecommunications planning and oversight council determines that~~
27 ~~the agency's requirement for telecommunications services cannot be~~

1 ~~met at a comparable cost by the consolidated telecommunications~~
2 ~~system.]~~

3 (d) A state agency may not spend appropriated money to
4 contract or issue purchase orders for telecommunications services
5 unless the executive director of the department approves the
6 expense. The department may establish appropriate thresholds and
7 procedures for securing approval under this subsection [~~enter into~~
8 ~~or renew a contract with a carrier or other provider of~~
9 ~~telecommunications services without obtaining a waiver from the~~
10 ~~telecommunications planning and oversight council certifying that~~
11 ~~the requested telecommunications services cannot be provided at a~~
12 ~~comparable cost on the consolidated telecommunications system. The~~
13 ~~telecommunications planning and oversight council shall evaluate~~
14 ~~requests for waivers based on cost-effectiveness to the state~~
15 ~~government as a whole. A waiver may be granted only for a specific~~
16 ~~period and will automatically expire on the stated expiration date~~
17 ~~unless an extension is approved by the telecommunications planning~~
18 ~~and oversight council. A contract for telecommunications services~~
19 ~~obtained under waiver may not extend beyond the expiration date of~~
20 ~~the waiver. If the telecommunications planning and oversight~~
21 ~~council becomes aware of any state agency receiving~~
22 ~~telecommunications services without a waiver, the~~
23 ~~telecommunications planning and oversight council shall notify the~~
24 ~~agency and the comptroller. The state agency shall have 60 days~~
25 ~~after notification by the telecommunications planning and~~
26 ~~oversight council in which to submit a waiver request to the~~
27 ~~telecommunications planning and oversight council documenting the~~

1 ~~agency's reasons for bypassing the consolidated telecommunications~~
2 ~~system and otherwise providing all information required by the~~
3 ~~waiver application form].~~

4 ARTICLE 2. CONFORMING AMENDMENTS

5 SECTION 2.01. Section 2157.001, Government Code, is amended
6 to read as follows:

7 Sec. 2157.001. DEFINITIONS. In this chapter:

8 (1) "Automated information system" includes:

9 (A) the computers and computer devices on which
10 an information system is automated, including computers and
11 computer devices that the commission identifies in guidelines
12 developed by the commission in consultation with the department
13 [~~Department of Information Resources~~] and in accordance with
14 Chapter 2054 and rules adopted under that chapter;

15 (B) a service related to the automation of an
16 information system, including computer software or computers;

17 (C) a telecommunications apparatus or device
18 that serves as a component of a voice, data, or video communications
19 network for transmitting, switching, routing, multiplexing,
20 modulating, amplifying, or receiving signals on the network, and
21 services related to telecommunications that are not covered under
22 Paragraph (D); and

23 (D) for the department [~~Department of~~
24 ~~Information Resources~~], as telecommunications provider for the
25 state, the term includes any service provided by a
26 telecommunications provider, as that term is defined by Section
27 51.002, Utilities Code.

1 (2) "Department" means the Department of Information
2 Resources.

3 SECTION 2.02. Section 2157.003, Government Code, is amended
4 to read as follows:

5 Sec. 2157.003. DETERMINING BEST VALUE FOR PURCHASES OF
6 AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this
7 chapter means the lowest overall cost of an automated information
8 system. In determining the lowest overall cost for a purchase or
9 lease of an automated information system under this chapter, the
10 commission or a state agency shall consider factors including:

11 (1) the purchase price;

12 (2) the compatibility to facilitate the exchange of
13 existing data;

14 (3) the capacity for expanding and upgrading to more
15 advanced levels of technology;

16 (4) quantitative reliability factors;

17 (5) the level of training required to bring persons
18 using the system to a stated level of proficiency;

19 (6) the technical support requirements for the
20 maintenance of data across a network platform and the management of
21 the network's hardware and software;

22 (7) the compliance with applicable department
23 [~~Department of Information Resources~~] statewide standards
24 validated by criteria adopted by the department by rule; and

25 (8) applicable factors listed in Sections 2155.074 and
26 2155.075.

