

Senate Government Organization Committee

**Interim Report to the
79th Legislature**



December 2004

Acknowledgments

The Senate Government Organization Committee and the Committee Chairman would like to recognize all those who assisted with this report for their hard work and cooperation.

The Committee Chairman would also like to acknowledge the valuable assistance and expertise of the Texas Building and Procurement Commission, the General Land Office, the Office of Attorney General, the Comptroller of Public Accounts, the Texas Department of Transportation, staff for the Lt. Governor's Office, the State Auditor's Office and the Legislative Budget Board.

The Committee would also like to thank everyone who took the time to testify, submit written reports, or otherwise assist in the interim study.

Special thanks go to the Government Organization Committee staff for their dedication and hard work in developing this report.

Interim Charges

The Senate Government Organization Committee is charged with conducting a thorough and detailed study of the following issues, including state and federal requirements, and preparing recommendations to address problems or issues that are identified.

1. Study consolidation of those agencies related to the arts, cultural, and library services; consolidation of certain agricultural-related agencies; and consolidation of certain licensing agencies or their administrative functions.
2. Study the management of state assets and leases, including real estate, leased space, inventory and other assets by the General Land Office, the Texas Building and Procurement Commission, as well as other agencies. Explore and make recommendations on the possible use of sale-leaseback opportunities for properties that the state now owns. Review allegations of theft of state property and make recommendations on enhancing security of state assets.
3. Review the use of inventory management in transportation and other programs. Explore the cost efficiencies and economic benefits of co-locating agencies in small, mid-size, and large cities around the State.
4. Study the effectiveness and make recommendations on improving debt collection strategies across all state programs and the identification of uncollectible state receivables.

Reports

The Committee shall submit copies of its final report no later than December 1, 2004. The printing of reports should be coordinated through the Secretary of the Senate. Copies of the final report should be sent to the Lieutenant Governor (5 copies), Secretary of the Senate, Senate Research, Legislative Budget Board, Legislative Council, and Legislative Reference Library.

The final report should include recommended statutory or agency rulemaking changes, if applicable. Such recommendations must be approved by a majority of the voting members of the Committee. Recommendations should also include state and local fiscal cost estimates, where feasible. The Legislative Budget Board is available to assist in this regard.

Budget and Staff

Travel costs shall be paid from the operating budgets of Senate members. All other costs shall be borne by the Senate Government Organization Committee's interim budget, as approved by the Senate Administration Committee. Due to overall budget constraints, it is recommended each interim committee budget include only critical expenditures and, where possible, reductions from previous spending levels. The Committee should also seek the assistance of legislative and executive branch agencies where appropriate.

Senate Government Organization Committee interim hearings

May 6, 2004

Austin

Charges # 1 and 2

September 14, 2004

Austin

Charges # 3 and 4

General Recommendations

Interim Charge 1

Study the consolidation of those agencies related to the arts, cultural, and library services; consolidation of certain agricultural-related agencies; and consolidation of certain licensing agencies or their administrative functions.

Specific Recommendations

1. The Committee recommends that the state's arts, cultural and library agencies remain independent.
2. The Committee recommends that the Texas Food & Fibers Commission be abolished and its duties transferred to the Texas Department of Agriculture.
3. The Committee recommends that the Legislature consider the abolition of state licensing agencies that consistently demonstrate poor performance in licensing, regulation, and enforcement and transfer their duties to the Texas Department of Licensing and Regulation.
4. The Committee recommends that the Texas Board of Barber Examiners and Texas Cosmetology Commission be abolished and their duties transferred to the Texas Department of Licensing and Regulation or, as recommended by the Sunset Advisory Commission, merged into one licensing agency under the consistent review by the State Auditor's Office.

Interim Charge 2

Study the management of state assets and leases, including real estate, leased space, inventory and other assets by the General Land Office, the Texas Building and Procurement Commission, as well as other agencies. Explore and make recommendations on the possible use of sale-leaseback opportunities for properties that the state now owns. Review allegations of theft of state property and make recommendations on enhancing security of state assets.

