

BILL ANALYSIS

Senate Research Center

S.B. 1853
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As Filed

DIGEST

Currently, no Texas law provides for the consolidation of telecommunications services for Texas governmental agencies. Because a 1995 fiscal report done by the Comptroller's Office indicated that much of \$172 million spent to provide voice, data, facsimile, and video communications often involved duplicated efforts to provide this information, the comptroller has suggested that state law should charter a quasi-governmental, nonprofit corporation combining certain state entities to consolidate state telecommunications services. This bill establishes a nonprofit quasi-governmental corporation to consolidate state telecommunications services.

PURPOSE

As proposed, S.B. 1853 establishes a nonprofit quasi-governmental corporation to consolidate state telecommunications services.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Administrative Services Telecommunications Corporation board in SECTION 1 (Section 2169.056, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10D, Government Code, by adding Chapter 2169, as follows:

CHAPTER 2169. TEXAS ADMINISTRATIVE SERVICES TELECOMMUNICATIONS CORPORATION

SUBCHAPTER A. GENERAL PROVISIONS; PROVISION OF TELECOMMUNICATIONS SERVICES TO STATE AND LOCAL GOVERNMENTAL ENTITIES

Sec. 2169.001. **PURPOSE.** Provides that the purpose of this chapter is to establish a nonprofit corporation that meets certain provisions.

Sec. 2169.002. **DEFINITIONS.** Defines "board," "corporation," and "executive director."

Sec. 2169.003. **STATE AGENCY OPTIONS FOR OBTAINING TELECOMMUNICATIONS SERVICES.** Sets forth means through which a state may obtain telecommunications services. Provides that a state agency that obtains telecommunications services from commercial sources or provides its own telecommunications services under Subsection (a)(2) or (a)(3) to file a report with the General Services Commission (commission) regarding certain information. Requires the agency to list in the report all reasons based on cost, performance, or other criteria for obtaining or providing its own services under Subsection (a)(2) or (a)(3). Requires the commission to report any purchases made by the state agency under Subsection (b) to the Legislative Budget Board at a time prescribed by the budget board each biennium. Provides that this section does not apply to a university system or institution of higher education as defined by Section 61.003, Education Code.

Sec. 2169.004. **USE OF CORPORATION'S SERVICES BY UNIVERSITIES,**

LEGISLATIVE ENTITIES, AND LOCAL GOVERNMENTAL ENTITIES. Authorizes a university system or an institution of higher education, a house of the legislature, a legislative agency, and a local governmental entity, at the option of those entities, to obtain telecommunications services from the Texas Administrative Services Telecommunications Corporation (corporation).

Sec. 2169.005. PROVISION OF TELECOMMUNICATIONS SERVICES BY STATE AGENCY OR UNIVERSITY. Prohibits a state agency from providing telecommunications services to another state agency or to a local governmental entity except as provided by Subsection (b). Authorizes a university system or an institution of higher education as defined by Section 61.003, Education Code, to provide telecommunications services only for itself or to another such university system or institution of higher education. Authorizes an institution of higher education to also allow students who reside in the institution's housing to use the system of telecommunications services that the institution itself uses for local and long-distance services, if the institution charges each student for the full pro rata costs attributable to the student's use.

Sec. 2169.006. COMPLIANCE WITH DEPARTMENT OF INFORMATION RESOURCES' STANDARDS. Requires the telecommunications services provided by the corporation to comply with the Department of Information Resources' statewide policies and standards established under Section 2054.059.

Sec. 2169.007. RESTRICTION ON ACTIVITIES OF CORPORATION. Provides that the purpose of the corporation is to carry out the public purposes of this chapter. Provides that the corporation's activities are limited to the provision of telecommunications services to state and local governmental entities in accordance with this chapter and to exercising powers incidental to or necessary for the provision of those services.

SUBCHAPTER B. ESTABLISHMENT OF CORPORATION; ADMINISTRATIVE PROVISIONS

Sec. 2169.051. APPLICATION OF TEXAS NON-PROFIT CORPORATION ACT. Provides that the Texas Non-Profit Corporation Act applies to the corporation to the extent that the provisions of that Act are consistent with this chapter.

Sec. 2169.052. FORM OF CORPORATION; DISPOSITION OF EARNINGS. Provides that the corporation is a nonmember, nonstock corporation. Sets forth prohibitions of use for net earnings after expenses. Requires the corporation to be created as a perpetual corporation. Prohibits the corporation from being dissolved by a vote of the board of directors of the Texas Administrative Services Telecommunications Corporation (board), notwithstanding any provision of the Texas Non-Profit Corporation Act.

Sec. 2169.053. ARTICLES OF INCORPORATION. Sets forth information the articles of incorporation are required to state.

Sec. 2169.054. BOARD; APPOINTMENT; TERMS OF OFFICE. Provides that the board consists of six members appointed by the governor with the advice and consent of the senate. Provides that the members serve staggered six-year terms, of which one-third of the members expire February 1 of each odd-numbered year.

Sec. 2169.055. CONFLICT OF INTEREST. Prohibits a person from serving as a member of the board or being the executive director or an employee of the corporation if the person or the person's spouse is associated with the corporation in a certain manner. Sets forth requirements of a trade association and a business entity for purposes of this section. Prohibits a person from being a member of the board or the executive director or an employee of the corporation if the person is required to register as a lobbyist under Chapter 305 due to the person's activities for compensation on behalf of a business entity that has an interest in a contract with the corporation or a profession related to the operation of the corporation.

