

BILL ANALYSIS

C.S.H.B. 5125
By: Metcalf
House Administration
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In response to concerns that the Legislature was not able to fulfill its role as a co-equal branch of state government, the 57th Legislature enacted the Legislative Reorganization Act of 1961. That law sought to provide a statutory framework to permit legislators and legislative committees to conduct activities on a full-time basis "to achieve efficiency and continuity in performing" the duties assigned to the legislative branch. Subsequent legislatures have enacted additional laws addressing the legislature's organization and operation, including laws establishing legislative agencies and improving legislative procedures.

To improve the efficiency of and ensure public trust and confidence in the legislature and its operations, current law governing legislative organization and operations is updated biennially to meet the modern demands of lawmaking. C.S.H.B. 5125 is the biennial legislative housekeeping bill. It seeks to address administrative and financial matters related to the operations of the legislature and the legislative service agencies to ensure continuity of operations and enhance the legislature's ability to legislate for a complex, modern Texas and conduct meaningful oversight of state government as envisioned by the framers of the Texas Constitution.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 5125 sets out and revises provisions relating to the organization and operation of the legislative branch of state government.

Administration Committees

C.S.H.B. 5125 amends the Government Code to authorize each house of the legislature, by rule or resolution, to establish an administration committee. The senate administration committee must perform the duties and functions assigned to the committee by rule or resolution while the house administration committee must do the following:

- adopt policies and determine guidelines for the effective and efficient operation of the house of representatives, including the appointment and discharge of employees and the use of state property and facilities; and

- not later than the 60th day after the convening of a regular session, prepare and distribute to all members a manual of policy statements to include, but not be limited to, policies pertaining to members as a class.

Administrative Head of Agency for Senate and House

C.S.H.B. 5125 provides that, for purposes of any law applicable to the legislature that requires an action by an administrative head of agency, the senate by resolution must designate the administrative head of agency for the senate. The bill authorizes the senate to delegate all or part of this authority to a senate committee or legislative officer as provided by law, rule, resolution, or policy.

C.S.H.B. 5125 provides that, for purposes of any such law, the speaker of the house of representatives is the administrative head of agency for the house unless otherwise directed by resolution. The bill authorizes the speaker to make any expenditures or transfers, including expenditures and transfers necessary to discharge properly the duties and responsibilities of the office of speaker, and perform any function deemed necessary for the effective and efficient operation of the house. The bill authorizes the speaker to delegate all or part of this authority to a house committee or legislative officer as provided by law, rule, resolution, or policy.

Interns

C.S.H.B. 5125 codifies the authority of a member, officer, committee, or division of a house of the legislature or the lieutenant governor to accept uncompensated service from an individual participating in a bona fide internship program approved by the committee on administration of the respective house and for which the student receives academic credit.

Committees with Legislative Appointees

C.S.H.B. 5125 requires the per diem and travel expenses paid to a member of any committee, council, board, commission, or other body created or authorized by state law that includes members appointed by the lieutenant governor or the speaker or for which the lieutenant governor or the speaker designates the presiding officer to be paid by the state agency providing administrative support to the entity or as otherwise directed by rider in the General Appropriations Act. The bill sets any such entity that is created or authorized on or after the bill's effective date to be abolished on the date of the sine die adjournment of the second regular session of the legislature that begins after the date the entity is created or authorized. These provisions prevail to the extent of any conflict with any other law and the application of these provisions to any particular entity may be altered only by an amendment to these provisions.

Interim Committee Per Diem and Travel Expenses

C.S.H.B. 5125 requires the per diem and travel expenses paid to a member of an interim committee of a house of the legislature created by rule or resolution to be paid by the house to which the member belongs unless a statute expressly provides otherwise.

State Buildings Occupied by Legislative Offices and Agencies

C.S.H.B. 5125 requires a state agency with charge and control of a state building to notify each legislative office or agency occupying the building as soon as practicable of any planned or anticipated maintenance or construction activity involving the building, facilities, or grounds that is conducted, directed, or authorized by the state agency and that affects the legislative office or agency, including any of the following:

- an interruption in utilities;
- a maintenance or construction activity likely to cause prolonged noise or vibration perceptible in the space occupied by the legislative office or agency;

- a major excavation project within 1,000 feet of any outer wall of the building; or
- a change to or closure of a street or sidewalk adjacent to the building or affecting vehicle or pedestrian access to the building.

