

## **BILL ANALYSIS**

C.S.S.B. 1952  
By: Ellis, Rodney  
Government Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

To achieve the cost savings and revenue necessary to finance state government, C.S.S.B. 1952 implements various reorganization, efficiency, and reform measures. C.S.S.B.1952 reorganizes and consolidates several state agencies and functions, enacts several cost savings measures included in the Comptroller's eTexas reports, creates the Texas Enterprise Fund to stimulate economic development, improves the process for collecting tax on the sale of motor vehicles, improves on-line access to government services, provides for a process to privatize correctional facilities, reforms the state's environmental regulatory burden.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to any agency of this state that provides a program of health insurance or health benefits that authorizes health reimbursement arrangements in SECTION 1B.01, (Chapter 3, Insurance Code). Rulemaking authority is transferred from the Texas Funeral Commission to the Texas Department of Licensing and Regulation in SECTION 1J.21, (Chapter 651, Occupations Code); is transferred from the Texas Board of Professional Land Surveying to the Texas Department of Licensing and Regulation in SECTION 1J.22, (Chapter 1071, Occupations Code); is transferred from the Texas Department of Housing and Community Affairs to the Texas Department of Licensing and Regulation in SECTION 1J.23, (Chapter 1201, Occupations Code); is transferred from Texas State Board of Plumbing Examiners to the Texas Department of Licensing and Regulation in SECTION 1J.24, (Chapter 1301, Occupations Code); is transferred from the State Board of Barber Examiners to the Texas Department of Licensing and Regulation in SECTION 1J.25, (Chapter 1601, Occupations Code); is transferred from the Texas Cosmetology Commission to the Texas Department of Licensing and Regulation in SECTION 1J.26, (Chapter 1602, Occupations Code); is transferred from the Texas Structural Pest Control Board to the Texas Department of Licensing and Regulation in SECTION 1J.27, (Chapter 1951, Occupations Code); is transferred from Texas Board of Professional Geoscientists to the Texas Department of Licensing and Regulation in SECTION 1J.28, (Article 3271b, Vernon's Texas Civil Statutes).

It is the committee's opinion that rulemaking authority is transferred from the Office of State-Federal Relations to the Governor's Office in SECTION 1K.12, (Sec. 401.152, Government Code) and SECTION 1K.15.

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1L.01, (Sec. 461.003, Transportation Code).

It is the committee's opinion that rulemaking authority is transferred from the Texas Commission on Private Security to the Texas Department of Public Safety in SECTION 1P.01, (Sec.1702.005, Occupations Code).

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 2B.01 (Art. 6448a, Revised Statutes); rulemaking is expressly granted to the Comptroller of Public Accounts in SECTION 2D.03 (Sec. 152.0412, Tax Code); rulemaking authority

is expressly granted to the Governor in SECTION 2E.02 (Sec. 391.009, Local Government Code); rulemaking authority is expressly transferred to the Texas Building and Procurement Commission from a state agency in relation to facilities management in SECTION 3B.03; rulemaking authority is expressly delegated to the Department of Information Resources in SECTION 4A.01 (Section 2054.102, Government Code); rulemaking authority is expressly granted to the board of the Department of Information Resources in SECTION 4B.14 (Section 2054.271, Government Code).

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Department of Public Safety in SECTION 4F.01 (Sections 548.251 and 548.253, Transportation Code) and SECTION 4F.02 (Section 548.508, Transportation Code). Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 5A.01 (Section 223.050, Transportation Code). It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 5A.02 (Section 2158.276, Government Code).

It is the opinion of the committee that rulemaking authority is expressly granted to the Commission on Private Initiative in SECTION 5B.01 (Section 495.013, Government Code); transfers rulemaking authority from the Private Sector Prison Industries Oversight Authority to the Commission on Private Initiative in SECTION 5B.02 (Sections 497.057, 497.058, 497.0581, 497.059, and 497.060). Rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 5E.15 (2157.066, Government Code).

It is the opinion of the committee that rulemaking authority is expressly transferred from the Office of the Attorney General to the Texas Building and Procurement Commission in SECTION 5E.20 (Section 2262.051, Government Code), SECTION 5E.23 (Section 2262.054, Government Code). It is the opinion of the committee that rulemaking authority is expressly transferred from the Office of the Attorney General and the State Auditor to the Texas Building and Procurement Commission in SECTION 5E.27 (Chapter 2262, Government Code); rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 5E.28 (Section 2175.061, Government Code).

It is the opinion of the committee that rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 7A.02 (Section 813.514, Government Code). Rulemaking authority is expressly granted to the Governor in SECTION 7E.03. (Section 651.004, Government Code).

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 8A.01 (Sections 5.853 and 5.855, Water Code), SECTION 8B.01 (Section 5.132, Water Code), SECTION 8B.03 (Section 5.5515, Water Code), SECTION 8B.06 (Section 5.554, Water Code), SECTION 8B.09 (Section 5.556, Water Code), SECTION 8B.14 (Sections 361.123 and 361.124, Health and Safety Code), SECTION 8B.15 (Section 361.534, Health and Safety Code), SECTION 8B.17 (Section 382.05191, Health and Safety Code), SECTION 8B.18 (Section 382.05197, Health and Safety Code), SECTION 8B.20 (Section 382.056, Health and Safety Code), SECTION 8B.22 (Section 382.0561, Health and Safety Code), SECTION 8C.06 (Section 27.051, Water Code, as amended by Chapter 965, Acts of the 77th Legislature, Regular Session, 2001), and SECTION 8F.02.

It is the opinion of the committee that rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 8K.06 (Section 16.006, Agriculture Code).

