

SUBJECT: Texas Council on Purchasing from People with Disabilities revisions

COMMITTEE: Human Services — committee substitute recommended

VOTE: 5 ayes — Naishtat, Maxey, Christian, J. Davis, Wohlgemuth

0 nays

4 absent — Chavez, Noriega, Telford, Truitt

WITNESSES: For — Frank Curtis, Texas Association of Goodwills

Against — None

BACKGROUND: The Texas Council on Purchasing from People with Disabilities is charged with running the state's program to encourage state agencies and political subdivisions to purchase goods and services from community rehabilitation programs that employ disabled Texans. The council is administratively attached to the General Services Commission (GSC).

The council determines the fair-market price of all products and services offered for sale that are manufactured or provided by persons with disabilities and identifies which products and services are the best value for the state or for political subdivisions. State agencies must procure suitable products or services from the community rehabilitation program at the fair-market price as determined by the council.

The council contracts with a nonprofit agency, called the central nonprofit agency, to administer the program by recruiting the participation of community rehabilitation programs and helping them develop and submit applications for the state's selection of suitable products and services. The central nonprofit agency also manages and coordinates the day-to-day operations of marketing and contracting with community programs.

The council must approve the maximum fee rate charged by the central nonprofit agency for services rendered.

**DIGEST:** CSHB 2624 would require the head of each state agency to report annually to the council by September 30 about the agency's purchases during the preceding fiscal year regarding:

- the total number and dollar amount of services and products purchased through the program, and
- a complete explanation of the reasons for a purchase from another source of any product or service that was available through the program.

The council's annual report to the governor, the lieutenant governor, and the speaker would have to include a compilation of the information received from agencies.

CSHB 2624 would authorize the council specifically to renegotiate an existing contract with a central nonprofit agency or enter into a new contract using competitive bidding or competitive sealed bids as determined by GSC. The council could review a bid in a closed meeting.

The council also could approve the computational method used by the central nonprofit agency for including the management fee rate in the selling price or contract price of a product or service.

This bill would take effect September 1, 1999.

**SUPPORTERS SAY:** CSHB 2624 would ensure that Texas taxpayers get their money's worth when it comes to administering the state's purchase of goods and services from the disabled, by allowing the council to request competitive bids for the administration of the program and to review those bids in closed meetings. It would clarify the council's authority and would strengthen a program that serves both state agencies and disabled individuals.

For about 20 years, the central nonprofit agency has been the Texas Industries for the Blind and Handicapped (TIBH), which was designated by the state committee that ran the program before 1995, when the council was enacted. When the council recently attempted to competitively bid the contract for the central nonprofit agency, TIBH sued, saying the council had authority only to renegotiate an existing contract and could not request bids from other entities to

contract as the central nonprofit agency. TIBH's contract subsequently was continued for another two years.

Requiring reporting from state agencies would give the council information it needs to determine whether the program is offering goods and services that state agencies want or can use. This would serve as a check against the sales amounts and figures reported by the central nonprofit agency. The council relies almost totally on the information contained in the statutorily required annual report submitted by TIBH to evaluate program effectiveness. Over the past 20 years, the program has grown from a couple of million dollars to nearly \$50 million in sales of services and products.

Also, some agencies have challenged the rates charged by TIBH, which are computed as a percentage of the selling price of the goods or services and must be paid at the time of sale. Requiring the council to approve the methods used to compute the central nonprofit agency's commissions would help mitigate the agencies' dissatisfactions.

OPPONENTS  
SAY:

CSHB 2624 is unnecessary. The program has been running well and the state has benefitted greatly from the experience and expertise of TIBH.

The law clearly states that the council has the power to designate a central nonprofit agency and provides the council with sufficient opportunity and authority to review TIBH's performance and to receive public comment on its activities. Allowing the council to request contracts from other entities to administer the program probably would not result in additional savings to the state, since it is unlikely that other nonprofit entities would be interested in running the program or able to do so more cost-effectively.