

## CHAPTER 407

## H.B. No. 2375

An Act relating to the purchase and management of telecommunications and automated information items for state government and the provision of telecommunications service to state government.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 737, Acts of the 67th Legislature, Regular Session, 1981 (Article 4413(32h), Vernon's Texas Civil Statutes), is amended to read as follows:

## ARTICLE 1. GENERAL PROVISIONS AND ADMINISTRATION

Sec. 1.01 [1]. DEFINITIONS [DEFINITION]. (a) In this Act:

(1) "State [~~state~~] governmental body" means a board, commission, department, institution, office, or other agency (including an institution of higher education as defined by Section 61.003, [Texas] Education Code [~~as amended~~]), that is in the executive branch of state government; or the supreme court, the court of criminal appeals, a court of appeals, or the State Bar of Texas or another judicial agency.

(2) "Telecommunications" means the transmission of audible, written or printed, or video information by means of an electromagnetic or optic system.

(b) The telecommunications provisions of this Act do not apply to a single agency point-to-point radio system, a system of criminal justice information telecommunications, or any part of those systems.

Sec. 1.02 [2]. COUNCIL. The Automated Information and Telecommunications [Systems Advisory] Council is established.

Sec. 1.03 [3]. MEMBERS. (a) The council is composed of nine members, appointed in accordance with the following [seven members]:

(1) one person, appointed by the speaker of the house of representatives, who must be a member or employee of the house or an employee of a legislative agency;

(2) one person, appointed by the speaker, who must be employed by a private corporation and be knowledgeable in the management [as a manager] of the corporation's automated information system or telecommunications system;

(3) one person, appointed by the speaker, who must be employed by a state governmental body and who must be knowledgeable in the management of automated information systems or telecommunications systems;

(4) one person, appointed by the lieutenant governor, who must be a member or employee of the senate or an employee of a legislative agency;

(5) [(4)] one person, appointed by the lieutenant governor, who must be employed by a private corporation and [industry as a manager of a large mainframe computer facility];

[(5) one person, appointed by the governor, who must] be knowledgeable in the management of the corporation's automated information system or telecommunications system [systems and the computers on which they are automated];

(6) one person, appointed by the lieutenant governor, who must be employed by a state governmental body and who must be knowledgeable in the management of automated information systems or telecommunications systems;

(7) one person, appointed by the governor, who must be knowledgeable in the management of automated information systems or telecommunications systems;

(8) [(6)] one person, appointed by the governor, who must be employed by a state-supported institution of higher education in this state and who must be knowledgeable in the management of automated information systems or telecommunications systems [and the computers on which they are automated]; and

(9) [(7)] one person, appointed by the governor, who must be an employee of a state governmental body other than an institution of higher education and who must be knowledgeable in the management of automated information systems or telecommunications systems [and the computers on which they are automated].

(b) A member of the council or employee of the council may not:

(1) be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the telecommunications or the automated information industry;

(2) own, control, or have, directly or indirectly, more than a 10 percent interest in a business entity that has a substantial interest in the telecommunications or the automated information industry;

(3) be interested in, or in any manner connected with, any contract or bid for furnishing any state governmental body with *telecommunications devices, systems, or services* or with automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated;

(4) [ ~~A member or employee of the council may not~~] be employed by any state governmental body as a consultant on *telecommunications matters* or on automated information systems, the computers on which they are automated, or a related service;

(5) [ ~~A member or employee of the council;~~] under penalty of dismissal, [ ~~may not~~] accept or receive from any person, firm, or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift, or otherwise, any money or other thing of value; or

(6) [ ~~and may not~~] receive any promise, obligation, or contract for future reward or compensation from any such party described by Subdivision (5) of this subsection.

(c) *It is a ground for removal of a member of the council or for dismissal of an employee of the council if the member or employee violates a prohibition established by Subsection (b) of this section. The validity of an action of the council is not affected by the fact that it was taken when a ground for removal of a member existed. If the executive head of the council has knowledge that a potential ground for removal of a council member exists, the executive head shall notify the chairman of the council of the ground. The chairman shall then notify the governor of the potential ground for removal.*

Sec. 1.04 [4]. TERMS. Members of the council hold office for staggered terms of six [~~two~~] years with three members' terms expiring February 1 of each [~~even-numbered year and four members' terms expiring February 1 of each~~] odd-numbered year.

Sec. 1.05 [5]. OFFICERS; MEETINGS. (a) The chairman of the council is the member designated by the governor to serve in that capacity at the will of the governor [~~appointed by the governor under Section 3(a)(5) of this Act~~].

(b) The council shall meet at least once quarterly during each fiscal year of the state. The council may meet at other times at the call of the chairman or as provided by rule of the council.

Sec. 1.06 [6]. EXPENSES. [~~(a)~~] A member of the council may not receive compensation for serving as a member of the council. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the council.