Specific Recommendations

1. The Committee recommends that the General Land Office and the Texas Building and Procurement Commission develop a method for determining when the State should enter into "lease with the option to purchase" agreements. The agencies should consider the benefits to the state, the benefits to state agencies that might enter into these agreements, and any other factors that might improve state land management.
2. The Committee recommends that the General Land Office and the Texas Building and Procurement Commission develop a method for determining when the state should enter into "sale/leaseback" agreements. The Committee recommends that the General Land Office have the ability to look beyond the "highest and best use" in determining if state land is being utilized to the maximum extent possible.

3. The Committee recommends that all agencies that manage state lands and properties be required to prepare an annual review of its measures taken to ensure against the theft of state property.

Interim Charge 3

Review the use of inventory management in transportation and other programs. Explore the cost efficiencies and economic benefits of co-locating agencies in small, mid-size, and large cities around the State.

Specific Recommendations

1. Review individual agency fleets for opportunities for licensed road vehicles to be replaced with electric utility vehicles, primarily in campus or complex bound locations.
2. Re-evaluate the need for interagency consolidation and pooling of vehicles used for administrative purposes in the Capitol Complex.
3. Remove the minimum use criteria exemption for vehicles purchased with local or federal funds or received through donations or seizures.
4. Research opportunities for further consolidation of inter-agency fleet management operations.
5. Encourage state agencies to be more aggressive in seeking vehicle pooling or sharing options at an inter-agency level.
6. Distinguish between "asset" and "inventory" management in future research, committee charges and proposed reforms in inventory management practices.
7. Consider adopting a system similar to its fleet management tracking system to track designated inventories in agencies across the state and incorporate a systematic way to identify where and when inventory system and data sharing makes sense.
8. The Committee recommends that the State Auditor have a more active role in reviewing certain areas of inventory or asset management practices.
9. Improve state owned office building efficiency by enforcing statutory square foot requirements by renovating sixteen state-owned office buildings by fiscal year 2009.
10. Consolidate agencies from leased into new owned facilities when agency occupies at least 50,000 square feet of office space (when it has been determined that local real estate conditions would allow the state to recover full costs of this purchase within five years).
11. Consolidate agencies into centralized lease sites when it is in the state's best financial and operational interests.
12. Amend statutes to clearly direct agencies to share defined office space amenities.

Interim Charge 4

Study the effectiveness and make recommendations on improving debt collection strategies across all state programs and the identification of uncollectible state receivables.

Specific Recommendations

1. The Committee recommends that all state agencies and institutions of higher education, to the greatest extent possible, implement and follow the debt collection procedures found in the *Best Practices for Effective Accounts Receivable Management* study conducted by the State Auditor's Office. (See Appendix B)
2. The Committee recommends that state agencies seek out contracts with Private Collections Agencies for delinquent accounts that fall below the threshold for referral to the Office of the Attorney General.
3. The Committee recommends that state agencies and institutions of higher education be required to report debtor information to the Comptroller of Public Accounts no later than 120 days after the obligation of the debtor becomes delinquent.
4. The Committee recommends that the Comptroller of Public Accounts, in conjunction with the Office of the Attorney General, study the feasibility of prohibiting licensing authorities from issuing or renewing any licenses, certificates, or permits, to any individuals or entities that have delinquent state debt and the consolidation of debtor information into a statewide debtor database.
5. The Committee recommends that state law be modified to make judgment liens in favor of the State or a state agency continual.

INTERIM REPORT

Interim Charge 1

Study the consolidation of those agencies related to the arts, cultural, and library services; consolidation of certain agricultural-related agencies; and consolidation of certain licensing agencies or their administrative functions.

Recommendations

1. The Committee recommends that the state's arts, cultural and library agencies remain independent.
2. The Committee recommends that the Texas Food & Fibers Commission be abolished and its duties transferred to the Texas Department of Agriculture.
3. The Committee recommends that the Legislature consider the abolition of state licensing agencies that consistently demonstrate poor performance in licensing, regulation, and enforcement and transfer their duties to the Texas Department of Licensing and Regulation.
4. The Committee recommends that the Texas Board of Barber's Examiners and Texas Cosmetology Commission be abolished and their duties transferred to the Texas Department of Licensing and Regulation or, as recommended by the Sunset Advisory Commission, merged into one licensing agency under the consistent review by the State Auditor's Office.