Facilities Management Services for Space Occupied by the Legislature

C.S.H.B. 5125 makes the State Preservation Board (SPB) responsible for providing the following facilities management services:

- for the Sam Houston Building, the facilities management services designated by the administrative head of the senate;
- for the John H. Reagan Building, the facilities management services designated by the administrative head of the house; and
- for the Robert E. Johnson Building and the attached parking facility known as state parking garage P, the facilities management services designated by the administrative head of the Texas Legislative Council (TLC) in consultation with the other affected legislative agencies occupying space in the building.

The bill requires the Texas Facilities Commission (TFC) to transfer to SPB an amount of money sufficient to reimburse SPB for the costs incurred by SPB to perform these facilities management services. The bill defines "facilities management services" by reference as any state agency facilities management service that is not unique to carrying out a program of the agency, including services related to facilities construction, facilities management, general building and grounds maintenance, cabling, and facility reconfiguration. The bill specifies that the term does not include utility services or utility expenses.

C.S.H.B. 5125 requires TFC to do the following:

- provide any facilities management service for the Sam Houston Building, the John H. Reagan Building, the Robert E. Johnson Building, and state parking garage P that has not been designated to be performed by SPB;
- operate and maintain the central utility plant in the Sam Houston Building;
- operate and maintain the chiller utility plant attached to the Robert E. Johnson Building; and
- as part of phase 2 construction of the Capitol Complex master plan:
 - connect the Robert E. Johnson Building to the centralized chilled water distribution system described by that plan; and
 - subsequently decommission the chiller utility plant attached to the Robert E. Johnson Building, except for portions of the plant needed to provide backup chilled water for the building's data center or other critical infrastructure identified by the administrative head of TLC.

C.S.H.B. 5125 establishes that these provisions do not, and may not be construed to, specifically commit the control of any public buildings or grounds to SPB for purposes of any law. For the chamber and committee rooms occupied by the house and senate in the Capitol, Capitol Extension, and any legislative office building, the administrative head of agency for the appropriate house is required to specify the scope, manner, and performance of all work related to audiovisual systems, including sound systems.

Legislative Agency Administrative Functions

C.S.H.B. 5125 establishes that the director or other highest ranking employee, or that person's designee, is the administrative head of a legislative agency other than the senate or house and requires the administrative head of a legislative agency to oversee the agency's central business and administrative functions and other matters vested in or delegated to the administrative head. The bill authorizes a legislative agency to use an internal financial system selected by the administrative head of the agency, which includes an accounting system, payroll system, purchasing system, human resources information system, or enterprise resource planning system. The bill requires the comptroller of public accounts to provide an application

programming interface or other means mutually acceptable to the administrative head of a legislative agency and the comptroller for the agency's internal financial system to exchange the requisite financial and other data with the financial system of record for the state necessary for the comptroller to pay each agency's expenses from the agency's funds as held by the comptroller.

C.S.H.B. 5125 authorizes a legislative agency to use all or any part of a financial system provided by the comptroller under the law as mutually agreed to by the agency's administrative head and the comptroller.

These provisions prevail to the extent of a conflict with statutory provisions relating to state accounting procedures.

Texas Legislative Council

C.S.H.B. 5125 clarifies that the Texas Legislative Council (TLC) may perform administrative, accounting, purchasing, and facilities management services and functions for or on behalf of either house of the legislature or another legislative agency by agreement with the house or the agency. The bill repeals the requirement for TLC to draft any legislation required to implement the recommendations contained in the biennial report from the governor to the legislature on the organization and efficiency of state agencies.

C.S.H.B. 5125 revises the provision authorizing TLC to reimburse members-elect of the legislature for travel expenses incurred in attending an orientation program between the date of the general election and the convening of the regular legislative session to remove language limiting the orientation programs to which the authorization applies to those conducted by TLC.

C.S.H.B. 5125 replaces the requirement for TLC to provide office space and other support in Austin necessary for the state demographer to perform the demographer's duties for the legislature with an authorization to do so.

Sunset Advisory Commission

C.S.H.B. 5125 clarifies that a public member of the Sunset Advisory Commission acts on the legislature's behalf when participating on the commission in furtherance of the legislature's duty to provide oversight of state agencies' implementation of legislative priorities, irrespective of the branch of state government in which that agency is located.