It is the opinion of the committee that rulemaking authority is expressly transferred from the Texas Building and Procurement Commission to the Texas Department of Public Safety in SECTION 9A.02 (Section 547.7015, Transportation Code).

It is the opinion of the committee that rulemaking authority is expressly granted to the commissioner of the State Board on Property Valuation in SECTION 13A.01 (Section 51.22, Section 51.42, Section 51.44, Tax Code); rulemaking authority is transferred from the comptroller to the commissioner of the State

Board on Property Valuation in SECTION 13A.22 (Section 1.111, Tax Code). It is the opinion of the committee that rulemaking authority is expressly granted to the State Board on Property Valuation in SECTION 13A.23 (Section 5.01, Tax Code) and in SECTION 13A.24 (Section 5.03, Tax Code). It is the opinion of the committee that rulemaking authority is expressly transferred from the comptroller to the State Board on Property Valuation in SECTION 13A.24 (Section 5.03, Tax Code); rulemaking authority is expressly transferred from the comptroller to the commissioner of the State Board on Property Valuation in SECTION 13A.35 (Section 11.252, Tax Code), SECTION 13A.39 (Section 11.44, Tax Code), SECTION 13A.40 (Section 21.03, Tax Code), SECTION 13A.41 (Section 21.031, Tax Code), SECTION 13A.53 (Section 23.1241, Tax Code), SECTION 13A.55 (Section 23.1242, Tax Code), SECTION 13A.60 (Section 23.127, Tax Code), SECTION 13A.62 (Section 23.128, Tax Code), SECTION 13A.63 (Section 23.175, Tax Code), SECTION 13A.64 (Section 23.41, Tax Code), SECTION 13A.67 (Section 23.52, Tax Code), SECTION 13A.68 (Section 23.521, Tax Code), SECTION 13A.70 (Section 23.73, Tax Code), SECTION 13A.72 (Section 23.83, Tax Code), SECTION 13A.74 (Section 23.93, Tax Code), SECTION 13A.78 (Section 24.34, Tax Code), SECTION 13A.85 (Section 25.03, Tax Code), SECTION 13A.88 (Section 26.01, Tax Code), SECTION 13A.90 (Section 26.06, Tax Code), SECTION 13A.92 (Section 31.032, Tax Code), SECTION 13A.94 (Section 31.11 Tax Code), SECTION 13A.100 (Section 41.70, Tax Code), SECTION 13A.110 (Section 39.901, Utilities Code), and SECTION 13A.112.

## **ANALYSIS**

### **Part 1. General Matters Affecting State Agencies, Including Consolidation of Functions and Entities**

C.S.S.B. 1952 broadens the qualifications for persons eligible to be appointed to serve as Adjutant General by allowing active duty service in the marines, at least 10 years reserve or active duty service as a commissioned officer with the United State armed forces, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

C.S.S.B. 1952 allows state agencies that provide health insurance or health benefits to provide their program in accordance with the ruling of the United State Internal Revenue Service authorizing reimbursement arrangements.

C.S.S.B. 1952 defines what constitutes a budgetary working paper, and excepts certain entities from disclosure required under Chapter 552, Government Code.

C.S.S.B. 1952 changes the terms of the Workers' Compensation Commissioners to two-year terms from staggered six-year terms.

C.S.S.B. 1952 changes the number of members of the Board of Pardons and Paroles Policy Board from six members to seven.

C.S.S.B. 1952 removes the requirement that no more than one member of the Veterans Commission be from a senatorial district composed of a single county.

C.S.S.B. 1952 allows the Governor to issue executive orders to change the organization and operations of a state agency within the executive branch, including institutions of higher education other than a public junior college. Changes made by the Governor must be consistent with the state constitution and existing law.

C.S.S.B. 1952 reduces the size of the Higher Education Coordinating Board from 18 to nine members.

C.S.S.B. 1952 abolishes the Funeral Services Commission, Board of Professional Land Surveying, State Board of Plumbing Examiners, State Board of Barber Examiners, Cosmetology Commission, Structural

Pest Control Board, and Board of Professional Geoscientists and transfers the functions and activities of those agencies to the Department of Licensing and Regulation. Transfers responsibility for the regulation of manufactured housing from the Department of Housing and Community Affairs to the Department of Licensing and Regulation. Requires the Governor to appoint seven-member advisory committees for each of the transferred functions to advise the Department of Licensing and Regulation in administering each regulatory act. Changes number of Commission members for the Department from six to seven.

C.S.S.B. 1952 transfers the Office of State-Federal Relations to the Governor's Office and requires the Governor to appoint the director of the office. Changes the Office of State-Federal Relations Advisory Policy Board to the State-Federal Relations Advisory Board. Gives the Governor's Office of Budget, Planning, and Policy primary responsibility for monitoring and reporting on the state's efforts to ensure receipt of an equitable share of federal formula funds.

C.S.S.B. 1952 provides for the increased coordination of provision of public transportation in the state.

C.S.S.B. 1952 requires the Governor to present a copy of the Governor's budget to the legislature before the State of the State address, rather than within the first six days of the legislative session. Deletes the criminal penalty for a person who refuses to perform duties related to the Governor's budget. Repeals the requirement the Governor biennially prepare and submit to the legislature a report on the organization and efficiency of state agencies.

C.S.S.B. 1952 provides that the Commissioner of Insurance serves a one-year, rather than a two-year, term of office. Changes the qualifications for the Commissioner of Insurance by removing the requirement of experience as an administrator and ten years service as a business or government executive, practicing attorney, or certified public accountant with five years specializing in the insurance field.

C.S.S.B. 1952 requires the Higher Education Coordinating Board to review the organization and operations of university system offices and to identify opportunities for reorganization and consolidation of functions, systems, and activities by November 1, 2004.