[~~(b) A member of the council who is a public officer or employee is entitled to reimbursement for expenses from the funds of the governmental body from which the member is appointed. Other members are entitled to reimbursement from the funds of the council.~~

[~~Sec. 7. ADDITIONAL FUNCTION OF PUBLIC OFFICE. The functions performed by a member of the council who holds public office are additional functions of the public office.~~

Sec. 1.07 [8]. STAFF. The council may employ persons necessary for it to perform its functions.

Sec. 1.08. ADVISORY COMMITTEES. (a) *The council may appoint advisory committees as the council considers necessary to provide expertise to the council. Members of an advisory committee serve at the will of the council.*

(b) *A member of an advisory committee may not receive compensation for service on the committee. A member may receive reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory committee.*

Sec. 1.09. APPLICATION OF SUNSET ACT. *The council is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this Act expires September 1, 1993.*

## ARTICLE 2. AUTOMATED INFORMATION AND TELECOMMUNICATIONS

Sec. 2.01 [9]. [~~AUTOMATED INFORMATION SYSTEMS~~] GUIDELINES. (a) The council shall adopt guidelines to aid state governmental bodies in making economical and efficient use of *telecommunications devices, systems, or services* and of automated information systems, the computers on which they are automated, or related services.

(b) The guidelines relating to automated information matters shall include, but not be limited to, the areas of long-range planning, common data bases, networking, applications, shared software, security, and disaster recovery.

~~[(b) The council shall adopt guidelines consistent with Section 3-10, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).]~~

**Sec. 2.02 [10]. REVIEW OF ACTIONS OF GOVERNMENTAL BODIES.** (a) If a state governmental body proposes to take any of the following actions, the governmental body, ~~shall~~ at the same time it files an acquisition request with the State Purchasing and General Services Commission, *shall* also file with the council any information that the council considers necessary for it to prepare its report under Subsection (b) of this section:

(1) a purchase at a cost of more than \$20,000, or a greater amount as may be prescribed by rule of the council, of *telecommunications devices, systems, or services or of automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated;*

(2) a lease at a cost of more than \$1,000 per month, or a greater amount as may be prescribed by rule of the council, of *telecommunications devices or systems or of automated information systems or the computers on which they are automated; or*

(3) a major conversion of *telecommunications devices or systems or of automated information systems or the computers on which they are automated.*

(b) The council shall review each action proposed by a state governmental body under Subsection (a) of this section and shall within 60 days after receipt of the proposal and any supporting information file with the governor, lieutenant governor, speaker of the house of representatives, State Purchasing and General Services Commission, and state auditor a report about whether the guidelines adopted under Section 2.01 [9] of this Act would be fulfilled if the governmental body's action were taken. The council may designate at the discretion of the chairman or as provided by rule of the council those reports on proposed actions which may not be filed under this subsection until they have been reviewed and approved in writing by a majority vote of the council membership. Reports on proposed actions not so designated shall be prepared and filed in the council's name by the council staff. The council may meet as provided in Section 1.05(b) [5(b)] of this Act for the purpose of meeting the requirements of this subsection.

(c) A state governmental body may not take an action under Subsection (a) of this section until 60 days after receipt of the proposal and any supporting information by the council or until the council has filed the report under Subsection (b) of this section, whichever is earlier. The failure of the council to timely file a report under Subsection (b) of this section may not be grounds for prohibiting a state governmental body from taking the action after the expiration of the 60 day period. The council together with the governmental body involved may agree to an extension of the time limit for filing a report.

**Sec. 2.03. MANAGEMENT AUDIT.** *The board regularly shall review and evaluate the performance of each state governmental body in the use of telecommunications devices, systems, and services and in the use of automated information systems, the computers on which they are automated, and related services to determine if the governmental body uses these items in the most efficient and economical manner. The board shall prepare a written report of each review and evaluation.*

**Sec. 2.04 [11]. ADVICE AND ASSISTANCE.** (a) The council shall advise state governmental bodies about ways in which the governmental bodies may comply with the guidelines adopted under Section 2.01 [9] of this Act.

(b) *The council shall provide technical assistance to state governmental bodies in planning, developing, acquiring, and using telecommunications devices, systems, and services or in planning, developing, acquiring, and using automated information systems, the computers on which they are automated, and related services.*

(c) *The council shall provide advice and staff support to the Legislative Budget Board as that agency reviews requests made by state governmental bodies for appropriations for telecommunications devices, systems, or services or for automated information systems, the computers on which they are automated, or related services.*

**Sec. 2.05. CENTRAL CLEARINGHOUSE FOR SOFTWARE.** (a) *The council shall maintain a central clearinghouse for automated information systems software developed or acquired by state governmental bodies.*

(b) *Each state governmental body shall file with the council an inventory record of the automated information systems software developed or acquired by the governmental body. The governmental body shall file the record and keep it current as required by the council. The council periodically shall distribute to other state governmental bodies information about the automated information systems software covered by the inventory record.*

**Sec. 2.06 [12]. RULES.** The council shall adopt rules to administer this Act.

**Sec. 2.07 [13]. [BIENNIAL] REPORT.** The council *annually* shall report to the legislature ~~[at each regular session]~~ about the activities of the council, the guidelines adopted under