Background

The Senate Government Organization Committee met on May 9, 2004 to discuss Committee Interim Charge 1. Representatives from the Texas Historical Commission, Texas Department of Agriculture, Texas Arts and Library Commission, and Texas Department of Licensing and Regulation were present to testify about the Charge and provide the Committee with background information. Committee staff has also met with representatives of these state agencies and others to discuss the interim charge and provide the Committee members with background information.

Agencies Related to the Arts, Cultural, and Library Services

In the State of Texas, there are three major agencies relating to the arts, cultural, and library services. Their names and missions are as follows:

1. Texas Commission on the Arts - To develop a receptive climate for the arts through the conservation and advancement of our rich art and cultural industries.
2. Texas Historical Commission - To protect and preserve the state's historic and pre-historic resources for the use, education, enjoyment, and economic benefit of present and future generations.
3. Texas State Library and Archives Commission - To safeguard significant resources, provide information services that inspire and support research, education and reading, and enhance the capacity for achievement of current and future generations.

In studying both the mission statements and programs of each of these agencies, the Committee has determined that each individual agency makes considerable contributions toward the promotion of a positive cultural climate in the State of Texas. The Legislature should allow each agency to continue the independent execution of its responsibilities and duties.

Agricultural Agencies

Four major state agencies in the State of Texas handle agricultural matters. Their names and missions are as follows:

1. Texas Department of Agriculture - To make Texas the nation's leader in agriculture, while promoting excellence in children's nutrition, rural economic development and providing efficient and extraordinary service.
2. Texas Animal Health Commission - To protect the animal industry from, and/or mitigate the effects of domestic, foreign and emerging diseases; to increase the marketability of Texas livestock commodities at the state, national and international level; to promote and ensure animal health and productivity; to protect human health from animal diseases and conditions that are transmissible to people; and, to prepare for and respond to emergency situations involving animals by conducting agency business in a responsive, cooperative and transparent manner.
3. Texas Food and Fiber Commission - To promote the production, use, and quality of Texas natural fibers and food protein products by supporting and coordinating cooperative research at Texas state-supported universities.
4. Texas Soil and Water Conservation Board - To encourage the wise and productive use of natural resources and to ensure the availability of those resources for future generations so that all Texans' present and future needs can be met in a manner that promotes a clean, healthy environment and strong economic growth.

During the May 6, 2004 hearing, Agriculture Commissioner Susan Combs testified about the performance of the state's major agricultural agencies. With a biennial budget just over \$2 billion and 530 full-time employees, the Texas Department Agriculture is currently the state's largest agricultural agency. The department handles a wide-range of

responsibilities, ranging from the regulation of floral nurseries to promoting economic development. It plays a vital role in the promotion of Texas agriculture and has an outstanding organizational structure under the leadership of Commissioner Combs.

Though the Food & Fiber Commission serves an important role in the protection and promotion of Texas' natural fibers and food protein products, these agency responsibilities can easily be handled by the Texas Department of Agriculture. By abolishing the Food & Fiber Commission and transferring its duties to the Department, the State could achieve savings between \$50,000 and \$100,000 in administration and building costs.

The Animal Health Commission, Soil and Water Conservation Board, and other agricultural agencies managed by Texas A&M University are also important to Texas' agricultural climate and should remain independent.

Texas Department of Licensing and Regulation

In the State of Texas, there are several dozen agencies with licensing functions. The largest of these agencies is the Texas Department of Licensing and Regulation (TDLR), which is responsible for licensing 21 different industries. TDLR has an independent, 7-member commission responsible for adopting licensing, regulation, and enforcement procedures for the 21 industries. In addition, the Department has established advisory boards that are involved in rule discussions and provide the commissioners with technical expertise in each of the industries. During the May 6 hearing, Executive Director

William Kuntz testified that the current agency organizational structure is set up in such a way that it can readily absorb additional licensing responsibilities. The Committee concurs with this observation and recommends that the Legislature consider the abolition of licensing authorities that consistently fail to meet established licensing, regulatory, and enforcement standards and transfer their duties to the TDLR.