C.S.S.B. 1952 abolishes the Commission on Private Security and transfers its functions to Department of Public Safety.

C.S.S.B. 1952 allows the Governor to consider geographic and the balance of rural and urban representation when making appointments to the Parks and Wildlife Department Board.

C.S.S.B. 1952 provides that the Governor designate a member of the governing body of each state agency, university system, institution of higher education, and river authority as the presiding officer to serve at the pleasure of the Governor.

C.S.S.B. 1952 requires the Department of Criminal Justice to report on the costs and feasibility of providing cognitive behavior training to corrections officers by December 31, 2004. Requires the Department, in consultation with representative from the University of Texas and Texas A&M University who are specialists in corporate reorganization and efficiency, to conduct a study to evaluate the organizational efficiency of the Department.

C.S.S.B. 1952 repeals certain sections of the Occupations Code, certain sections of the Texas Geoscience Practice Act, certain sections of the Government Code.

## **Part 2. Fees and Other Financial Issues**

C.S.S.B. 1952 creates the Texas Enterprise Fund as an account in the general revenue fund for economic development, infrastructure, and job training and creation programs. Allows the Governor to negotiate on behalf of the state to grant money from the fund, with the consent of the Lieutenant Governor and Speaker of the House.

C.S.S.B. 1952 requires the Railroad Commission to assess and collect fees on railroads operating in the state to cover the costs of administering the rail safety program.

C.S.S.B. 1952 would require agencies to determine if capital items could be funded through savings from a contract for energy utility conservation. Requires agencies to consider utility cost savings generated as potential methods to finance capital expenditures.

C.S.S.B. 1952 requires the Comptroller of Public Accounts, in cooperation with the Department of Transportation, to adopt rules for determining the standard presumptive value of a motor vehicle subject to the sales tax. Prohibits the transfer of a motor vehicle title if the sales price is less than the standard presumptive value of the vehicle. Specifies the manner and amounts of motor fuels taxes the Comptroller is to withhold from the state highway fund if the Department has not fully implemented the registration and title system by September 1, 2003.

C.S.S.B. 1952 adds the State Auditor to the entities with statutory oversight of regional planning commissions and specifies the responsibilities of the Auditor.

C.S.S.B. 1952 allows the Governor to negotiate on the state's behalf in economic pursuits and specifies the categories of funds the Governor may redirect for economic development.

C.S.S.B. 1952 requires the Texas Transportation Institute to state whether state highway fund money could be used in lieu of general revenue money when submitting budget requests to the legislature, Legislative Budget Board, or Higher Education Coordinating Board.

C.S.S.B. 1952 Sets forth qualifications for unclaimed wages.

C.S.S.B. 1952 increases the registration and renewal fees for landscape architects, interior designers, professional land surveyors, and property tax consultants by \$200. Provides that \$50 of the increase be deposited in the foundation school fund and \$150 in the general revenue fund.

C.S.S.B. 1952 requires the Legislative Budget Board and the Governor to develop performance measures to be used by state agencies in the appropriations process. Requires the Legislative Budget Board and the Governor to develop recommendations for improving the strategic planning process. Requires agencies to submit letters to the Office of the Governor, the Legislative Budget Board, and the State Auditor providing assurance about risk assessment and financial control systems.

### **Part 3. Management of State Property and Facilities**

C.S.S.B. 1952 requires a state agency with 10 or more motor vehicles or non-road diesels to reduce total fuel consumption by at least 5 percent from fiscal year 2002 consumption levels through cost-effective fuel saving technologies. A state agency may delay reducing fuel use until a list of proven technologies is provided by the State Energy Conservation Office and may not purchase technology that increases pollution or degrades air quality.

C.S.S.B. 1952 requires the Department of Transportation, under the direction of the State Energy Conservation Office, to demonstrate the effectiveness of at least four fuel-saving technologies on a combined maximum of 100 vehicles to determine the technologies that reduce fuel consumption and save state revenue. The Texas Council on Environmental Technology, the University of Texas Center for Transportation Research, the University of Houston Diesel Emissions Center, or another agency may be designated to assist with the demonstration. Requires the State Energy Conservation Office to rank the technologies and provide a report to each state agency with 10 or more vehicles and to the Legislative Budget Board by September 1, 2004.

C.S.S.B. 1952 transfers to the Building and Procurement Commission the responsibility for all facilities management services for all facilities not unique to carrying out an agency program for a state facility in

Travis County, or in an adjacent county. Requires the State Energy Conservation Office to provide utility management services for the same facilities. Exempts higher education facilities, military facilities, prison facilities, the Capitol and related facilities, and residential facilities.

C.S.S.B. 1952 abolishes the Recycling Market Development Board and transfers the functions and duties of the Board to Governor's Office, the Commission on Environmental Quality, the Department of Economic Development, and the Building and Procurement Commission.

C.S.S.B. 1952 requires the Building and Procurement Commission to develop private, commercial uses for state-owned parking lots and garages located within the City of Austin. Allows the Commission to contract with a private vendor to manage the program and money received from a lease under the program must be deposited to the credit of the general revenue fund.

C.S.S.B. 1952 clarifies that the Building and Procurement Commission may lease boat storage space, aircraft hangar space, and vehicle parking space for state agencies with those needs. Authorizes the Commission to revoke a delegation of authority to another state agency to enter into lease contracts for space. Gives the Commission the option of charging and billing state agencies for the cost of providing leasing services, rather than making these charges mandatory. Allows the Commission the option of inviting a state agency to participate in the discussions and negotiations. Allows the Commission to renew leases under which the terms are agreed upon by all parties rather than allowing for only a one-time renewal, not to exceed one year. Clarifies that agencies must certify that they have funds available to pay for their lease until the end of the next fiscal biennium.