27 SECTION 2.03. Section 2157.005(a), Government Code, is

1 amended to read as follows:

2 (a) The commission and the department [~~Department of~~
3 ~~Information Resources~~], in consultation with other state agencies
4 and after public comment, shall develop a technology access clause
5 to be included in all contracts entered into by the state or state
6 agencies that involve the acquisition of an automated information
7 system.

8 SECTION 2.04. Section 2157.063(b), Government Code, is
9 amended to read as follows:

10 (b) In determining which goods or services are in the
11 state's best interest, the agency shall consider:

12 (1) the installation and hardware costs;

13 (2) the overall life-cycle cost of the system or
14 equipment;

15 (3) the estimated cost of employee training and
16 estimated increase in employee productivity;

17 (4) the estimated software and maintenance costs; and

18 (5) the rules that prescribe applicable statewide
19 standards adopted by the department [~~Department of Information~~
20 ~~Resources~~].

21 SECTION 2.05. Sections 2157.121(b) and (c), Government
22 Code, are amended to read as follows:

23 (b) A state agency, other than the department [~~Department of~~
24 ~~Information Resources~~], shall send its proposal specifications and
25 criteria to the commission for approval or request the commission
26 to develop the proposal specifications and criteria.

27 (c) The department [~~Department of Information Resources~~]

1 may acquire a telecommunications device, system, or service or an
2 automated information system by using competitive sealed proposals
3 without regard to whether the commission makes the determination
4 required under Subsection (a) for other state agencies.

5 SECTION 2.06. Section 2157.181(a), Government Code, is
6 amended to read as follows:

7 (a) The commission, with the concurrence of the department
8 [~~Department of Information Resources~~], may negotiate with vendors
9 preapproved terms and conditions to be included in contracts
10 relating to the purchase or lease of a telecommunication device,
11 system, or service or an automated information system awarded to a
12 vendor by a state agency.

13 SECTION 2.07. Section 2157.182, Government Code, is amended
14 to read as follows:

15 Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND
16 CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions
17 to which a vendor, the commission, and the department [~~Department~~
18 ~~of Information Resources~~] agree are valid for two years after the
19 date of the agreement and must provide that the terms and conditions
20 are to be renegotiated before the end of the two years.

21 (b) The commission and the department [~~Department of~~
22 ~~Information Resources~~] jointly shall establish procedures to
23 ensure that terms and conditions are renegotiated before they
24 expire in a contract between the vendor and a state agency.

25 SECTION 2.08. Section 2157.184, Government Code, is amended
26 to read as follows:

27 Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS.

1 The commission and the department [~~Department of Information~~
2 ~~Resources~~] jointly shall establish procedures to notify state
3 agencies and potential vendors of the provisions of this subchapter
4 regarding preapproved terms and conditions.

5 ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

6 SECTION 3.01. Sections 2054.201(c) and 2055.061,
7 Government Code, are repealed.

8 SECTION 3.02. (a) The Department of Information Resources
9 shall conduct a statewide assessment of information technology
10 security resources and practices of state agencies.

11 (b) Not later than December 31, 2005, the department shall
12 report the results of its assessment to the governor, the
13 lieutenant governor, and the speaker of the house of
14 representatives.

15 (c) The assessment and report prepared under this section
16 are confidential. Chapter 552, Government Code, does not apply to
17 the assessment or the report.

18 SECTION 3.03. (a) The Department of Information Resources,
19 in coordination with the Legislative Budget Board, the Texas
20 Building and Procurement Commission, and the comptroller, shall
21 analyze current automated information systems of state agencies to
22 determine how the systems may be combined to more effectively
23 synchronize strategic planning, budgeting, and reporting of
24 technology expenditures, assets, and projects.

25 (b) Not later than December 31, 2005, the department shall
26 report the results of its analysis to the governor, the lieutenant
27 governor, and the speaker of the house of representatives.

1 SECTION 3.04. The changes in law made by this Act apply only
2 to a contract for which the initial notice soliciting bids or
3 proposals is given on or after the effective date of this Act. A
4 contract for which the initial notice soliciting bids or proposals
5 is given before that date is governed by the law in effect when the
6 initial notice is given, and the former law is continued in effect
7 for that purpose.

8 SECTION 3.05. This Act takes effect September 1, 2005.