Section 2.01 [9] of this Act, and changes to state law or state governmental body procedures that the council considers necessary to promote the economical and efficient use by state governmental bodies of *telecommunications devices and systems and of automated information systems and the computers on which they are automated. The report must include each audit report prepared under Section 2.03 of this Act for each governmental body reviewed and evaluated in the preceding year.*

**Sec. 2.08. LONG-RANGE TELECOMMUNICATIONS PLAN.** (a) *The council shall prepare a plan containing:*

(1) *a description of the current telecommunications needs of state governmental bodies and of the facilities, operations, services, and level of funding used to meet those needs; and*

(2) *a 15-year projection of the telecommunications needs of state governmental bodies and of the changes in facilities, operations, services, and level of funding that will be necessary to meet those needs.*

(b) *The council shall prepare a new or updated plan before December 1 of each even-numbered year and, before that date, shall submit the plan to the governor and the legislature.*

(c) *The first plan prepared before December 1, 1986, may be limited to the aspects of telecommunications relating to the transmission of audible, written, and printed information. This subsection expires on December 2, 1986.*

(d) *This 15-year projection shall include a cost analysis and a general impact study of a potential local measured telephone service plan on all state governmental bodies, which may include data from the previous proposed Public Utility Commission Docket No. 5547, which measures the distance, duration, or time of day of calls made within a local calling area. The cost analysis shall include separate data on the transmission of voice communication and separate data on data communication. This cost analysis and general impact study shall be prepared before September 1, 1987.*

[**Sec. 14. APPLICATION OF SUNSET ACT.** The council is subject to the Texas Sunset Act, as amended (Article 5120i, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the council is abolished and this Act expires September 1, 1993.]

**SECTION 2.** (a) The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 87B to read as follows:

**Sec. 87B.** *A telecommunications utility providing dedicated line long distance service (TEXAN) to the state on January 1, 1985, shall continue to have this type of service available to the state under a contract with the state until September 1, 1987. The contract shall be under terms and conditions negotiated by the state and the utility in accordance with the amounts appropriated by the General Appropriations Act for this purpose. This section expires September 1, 1987. If, during the period of time this section is in effect, any supplemental or other telecommunications service is required by the state, it may be acquired from vendors other than the utility providing TEXAN service.*

(b) The expiration of Section 87B, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as added by this Act, does not affect rights or liabilities regarding that law that accrue on or before the expiration date.

**SECTION 3.** The State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended by amending Section 3.021 and by adding Section 10.035 to read as follows:

**Sec. 3.021. PURCHASES OR LEASE OF COMPUTERS.** If a state agency requests the commission to purchase or lease *any telecommunications devices, systems, or services or any automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated and if the purchase or lease is of a type that requires the Automated Information and Telecommunications [Systems Advisory] Council to prepare a report, the commission may not make an award for the purchase or lease of the telecommunications device, system, or service or of the automated information software, hardware, or services until the report has been filed as required by law or until 60 days after receipt of the proposal and any supporting information by the council as prescribed by law, whichever is earlier, or the completion of an agreed extension period.*

**Sec. 10.035. RESTRICTION ON COMMISSION ACTIONS.** *The commission may not adopt any policy, guideline, or procedure or take any other action under this article that is inconsistent with a guideline or rule adopted by the Automated Information and Telecommunications Council.*

**SECTION 4.** Section 3.09(f), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The commission shall not delay processing a purchase requisition by submitting the specifications and conditions to the ~~[systems] administrative services division of the~~ state auditor's office for comment or recommendation prior to issuing the invitation to bid to vendors.

**SECTION 5.** The following laws are repealed:

- (1) Section 7a, Chapter 293, Acts of the 48th Legislature, 1943 (Article 4413a-7a, Vernon's Texas Civil Statutes);
- (2) Chapter 325, Acts of the 59th Legislature, Regular Session, 1965 (Article 6252-12a, Vernon's Texas Civil Statutes);
- (3) Section 18, Chapter 737, Acts of the 67th Legislature, Regular Session, 1981 (Article 6252-12b, Vernon's Texas Civil Statutes); and
- (4) Sections 10.10 and 10.12, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

**SECTION 6.** (a) The name of the Automated Information Systems Advisory Council is changed to the Automated Information and Telecommunications Council. A reference in a law to the Automated Information Systems Advisory Council means the Automated Information and Telecommunications Council.

(b) The membership positions on the council under the law as it existed immediately before the effective date of this Act are abolished on the effective date. Promptly after this Act takes effect, the governor, lieutenant governor, and speaker of the house each shall make three appointments to the council. In making the initial appointments, each appointing authority shall designate one of the appointees for a term expiring February 1, 1987, one for a term expiring February 1, 1989, and one for a term expiring February 1, 1991.

**SECTION 7.** This Act takes effect September 1, 1985.

**SECTION 8.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 22, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2375 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 25, 1985, by a viva-voce vote.

Approved: June 10, 1985

Effective: September 1, 1985