C.S.S.B. 1952 allows the Transportation Commission to sell the Bull Creek campus with the revenue deposited to the credit of the state highway fund. Allows the commission to purchase or acquire the State Aircraft Pooling Board property and adjacent property located at the former Robert Mueller Municipal Airport in Austin by eminent domain as replacement property.

C.S.S.B. 1952 changes the limitation on the allocation of space to an average of 135 square feet per employee from 153 square feet. Allows the Building and Procurement Commission to determine the applicability of the allocation for small agencies. Requires the Commission to determine whether it would be cost-effective to bring its current allocation of space into compliance with the new requirements.

C.S.S.B. 1952 deletes the requirement that the Building and Procurement Commission solicit and consider comments from the asset management division of the General Land Office before the Commission leases public ground for agricultural or commercial purposes or leases space in a state-owned building to private tenants.

C.S.S.B. 1952 requires the Building and Procurement Commission to stipulate the use of recycled steel as one of the components in its requests for proposals when appropriate, including all building construction projects of the state.

C.S.S.B. 1952 repeals certain sections of the Government Code.

#### **Part 4. Management of Information Technology.**

C.S.S.B. 1952 requires the Legislative Budget Board to process agency biennial operating plans or amendments within 60 days of receipt. Requires the Department of Information Resources to adopt rules to establish standards and provide the Legislative Budget Board with a list of agencies that have not complied with standards, provisions of the strategic plan, or corrective action plans. Requires an agency identified on the list to develop a corrective action plan.

C.S.S.B. 1952 increases the size of the TexasOnline authority from 15 to 17 members by increasing the number of public members from three to six and by removing the member representing the Department of Information Resources. Requires the Governor to designate a member of the authority, rather than the

Department, as the presiding officer who serves at the pleasure of the Governor.

C.S.S.B. 1952 requires a state agency using TexasOnline to advertise the option of completing transactions on-line. Requires a state agency to provide the Department of Information Resources an opportunity to bid on a project that proposes to duplicate a TexasOnline function. Requires state agencies with Internet sites to include a link to TexasOnline on the front page of the site. Allows state agencies to use electronic payment methods for transactions.

C.S.S.B. 1952 authorizes the TexasOnline Authority to charge a reasonable convenience fee to a license holder who uses on-line license issuance or renewal if the transaction costs exceed the maximum increase in occupational license renewal fees. Authorizes the authority to exempt a licensing entity from subscription fees if the entity has established an Internet portal that is performing cost-effective on-line license renewal. Requires each licensing entity to increase the occupational license fees, rather than renewal fees, by an amount sufficient to cover the cost of the subscription fee. Requires certain licensing authorities to participate in the TexasOnline system. Authorizes a licensing entity to use another state agency's database, where appropriate, to validate an individual's identity rather than requiring a notarized document or a document signed by a third party.

C.S.S.B. 1952 provides that a contract between the TexasOnline Authority and another entity is not void for the sole reason that a member of the authority also serves on the governing body of the contracting entity. Authorizes the Department of Information Resources to exercise all intellectual property rights regarding TexasOnline, including prevention from using similar names or designs used by the project to market products. Provides that for purposes of TexasOnline, the renewal of a motor vehicle registration is a state service. Requires certain state agencies to study the feasibility of making on-line renewals of licenses mandatory. Allows the Authority to hold an open or closed meeting by telephone conference. Requires the Department of Information Resources to work with the Secretary of State to study the feasibility of providing notary public services on the Internet.

C.S.S.B. 1952 requires the Comptroller of Public Accounts, contracting with a private vendor, to establish a common electronic infrastructure to administer state agency work site benefits plans. Requires the contract to specify that the project applies to all state agencies at no cost to the state until the project is initially implemented. Requires the vendor to offer existing technology for use in the project.

C.S.S.B. 1952 requires the executive director of the Workforce Commission to use TexasOnline to furnish appropriate electronic records to eligible individuals. Requires the fee to recover the total costs incurred in furnishing the record.

C.S.S.B. 1952 allows the Department of Public Safety to adopt rules that authorize inspection stations to purchase inspection certificates and transmit information using TexasOnline. Authorizes inspection stations to collect reasonable fees to support the system.

C.S.S.B. 1952 repeals certain sections of the Government Code.

## **Part 5. State Contracting and Procurement.**

C.S.S.B. 1952 requires the Department of Transportation to require contractors for highway projects to use an owner-controlled insurance program, managed by the Texas Building and Procurement Commission. Requires the Commission to contract with one or more private vendors to develop an owner-controlled insurance program to be used by state agencies for public works projects. Authorizes the Commission to approve the use of the program by local governments. Authorizes the Commission or the vendor to charge a fee for use of the program. Deletes the requirement that the Commission or other agency may require a contractor or subcontractor to meet bonding or insurance requirements under a negotiated arrangement.

C.S.S.B. 1952 alters the composition of the Private Sector Prison Industries Oversight Authority, renaming it the Commission on Private Initiative, which will administer the state's contracts with vendors for

correctional facilities and services. It also delineates representation on the commission. Provides that members of the Commission are entitled to travel reimbursement, authorizes the Commission to employ a director and staff, and authorizes the Commission to adopt rules as necessary. Requires the Commission to issue requests for proposals for services, contract negotiation, and vendor oversight and monitoring. Requires the Commission, with the assistance of other entities, to establish a daily “price to beat” per diem rate for facilities operated by the Department or under contract.

