

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 27, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2499 by Cook (Relating to the continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend statute relating to the continuation and operation of the Department of Information Resources (DIR). DIR is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. The bill would continue DIR for six years and would take effect on September 1, 2011.

Sections 2 and 42: The bill would continue the operation of DIR for six years, until September 1, 2017. The bill would take effect September 1, 2011.

Sections 3, 6, 8, 35, and 36: The bill would amend various sections of Chapter 2054 of the Government Code related to the composition of DIR's governing board; create a Customer Advisory Committee that is made up of customers of DIR's key programs; and add alternative dispute resolution provisions. The bill would require the Governor to appoint the new board members by September 1, 2011.

Section 7: The bill would require DIR to adopt processes to determine the administrative fee charged to administer its programs, including fees for the statewide technology centers and telecommunications. The bill would require DIR to report to the Legislative Budget Board (LBB) all administrative fees charged by DIR; the methodology used to determine the fees; and post on its website each administrative fee DIR charges.

Section 9: The bill would require DIR's board to appoint an internal auditor and establish an audit subcommittee.

Sections 10, 14, 15, and 21: The bill would require DIR's board to provide additional oversight which includes adopting a policy to set a strategic direction for DIR and to regularly evaluate DIR's operations. The bill would require DIR to: develop clear criteria for its use of consultants and outside staff; develop a consistent method to measure costs and progress of an information resources technology consolidations initiative; work with any entity involved in an information resources technology consolidation initiative to determine baseline costs, and evaluate actual costs and costs savings related to the consolidation; and report annually to the board, the LBB, the customers of the consolidation initiative, and post on its website, the results of the evaluation of costs and savings.

The bill would require DIR's board by rule to: define what constitutes a major outsourced contract, including statewide technology and telecommunications contracts; approve new, or amendments to existing, contracts; establish one or more committees to monitor DIR's major outsourced contracts; establish board approval requirements for all other contracts before the contract may be executed; implement conflict of interest provisions; and train staff on the requirements of these provisions. The bill would require DIR to: create a management plan for each major outsourced contract, as

defined by its Board; to specify procedures to administer, monitor, and oversee each major contract; establish procedures to ensure customer involvement regarding each major outsourced contract; develop a contract management training policy; establish training requirements for all staff involved in contract management; and update the guide periodically. The bill would require the board to adopt rules as necessary to develop and update the contract management guide.

Section 11: The bill would require DIR, upon request, to provide technical assistance to a state agency to determine the agency's information resources technology needs and to solve the agency's technology problems.

Sections 12, 13, 16, 17, 18, 23, 24, 27, 30, 31, 32, 33, and 37: These provisions relate to transferring the responsibility for the statewide purchase of information technology commodity items from DIR to the Comptroller; require the Comptroller to provide training in contract negotiation; manage and use planned procurement schedules; coordinate technology training; establish rules to administer the IT commodity contract program; and transfer all powers, duties, money, contracts, memoranda of understanding, records, leases, and rights of DIR related to the purchase of information technology commodity items from DIR to the Comptroller. The bill would also require DIR to work in cooperation and at the direction of the Comptroller to facilitate the transfer. All DIR employees that primarily perform duties related to a power or duty transferred under the bill would become employees of the Comptroller. A management employee of DIR would not automatically continue to hold a management position with the Comptroller after the transfer. To hold the management position on other than an interim basis the person would have to apply for the position with the applicable office.

Section 19: The bill would exempt a database or network managed by the Department of Agriculture, General Land Office, or a judiciary agency from the Statewide Technology Center, or data center consolidation project, managed by DIR.

Sections 20 and 29: The bill would require the Comptroller to establish in the state treasury: the Statewide Technology Account under the purview of DIR, for the operation and management of a statewide technology center or for any other purpose specified by the legislature; and the Clearing Fund under the purview of the Comptroller, for the administration of the purchase of information technology commodity items or for any other purpose specified by the legislature.

Section 25: The bill would require the Sunset Advisory Commission to evaluate the transfer of powers and duties from DIR to the Comptroller under the provisions of the bill and report on its evaluation and recommendations to the Eighty-fourth Legislature. The bill would require the Comptroller to perform all duties in relation to the evaluation that a state agency subject to Sunset provisions would perform in relation to the review. This provision would expire on September 1, 2015.

Section 28: The bill would require the Comptroller to adopt processes to determine the administrative fee charged to administer its programs. The bill would require the Comptroller to report to the LBB administrative fees charged by the Comptroller; the methodology used to determine the fees; and post on its website each administrative fee the Comptroller charges.

Section 34: The bill would repeal Government Code, Section 2059.060 related to DIR adoption rules for vulnerability testing of network hardware and software.

Section 39: The bill would require the Comptroller to submit a report on the efficiency and implementation of the transfer of information and communications technology cooperative contracts from DIR to the Comptroller to the Legislative Budget Board, the speaker of the house of representative, lieutenant governor, and the chairs of the house and senate committees with primary oversight over the comptroller's purchasing functions no later than March 1, 2012; September 1, 2012; September 1, 2013; and September 1, 2014.

ASSUMPTIONS

Sections 7, 9, 11, and 21: DIR reported that to implement certain provisions in these sections of the bill, additional full-time equivalent positions (FTEs) and funding would be required. However, it is anticipated that any additional costs associated with implementation of the legislation could be

absorbed within existing resources.

Sections 12, 13, 16, 17, 18, 23, 24, 27, 31, 32, 33, and 37: The bill would provide that appropriations and FTEs funded by the administrative fee charged to agencies and local governments that use the information technology (IT) commodity contracts would transfer from DIR to the Comptroller.

Approximately 57.3 FTEs were budgeted in fiscal year 2011 to be funded by fees from the IT Commodity Contracts program. Of these FTEs, it is estimated that 32 FTEs would transfer to the Comptroller to administer the IT Commodity Contracts program; 21.6 FTEs would remain at DIR; and 3.7 FTEs would be reduced from DIR's FTE cap.

In addition to the transfer of 32 FTEs, the Comptroller estimates that approximately \$2,339,000 would be needed each fiscal year to administer the IT Commodity Contracts program. It is assumed this funding would be provided by the administrative fee charged to users of the state's IT commodity contracts out of the Clearing Fund.

It is anticipated that the 21.6 FTEs identified above and \$4,012,947 for related salaries and operating costs previously funded from the Clearing Fund would be needed by DIR to administer contracts related to telecommunications, statewide technology services, and for statewide IT planning and security initiatives. It is also anticipated that these costs would be funded out of the revenues from the Telecommunications and/or Statewide Technology services. DIR may need to adjust its fees to cover these additional costs.

Section 19: DIR reported that to implement the provisions in this section of the bill, certain contractual obligations related to the Texas Department of Agriculture's (TDA) participating in the data center consolidation project would remain in the 2012-13 biennium. In addition, the TDA reported additional full-time equivalents would be needed to implement the provisions in this section of the bill. However, it is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

Sections 20 and 29: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Sections 25 and 39: It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 305 General Land Office and Veterans' Land Board, 313 Department of Information Resources, 551 Department of Agriculture, 304 Comptroller of Public Accounts, 301 Office of the Governor

LBB Staff: JOB, EP, RC, KM, MS, KJG, SD, KY