State Agency Publications

C.S.H.B. 5125 decreases the number of copies of a state agency publication that the agency must send to the Legislative Reference Library to make available to its users from five to four and specifies that three of them must be physical copies and one must be an electronic copy.

Assistance to the Texas Forensic Science Commission

C.S.H.B. 5125 amends the Code of Criminal Procedure to remove TLC and the Legislative Budget Board from among the entities required to assist the Texas Forensic Science Commission in performing its duties.

State Public Information Law

C.S.H.B. 5125 amends Section 31, Chapter 1250 (H.B. 4181), Acts of the 86th Legislature, Regular Session, 2019, to establish that information held by a general investigating committee of the legislature is not subject to request, inspection, or duplication under state public

information law and to authorize a governmental body to withhold any such information without the necessity of requesting an attorney general decision under that law.

Interagency Data Transparency Commission

C.S.H.B. 5125 repeals provisions governing the Interagency Data Transparency Commission, which is obsolete.

Repealed Law

C.S.H.B. 5125 repeals the following provisions of the Government Code:

- Section 2053.004;
- Chapter 2060; and
- Section 2206.101(e).

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5125 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Committees with Legislative Appointees

Whereas the introduced set any committee, council, board, commission, or other body created or authorized by state law that includes members appointed by the lieutenant governor or the speaker of the house or for which the lieutenant governor or the speaker of the house designate the presiding officer to be abolished on the date of the convening of the regular session of the legislature following the entity's date of creation or authorization, the substitute sets such an entity to be abolished instead on the date of the sine die adjournment of the second regular session of the legislature that begins after that date of creation or authorization.

Facilities Management Services for Space Occupied by Legislature

The substitute includes provisions related to facilities management services provided by SPB and TFC for spaces occupied by the legislature, whereas the introduced did not include these provisions.

Legislative Agency Administrative Functions

Whereas the introduced authorized a legislative agency to use an internal accounting, payroll, purchasing, or enterprise resource planning system selected by the agency's administrative head, the substitute authorizes such an agency to instead use an internal financial system, which encompasses all of the elements of the system authorized by the introduced, but also includes a human resources information system, selected by the agency's administrative head. Additionally, the substitute revises the provisions in the introduced relating to such a system selected by the agency's administrative head as follows:

- whereas the introduced required the comptroller to provide an application programming interface or other means acceptable to the administrative head for the agency's system to exchange financial and other data with the financial system of record for the state so that the agency may use the selected system, the substitute requires the comptroller instead to provide such an interface or other means acceptable to the administrative head for the agency's internal financial system to exchange the requisite financial and other data with

the financial system of record for the state necessary for the comptroller to pay each agency's expenses from that agency's funds as held by the comptroller;

- the substitute includes a condition absent from the introduced for the interface or other means to be mutually acceptable to the administrative head and to the comptroller; and
- whereas the introduced authorized a legislative agency to use all or any part of an applicable system provided by the comptroller on request initiated by its administrative head, the substitute authorizes a legislative agency to use all or any part of a financial system provided by the comptroller under the law as mutually agreed to by its administrative head and the comptroller.

The substitute omits the provisions in the introduced requiring the comptroller to do the following with respect to such a system provided by the comptroller:

- inform each administrative head of a legislative agency regarding changes that may impact the agency;
- attempt to schedule any consultations, requirements discovery, or planning efforts with the legislative agency during the legislative interim; and
- incorporate the bill's requirements into the system's design.

The substitute includes a provision absent from the introduced establishing that the bill's provisions relating to legislative agency administrative functions prevail to the extent of a conflict with statutory provisions relating to state accounting procedures.

Sunset Advisory Commission

The substitute includes a provision not in the introduced clarifying that a public member of the Sunset Advisory Commission acts on the legislature's behalf when participating on the commission in furtherance of the legislature's duty to provide oversight of state agencies' implementation of legislative priorities, irrespective of the branch of state government in which that agency is located.

Public Information Law

The substitute includes provisions not in the introduced establishing that information held by a general investigating committee of the legislature is not subject to request, inspection, or duplication under state public information law and authorizing a governmental body to withhold any such information without the necessity of requesting an attorney general decision under that law.

Repealed Entities

Whereas the introduced repealed provisions governing the criminal justice legislative oversight committee, the substitute does not repeal those provisions.