C.S.S.B. 1952 transfers employees and funds from the private facilities division of the Department of Criminal Justice to the Commission on Private Initiative. Specifies the Commission, rather than the Department, is responsible for all matters related to contracts with private vendors and commissioners courts for institutional division facilities as well as services and removes the current provision dealing with the maximum average daily population of 1,000 inmates held in facilities operated by private vendors or a county. Deletes the requirement that requests for proposals have an initial contract term of not more than three years with an option to review for additional periods of two years. Specifies the Commission, rather than the Legislative Budget Board, determine the costs and savings of a proposal for private facilities. Requires the Commission to enter into contracts with private vendors for at least 1,000 beds for inmates serving sentences for driving while intoxicated. Deletes provisions related to Department’s responsibilities regarding operation of correctional facilities by a private vendor. Requires entities entering into contracts to maximize revenue through participation in inmate industry and agriculture programs, technology, and commissary programs and details how proceeds from these activities are treated.

C.S.S.B. 1952 requires the office of vehicle fleet management within the Building and Procurement Commission to provide monthly reports to agencies to assist with the management of vehicle fleets. Allows the Commission to choose whether to continue or cease providing routine vehicle maintenance to state agencies in Travis County and to negotiate contracts for major overhauls and extensive mechanical work. Deletes the requirement the Commission deposit the proceeds for the sale or surplus or salvage property to the account that the agency used to purchase the vehicle and requires the funds to be deposited in the general revenue fund, unless the property was acquired with money from the state highway fund or property given or granted to a state agency.

C.S.S.B. 1952 deletes the requirement an institution of higher education consider the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification for use of the unique material. Exempts outside legal counsel services, expert witnesses, or litigation-related goods and services from the State Purchasing Act. Requires the Building and Procurement Commission to require a reasonable number, rather than 24 hours, of continuing education and gives flexibility for the renewal period to maintain certification for state agency purchasers. Expands the Commission’s authority to make purchases previously not within its purchasing authority. Delegates the fire fighters’ pension commissioner all purchasing functions relating to the purchase of goods and services from non-general revenue funds for fiduciary duties of the retirement fund.

C.S.S.B. 1952 allows the Building and Procurement Commission to collect rebates from vendors under a contract listed on the multiple award contract schedule. Modifies the catalogue purchasing process to remove the requirement that the vendor apply and be designated by the Commission as a qualified information system vendor. Transfers responsibilities and all appropriated funds related to statewide contract management from the State Auditor’s Office and the Office of Attorney General to the Building and Procurement Commission no later than February 1, 2004. Removes statutory delegation of certain purchasing authority from instructional departments of institutions of higher education or similar activities of other state agencies, the Veteran's Land Board, health and human services agencies, and from state agencies acquiring goods and services in support of health care programs.

C.S.S.B. 1952 allows a state agency to contract for legal services and specifies that the Professional Services Procurement Act does not apply to a contingent fee for legal services. Allows the Attorney General to require state agencies to obtain outside legal services through a competitive procurement process.



C.S.S.B. 1952 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 approve the expenditure. Requires an agency to get authorization from the Governor and the Legislative Budget Board for any changes to the approved project plans once the cost of the project reaches the amount that has been authorized.

C.S.S.B. 1952 prohibits the Commission on Environmental Quality from amending, interpreting, impairing, or modifying a wholesale water contract. Requires a written petition to include information that the petitioner has not entered into a contract with the party owning or controlling the water supply.

C.S.S.B. 1952 authorizes, rather than requires, the Building and Procurement Commission the option of negotiating private travel service contracts. Eliminates the requirement that the Commission maintain at least one contract with a provider of travel services.

C.S.S.B. 1952 provides that the Building and Procurement Commission consists of five members appointed by the Governor, after January 31, 2007. Until that date, the Commission will consist of seven members, three of which are appointed by the Governor, two of which are appointed by the Governor, chosen from a list of nominees submitted by the Speaker, and two of which are appointed by the Lieutenant Governor. Requires the governing body of the Commission to meet at least quarterly, rather than monthly. Provides that the executive director or the executive director's designee may serve as the Commission's representative on various boards and committees where representation by the Commission is required, unless the presiding officer of the Commission elects to personally serve or appoints a specific person. Requires the Commission to have an appropriate number of deputy director positions, rather than mandating three associate deputy directors. Authorizes, rather than requires, the Commission to operate a central supply store and requires the Commission to devise an appropriate method of billing method for use of the store. Deletes the requirement that the Commission send a monthly purchase voucher to each entity using the store. Authorizes, rather than requires, the Commission to maintain a facility to repair office machines.

C.S.S.B. 1952 requires the Department of Information Resources to create a program that automatically generates letterhead for a state agency on an agency computer.

C.S.S.B. 1952 repeals certain sections of the Government Code.

## **Part 6. Reserved.**

## **Part 7. Personnel and Human Resources.**

C.S.S.B. 1952 delays Employee's Retirement System contributions for the first 90 days of employment for new hires and persons who are reemployed and have withdrawn contributions. Allows new employees to purchase credit for during the 90-day waiting period on a cost-neutral basis.

C.S.S.B. 1952 allows for cost-sharing if an employee prefers to not participate in ordering prescriptions through the mail order process.

C.S.S.B. 1952 requires agencies with more than 500 or more full-time equivalent employees to achieve a ratio of human resources personnel to employees of not more than 1:100. Requires the Council on Competitive Government to determine the cost-effectiveness of consolidating or outsourcing the human resources functions of agencies with fewer than 500 full-time equivalent employees.

C.S.S.B. 1952 eliminates state-paid health insurance for state board and commission members or their dependents.

C.S.S.B. 1952 allows agencies to make salary bonus payments of up to \$5,000 under certain circumstances when hiring new employees or to retain current employees. Requires repayment if the employee discontinues employment during the first year. Establishes a management performance program

administered within executive branch agencies requiring the governing body of a state agency to enter into agreements with employees who serve in upper management positions.