Sec. 2169.056. OFFICERS; COMPENSATION; MEETINGS. Requires the governor to designate the presiding officer of the board and serves in that capacity at the will of the governor. Requires the board to elect a secretary among its members. Requires the board to meet quarterly. Prohibits a member of the board from receiving compensation for service on the board, but provides that a member is entitled to receive reimbursement for actual and necessary expenses incurred in performing services as a member of the board. Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 2169.057. OPEN MEETINGS. Provides that the corporation is subject to Chapter 551. Requires the board to file notice of each meeting of the board in the manner required for a state governmental body under Chapter 551.

Sec. 2169.058. OPEN RECORDS. Provides that the board is subject to Chapter 552.

Sec. 2169.059. INDEMNIFICATION. Authorizes the corporation to indemnify a director or an officer of the corporation for necessary expenses and costs, including attorney's fees, incurred by the director or officer in connection with any claim asserted against the director or officer in a court action or otherwise for negligence or misconduct related to corporation activities.

Sec. 2169.060. EXECUTIVE DIRECTOR. Requires the board to employ an executive director to be chosen by a majority of the board members who are required to manage the corporation's day-to-day operations and employ other employees necessary to carry out the corporation's duties.

Sec. 2169.061. EXEMPTION FROM TAXATION. Authorizes the corporation to engage exclusively in the performance of public nonprofit functions under this chapter and is exempt from all taxation by this state or a municipality or other political subdivision of the state.

Sec. 2169.062. BONDS AND NOTES. Authorizes the corporation to issue bonds and notes to carry out its purpose. Authorizes the bonds and notes to be issued under any power or authority available to the corporation, including the Bond Procedures Act of 1981. Requires a bond or note issued by the corporation to state on its face that it is not an obligation of the State of Texas.

Sec. 2169.063. APPROVAL OF BONDS AND NOTES BY ATTORNEY GENERAL. Requires the corporation to submit a bond or note issued under this chapter and a contract supporting its issuance to the attorney general for examination. Requires the attorney general to approve any bond, note, or supporting contract authorized under this chapter. Prohibits a bond, note, or contract from being contested for any reason, after approval by the attorney general.

Sec. 2169.064. ASSETS ON DISSOLUTION. Requires the title to all assets, including funds and property, to be transferred to the commission on the dissolution or liquidation of the corporation.

Sec. 2169.065. FUND. Requires money paid to the corporation under this chapter to be deposited with the comptroller.

Sec. 2169.066. REPORT. Requires the corporation to file an annual report of the financial activity of the corporation with certain persons and sets forth requirements for filing the report.

Sec. 2169.067. STATE-OWNED RENTAL SPACE. Requires the commission to determine whether appropriate state-owned space is available and may rent appropriate space to the corporation at fair market value under Chapter 2165E, if requested by the corporation. Provides that a rental agreement between the commission and the corporation is not subject to Sections 2165.204 and 2165.205.

SECTION 2. Amends Section 2054.003(10), Government Code, to redefine "telecommunications."

SECTION 3. Amends Section 2054.051(e), Government Code, to require the department to provide for all interagency use of information resources technologies by state agencies, except for telecommunications services provided by the law, rather than services provided by the General Services Commission under the law.

SECTION 4. Amends Section 2054.059, Government Code, to delete existing Subsections (a), (b) and (e). Makes conforming changes.

SECTION 5. Repealers: Section 2054.011 and Chapter 2170, Government Code (Statewide Network Applications Account and Telecommunications Services).

SECTION 6. (a) Requires the governor to appoint members of the board of directors of the corporation in accordance with Chapter 2169, Government Code, as soon as possible after the effective date of this Act. Requires the governor to appoint two members for terms expiring February 1, 1999, February 1, 2001, and February 1, 2003.

(b) Requires the governor to designate one of those members as the presiding officer of the board of directors. Requires the presiding officer to serve as incorporator of the corporation and to perform those functions in accordance with Chapter 2169, Government Code.

(c) Requires the General Services Commission to transfer the telecommunications revolving fund account and certain funds to the corporation, at the time that the governor has appointed at least a quorum to the board. Provides that a quorum of the board is considered a legal entity for the purposes of performing transitional duties. Authorizes the corporation to begin using funds from the account for certain purposes.

(d) Sets forth purposes for which the executive director of the corporation is required to prepare a transition plan for approval by the board of directors.

(e) Provides that certain equipment, records, other assets, contracts, and obligations may be transferred to the corporation at the time that the board of directors certifies that the corporation is ready to begin providing certain services, if certain conditions apply. Requires any money in the statewide network applications account to be transferred. Requires the corporation to begin providing telecommunications services to state and local governmental agencies that choose to use the corporation's services.

(f) Provides that the provisions of Chapters 2054 and 2170, Government Code, that are repealed or amended by this Act are continued in effect until the board of directors certifies that the corporation is ready to begin providing services.

SECTION 7. Requires the corporation to transfer certain funds into the general revenue fund by the 90th day after the last day of each of the corporation's first five fiscal years. Requires the corporation to list insufficient resource amounts in its annual report. Requires the corporation to explain the reason for the deficiency in the notes to the report and to transfer the amount of the remaining liability into the general revenue fund.

SECTION 8. Requires the state auditor to begin an audit of certain governmental divisions on September 1, 1997. Provides that the purpose of the audit is to prepare an account of all assets, liabilities, and personnel that will be affected by the consolidation under Chapter 2169, Government Code.

SECTION 9. (a) Requires the corporation to pay into the general revenue fund a certain amount, concurrently with the transfer of the assets of certain governmental entities. Provides that the amounts paid under this subsection are in addition to the amounts paid under SECTION 7 of this Act.

(b) Requires certain applicable commission or agency to use its best efforts to secure

agreements with the appropriate federal agencies to arrange for the orderly transfer of telecommunications services to the corporation, if certain conditions exist.

SECTION 10. Effective date: September 1, 1997.

SECTION 11. Emergency clause.