Board of Barber Examiners and Cosmetology Commission

Two agencies that the Legislature should consider abolishing and transferring their duties to the Texas Department of Licensing and Regulation are the Board of Barber Examiners and the Cosmetology Commission.

According to a report released by the State Auditor's Office in October 2003, the Board of Barber Examiners "lack[ed] key information necessary to support its financial records" and had incomplete financial statements for Fiscal Year 2003. The SAO also found that the Board fails to ensure that practicing barbers have licenses, citing that 83% of penalties assessed are for barbers practicing without licenses or with expired licenses. Between 2000 and 2003, the Board collected just over half of the penalties it had assessed against licensees.

The Cosmetology Commission was also cited for gross fiscal mismanagement. According to a February 2004 report released by the SAO, the Commission "did not maintain proper control over assets, did not discharge fiscal obligations in a timely manner, misused state funds, and did not keep adequate fiscal records." During a four-

year period, the Commission also failed to collect on almost 60% of penalties assessed against licensees. Due to its high error rates in purchasing and travel expenditures, the Comptroller of Public Accounts has required that the Commission submit to pre-payment audits effective October 18, 2004. It is the only state agency so required.

Such reasons lead the Committee to recommend that neither the Board of Barber Examiners nor the Cosmetology Commission remain as independent, rule-making agencies. One recommendation would be to abolish both entities and transfer their duties to the Texas Department of Licensing and Regulation. However, consolidating the two agencies into one, independent commission is also feasible, provided that they undergo consistent audits to ensure that they are making progress in the areas cited above. This approach was adopted by the Sunset Advisory Commission after review of both agencies.

Out of the five largest states in the United States, Texas is the only one that has two separate, independent boards for the licensure of barbers and cosmetologists. In California, the Board of Barbering and Cosmetology is responsible for issuing and renewing licenses, inspecting facilities, administering examinations, and adopting rules for sanitation. In New York, the Secretary of State is responsible for the licensure of barbers and cosmetologists. A barber committee advises the Secretary of State and has some rule-making authority. The cosmetology committee, however, appears to serve strictly in an advisory capacity. In Florida, the Department of Business and Professional Regulation is the entity responsible for the licensing and investigation of barbers and cosmetologists. The Department of Business and Professional Regulation is responsible

for issuing and renewing all licenses in accordance with the rules established by the barbers and cosmetology boards, as well as handling all legal and investigative services. In Illinois, the Department of Professional Regulation handles the licensing and regulation of barbers and cosmetologists. The Barber, Cosmetology, Esthetics and Nail Technology Committee advises the Department in disciplinary matters.

The Committee recommends that the Legislature consider the structure and responsibilities of the barber and cosmetology boards in these states when determining how to restructure the Board of Barber Examiners and Cosmetology Commission.

Interim Charge 2

Study the management of state assets and leases, including real estate, leased space, inventory and other assets by the General Land Office, the Texas Building and Procurement Commission, as well as other agencies. Explore and make recommendations on the possible use of sale-leaseback opportunities for properties that the state now owns. Review allegations of theft of state property and make recommendations on enhancing security of state assets.

Recommendations

1. The Committee recommends that the General Land Office and the Texas Building and Procurement Commission develop a method for determining when the State should enter into "lease with the option to purchase" agreements. The agencies should consider the benefits to the state, the benefits to state agencies that might enter into these agreements, and any other factors that might improve state land management.
2. The Committee recommends that the General Land Office and the Texas Building and Procurement Commission develop a method for determining when the state should enter into "sale/leaseback" agreements. The Committee recommends that the General Land Office have the ability to look beyond the "highest and best use" in determining if state land is being utilized to the maximum extent possible.
3. The Committee recommends that all agencies that manage state lands and properties be required to prepare an annual review of its measures taken to ensure against the theft of state property.