C.S.S.B. 1952 imposes limitations on the allowable management to staff ratio at state agencies, equal to 1:8 in fiscal year 2004, 1:9 in fiscal year 2005, 1:10 in fiscal year 2006 and 1:11 afterwards. Agencies would have to reduce management staff to meet the ratios.

C.S.S.B. 1952 repeals certain sections of the Government Code.

## **Part 8. Environment**

C.S.S.B. 1952 establishes procedures for providing public notice, opportunity for public comment, and an opportunity for a non adjudicative hearing for certain permits issued by the Commission on Environmental Quality related to water quality control, injection wells, and solid waste disposal facilities, and the Clean Air Act. Requires hearings on applications for issuance, amendment, modification, or renewal of certain permits to be conducted as non adjudicative hearings and not as contested case hearings after the close of the public comment period if there is significant public interest in the application. Requires the Commission to establish the form, content, and timing of the notice and duration of the public comment period; requires the Commission to mail notice to the state senator and representative of the general area in which the facility is located or proposed to be located; requires applicants to publish notice in newspaper of general circulation; provides statutory consistency for public notice, comment, and meeting requirements; makes state notice requirements for permitting actions consistent with federal program requirements that public notice be issued after technical review of the application is complete and a draft permit is issued. If necessary to satisfy federal authorization requirements, the executive director of the Commission is required to prepare and file a response to each submitted significant written comment, a fact sheet describing the principal facts and significant legal and policy issues is to be filed if a response to each individual comment is not required for federal authorization.

C.S.S.B. 1952 allows the Commission on Environmental Quality to issue a general permit to authorize a regulated activity for a category of entities if operations are the same or substantially similar, enforceable compliance can be monitored and does not conflict with maintenance of federal program authorizations. Specifies requirements for notice, public meetings and comments, procedures, time limits for issuance or denial, and fees related to permit issuance. Specifies that Commission actions related to general permits are not to be conducted as contested cases. Establishes time limit for issuance or denial of such permits.

C.S.S.B. 1952 eliminates pre-hearings by the Commission on Environmental Quality on parties and issues related to permits for regulated activities. Creates a standard for determining affected parties based on distance to the facility, group composition and the nature of the application.

C.S.S.B. 1952 allows the Commission on Environmental Quality not to hold a contested case hearing before issuing a new or renewed permit if the permit action has been noticed and the public has been provided an opportunity to comment on the action and request a non adjudicative hearing. Provides that a public meeting is not required for a new municipal solid waste facility that is authorized by registration. Provides for renewal of a permit for treatment, storage, or disposal of solid waste if the renewal application does not include any changes to the existing permit. Provides that permits for new arid exempt landfills designated to the disposal of brush, construction, and demolition waste and new animal crematory facilities are subject to notice and comment but not contested case hearings.

C.S.S.B. 1952 provides for notice and opportunity for non adjudicative hearings for existing facility permits, electric generating facilities, pipeline facilities, and voluntary emission reduction permit applications. Deletes the requirement to publish notice of intent to obtain a permit pursuant to Section 382.056 of the Health and Safety Code and provides that applications for multiple plant permits are subject to notice and opportunity for hearing; provides authority to require additional notice.

C.S.S.B. 1952 provides that an amendment, modification, or renewal of a permit that would not result in

an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted is subject to notice. Provides that an application for a permit amendment is not subject to notice and opportunity for a contested case hearing if the total emissions increase from all facilities authorized meet the de minimis criteria and there is no change in character of emissions. Provides that certain applications for permit, permit amendment, or permit renewal are only subject to notice and opportunity for a non-adjudicative hearing. Applications are subject to contested case hearing if the applicant's compliance history is unacceptable to the commission based on certain criteria.

C.S.S.B. 1952 repeals the exemption for notice for de minimis facilities that have no change in character of emissions and the exemption for notice of certain agricultural facilities if the total emissions increase from all facilities authorized under the amendment is not significant and there will be no change in character of emissions.

C.S.S.B. 1952 repeals provisions related to performance-based regulation by the Commission on Environmental Quality. Eliminates the compliance history classification system administered by the Commission and replaces the current rating and ranking system with an "acceptable" or "unacceptable" determination made by the Commission on matters involving a permittee or applicant.

C.S.S.B. 1952 establishes a separate, operating fee account in the state treasury for future Title V emissions fees. Requires that any balance remaining in the account at the end of a fiscal be used in subsequent fiscal years to cover the costs of developing and administering the Texas Title V operating permit program.

C.S.S.B. 1952 Repeals provisions relating to Interagency Council, Oil Spill Oversight Council, Coastal Discharge Contingency Plan, notice to Railroad Commission relative to certain applications, and transfers Railroad Commission jurisdiction over coastal spills from exploration and production facilities of 240 barrels or less to the General Land Office.

C.S.S.B. 1952 repeals certain reporting requirements of the Commission on Environmental Quality.

C.S.S.B. 1952 repeals provisions related to purchasing or leasing requirements for mass transit, local government, private, and state fleet vehicles related to the Texas Clean Fleet program.

C.S.S.B. 1952 requires the Department of Agriculture to grant funds to producers of fuel ethanol and biodiesel as an incentive for the development of the renewable fuel industry in Texas. Specifies eligibility and reporting requirements, composition of the fund created to administer the program, and requirements related to grants made under the program.

C.S.S.B. 1952 repeals certain sections of the Water Code, certain sections of the Health and Safety Code, certain sections of the Government Code, certain sections of the Natural Resources Code, certain sections of the Transportation Code.

## **Part 9. Education**

C.S.S.B. 1952 removes the Building and Procurement Commission's authority and designates the Department of Public Safety as the primary agency charged with school bus safety standards.

## **Part 10. Insurance.**

C.S.S.B. 1952 requires the dormancy period for funds received for the ownership shares of demutualized insurance companies to begin either on the date of last contact or the date of demutualization, whichever is earlier. Requires the holder of property subject to delivery under demutualization to deliver the property and required reports to the Comptroller on or before August 1.

## **Part 11. Reserved.**

**Part 12. Reserved.**

**Part 13. Ad Valorem Taxation.**

C.S.S.B. 1952 creates the State Board on Property Valuation consisting of five members appointed by the Governor; specifies terms of members and eligibility and requirements to serve on the Board. Requires the Board to employ a commissioner to employ and supervise staff appropriate to carry out the Board's functions. Allows the Comptroller to provide administrative support to the Board by interagency contract. Transfers all responsibility for administering appraisal district accountability and establishing minimum standards for the administration and operation of appraisal districts from the Comptroller of Public Accounts to the Board.

C.S.S.B. 1952 allows the commissioner of the State Board on Property Valuation to audit the total taxable value of property in a school district on request of a school district or the Commissioner of Education. Requires the commissioner to conduct a ratio study in each appraisal district for each tax year to determine the degree of uniformity of and the median level of appraisals by the appraisal district within each major category of property for that tax year. Specifies the process for conducting study and required contents.

C.S.S.B. 1952 requires the commissioner of the State Board on Property Valuation to review the appraisal standards, procedures, and methodology used by each appraisal district to determine compliance with generally accepted appraisal standards and practices. Specifies the process for delivery of findings and process for remedial action.

C.S.S.B. 1952 requires the commissioner of the State Board on Property Valuation to audit the performance of an appraisal district under certain conditions according to the results of each of two consecutive ratio studies conducted. Specifies deadlines for completion of audits; scope and manner of audits; notice provisions; reporting requirement, and the disposition of the costs of conducting the audits.

C.S.S.B. 1952 repeals Sections 5.10, 5.102, 5.12, and 5.13, Tax Code; and Subchapter M, Chapter 403, Government Code.

C.S.S.B. 1952 provides that in the event of any conflict between a provision of the Act and another Act passed during the 78th Legislature, Regular Session, that becomes law, this act prevails and controls, regardless of the relative dates of enactment.

**EFFECTIVE DATE**

**Part 1**

September 1, 2003.

**Part 2**

September 1, 2003.

**Part 3**

September 1, 2003.

**Part 4**

September 1, 2003, except that article 4B takes effect upon passage, or if the Act does not receive the necessary vote, the article takes effect September 1, 2003,

**Part 5**

September 1, 2003, except that the Department of Transportation or another state agency is not required to use the Owner-Controlled Insurance Program for Public Works until the Building and Procurement

Commission has implemented the insurance program; changing the composition of the Board of Building and Procurement occurs January 31, 2007.

#### **Part 7**

September 1, 2003, except that the one year period for agencies to comply with management to staff ratios of 1:8 takes effect September 1, 2003, 1:9 takes effect September 1, 2004, 1:10 takes effect September 1, 2005, and 1:11 takes effect September 1, 2006.

#### **Part 8**

September 1, 2003, except the requirement that the Comptroller make transfers under Section 16.004(c), Agriculture Code, as added by this Act does not take effect until after the fiscal biennium ending August 31, 2005.

#### **Part 10**

September 1, 2003.

#### **Part 13**

Upon passage, or, if the Act does not receive the necessary vote, the Part takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B. 1952 adds language regarding use of health reimbursement arrangements.

C.S.S.B. 1952 adds language regarding public information and disclosure of budgetary working papers.

C.S.S.B. 1952 adds language regarding the membership of the Texas Workers' Compensation Commission, membership of the Board of Pardons and Paroles Policy Board, and members of the Texas Veterans' Commission.

C.S.S.B. 1952 removes language regarding Joint Emergency Orders issued by the Governor in cooperation with the Legislative Budget Board. Language is added that gives the Governor the power to issue executive orders relating to state agencies for efficient management and operations.

C.S.S.B. 1952 adds language relating to the abolition of the Funeral Services Commission, Board of Professional Land Surveying, State Board of Plumbing Examiners, State Board of Barber Examiners, Cosmetology Commission, Structural Pest Control Board, and Board of Professional Geoscientists and transfers the functions and activities of those agencies to the Texas Department of Licensing and Regulation.

C.S.S.B. 1952 adds language relating to transferring the Office of State-Federal Relations to the Governor's office.

C.S.S.B. 1952 adds language regarding statewide coordination of public transportation.

C.S.S.B. 1952 adds language requiring the Texas Department of Criminal Justice submit a report to the legislature regarding efficient administration of the department.

C.S.S.B. 1952 adds language regarding restrictions on capital expenditures that could be otherwise paid for through savings associated with money generated by a utility cost savings contract.

C.S.S.B. 1952 adds language relating to oversight of regional planning commissions.

C.S.S.B. 1952 removes language relating to coordination of economic development efforts and adds language relating to the economic development powers of the Governor.

C.S.S.B. 1952 adds language relating to the Texas Transportation Institute's funding and deletes language

related to the Economic Impact of Lottery Contracts.

C.S.S.B. 1952 adds language relating to the operations and accountability of state agencies.

C.S.S.B. 1952 adds language relating to reducing fuel costs in state agencies with 10 or more motor vehicles and provides for a field test.

C.S.S.B. 1952 adds language relating to the Recycling Market Development program, and transfers the duties of the Board to the Governor's Office, the Commission on Environmental Quality, the Department of Economic Development, and the Building and Procurement Commission.

C.S.S.B. 1952 adds language relating to the administration and functions of the Texas Building and Procurement Commission, including provisions relating to the lease of space for state agencies.

C.S.S.B. 1952 adds an article regarding the state's management of information technology. This includes various provisions relating to the use of Texas Online by state agencies, and specifically addresses issues facing the Department of Information Resources. Includes provisions relating to online state benefits systems, the Texas Online Authority and its meetings, as well as applications of the Texas Online.

C.S.S.B. 1952 adds language that would require the Texas Department of Transportation to require contractors for highway projects to use an owner-controlled insurance program, managed by the Texas Building and Procurement Commission.

C.S.S.B. 1952 adds language altering the composition of the Private Sector Prison Industries Oversight Authority. C.S.S.B. 1952 adds language that would transfer employees and funds from the private facilities division of the Department of Criminal Justice to the Commission on Private Initiative, specifies that the department is responsible for contracts with private vendors, and sets forth other provisions relating to privatization of prisons.

C.S.S.B. 1952 adds several provisions related to general state procurement, administration, and the practices of the Texas Building and Procurement Commission. These include, but are not limited to, provisions relating to vehicle fleet management, contracting for legal services, permitting the Texas Building and Procurement Commission to use rebates, and addresses the ability of the TBPC to negotiate travel services contracts.

C.S.S.B. 1952 adds language prohibiting the Commission on Environmental Quality from amending, modifying, interpreting, or impairing a wholesale water contract.

C.S.S.B. 1952 adds language requiring the Department of Information Resources to develop a program to generate letterhead for state agencies.

C.S.S.B. 1952 removes language providing that TRS contributions for the first 90 days be delayed for new hires and persons who are reemployed and have withdrawn contributions.

C.S.S.B. 1952 adds language relating to mail order prescriptions for participants in the Texas Employees Group Health Benefit Plan.

C.S.S.B. 1952 adds several provisions relating to the Texas Commission on Environmental Quality. This includes, but is not limited to, provisions relating to nonadjudicative notice and hearing, public participation, compliance history, and alternative fuels and vehicles.

C.S.S.B. 1952 adds language relating to State Administration of Ad Valorem Taxation. Among other provisions, creates the State Board on Property Valuation and allows the commissioner of the Board to audit the total taxable value of property in a school district on request of a school district or the Commissioner of Education. Adds various other provisions relating to the administration, responsibilities,

and duties of the Board and Commissioner.

C.S.S.B. 1952 removes language relating to the approval of state security (Art. 13, SB 1952)

C.S.S.B. 1952 removes language relating to a joint interim committee on post conviction exonerations (Art. 21, SB 1952)

C.S.S.B. 1952 removes language relating to the Board of Pardons and Paroles (Art. 23, SB 1952)

C.S.S.B. 1952 removes language relating to limiting teacher paperwork, education programs and services. (Art. 24, SB 1952)

C.S.S.B. 1952 removes language relating to the Texas B-On-Time Loan Program (Art. 25, SB 1952)

C.S.S.B. 1952 removes language relating to the business of insurance (Art. 26, SB 1952)

C.S.S.B. 1952 removes language relating to corporate ethics and integrity (Art. 30, SB 1952)

C.S.S.B. 1952 removes language relating to limitations applicable to certain group insurance programs. (Art. 36, SB 1952)

C.S.S.B. 1952 removes language relating to regulation of industrialized housing (Art. 37, SB 1952).

C.S.S.B. 1952 removes language relating to teleconference meeting of the Legislative Budget Board (Art. 38, SB 1952)

C.S.S.B. 1952 removes language regarding disclosure on political advertising (Art. 39, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas A&M University-Corpus Christi Natural Resources Center (Art. 40, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas Commission on Environmental Quality Permitting authority (Art. 41, SB 1952)

C.S.S.B. 1952 removes language relating to the carrying of weapons by certain officers and investigators (Art. 42, SB 1952).

C.S.S.B. 1952 removes language relating to designating the poet laureate, state musician, and state artists (Art. 43, SB 1952).

C.S.S.B. 1952 removes language relating to school safety regulations and safety training program (Art. 44, SB 1952).

C.S.S.B. 1952 removes language relating to permits for certain concrete plants (Art. 45, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas Department of Mental Health and Mental Retardation, including language regarding voluntary admission to a state school (Art. 46, SB 1952).

C.S.S.B. 1952 removes language relating to preventing and detecting identity theft (Art. 47, SB 1952).

C.S.S.B. 1952 removes language relating to license plates (Art. 48, SB 1952).

C.S.S.B. 1952 removes language relating to restrictions on certain landfill permits (Art. 49, SB 1952).

C.S.S.B. 1952 removes language relating to liquid wastes manifests (Art. 50, SB 1952).

C.S.S.B. 1952 removes language relating to eminent domain jurisdiction for certain civil courts at law (Art. 51, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas Next Step grant program (Art. 52, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas Racing Commission (Art. 53, SB 1952).

C.S.S.B. 1952 removes language relating to regulation of bingo (Art. 54, SB 1952).

C.S.S.B. 1952 removes language relating to the organization of certain state agencies (Art. 55, SB 1952).

C.S.S.B. 1952 removes language relating to energy conservation in state buildings (Art. 56, SB 1952).

C.S.S.B. 1952 removes language relating to the Paul C. Moreno State Office Building (Art. 57, SB 1952).

C.S.S.B. 1952 removes language relating to the sale of desert plants (Art. 58, SB 1952).

C.S.S.B. 1952 removes language relating to the continuing education exemption (Art. 59, SB 1952).

C.S.S.B. 1952 removes language relating to the Texas Commission on Environmental Quality landfill regulations (Art. 60, SB 1952).