Background

The Senate Government Organization Committee met on May 6, 2004 to discuss Committee Interim Charge 2. Representatives from the General Land Office, Texas Building and Procurement Commission and the Texas Department of Transportation were present to testify about the Charge and provide the Committee with background information. Committee staff has also met with representatives of these state agencies to discuss the interim charge and provide the Committee members with background information.

The Committee has learned that there are many innovative programs in other states that may be able to be replicated in Texas to achieve better use of state resources in the management of state lands, inventory, and real estate. For example, in Iowa, the Iowa Facilities Improvement Corporation, created in 1986, was established to improve energy management opportunities in state agencies. One of the Corporation's main tools is the use of lease-purchase financing for energy management opportunities. The Corporation sold millions of dollars in energy conservation revenue bonds to acquire energy improvements for buildings under the management of a number of state agencies. Over time, the Corporation has evolved into using private sector lending institutions to facilitate lease-purchasing financing for the installation of all cost effective improvements. Lease-purchase payments are designed to be sufficient to retire principal and interest on the lease. The lessees have no negative state budget impact, and when energy dollar savings are greater than the lease payments, the state budget impact for state agencies will be positive. The Texas Legislature should look closely at developing a similar mechanism in Texas.

In its research, the Committee also found methods by which states could improve and streamline government purchasing. Idaho has created a Purchasing Modernization Initiative that seeks to improve government purchasing. State employees and vendors who want to sell goods and services to state agencies can conduct business online. In 1998, Idaho was one of five states participating in an electronic mall pilot program to experiment with integrating e-business applications into state purchasing systems. In 2001, Idaho formed the Purchasing Modernization Task Force to evaluate the existing

statewide purchasing system and recommend improvements to increase convenience and efficiency. To date, the state of Idaho has processed well over 11,000 online transactions worth over \$99 million. The State of Texas might want to consider the creation of an inter-agency task force to evaluate the benefits of expanding the use of electronic statewide purchasing methods.

Sales-Leaseback Agreements

A sale-leaseback agreement (also called a tax-exempt lease or lease-purchase agreement) is an installment purchase, conditional sale or lease with an option to purchase for nominal value. Many states are beginning to consider the use and expanded use of sales-leaseback opportunities as a way to better manage state assets and state lands. Some issues that a state agency should consider when determining if a sales-leaseback opportunity is in the best interest of the state and the agency include: availability of cash at the time of the sale; competing demands on capital resources; essentiality of the asset to the basic functions of the entity; useful life of the asset; desirability of matching costs and benefits over time; and the ability to improve bargaining positions with vendors.

Sales-leaseback opportunities can be used for a variety of real property purposes including schools, courthouses, correctional facilities, central offices, recreational facilities and environmental facilities. While sales-leaseback agreements are generally considered in relation to real property transactions, sales-leaseback agreements can also be used beneficially for the state in the areas of equipment, telecommunications, vehicles, software and modular buildings.

Appendix A provides some detailed analysis of some of the best practices in state purchasing around the country. The Committee recommends that the Texas Legislature look closely at some of these best practices as a way to streamline purchasing and asset management programs in the State of Texas.

Theft of State Property

Committee staff met with the Texas Department of Transportation and the General Land Office to discuss allegations of theft of state property and to come up with some recommendations to better secure state property. The Texas Department of Transportation noted that the Department conducts an annual review of inventory for any theft or security issues. The General Land Office noted that the Office is primarily concerned with timber theft but does not have an adequate staff to do a thorough analysis of timber theft. The General Land Office feels the need to have more people on its staff in order to better protect the state against timber theft and the theft of other state lands and properties.

Interim Charge 3

Review the use of inventory management in transportation and other programs. Explore the cost efficiencies and economic benefits of co-locating agencies in small, mid-size, and large cities around the State.

General Recommendations

1. Review individual agency fleets for opportunities for licensed road vehicles to be replaced with electric utility vehicles, primarily in campus or complex bound locations.
2. Re-evaluate the need for interagency consolidation and pooling of vehicles used for administrative purposes in the Capitol Complex.
3. Remove the minimum use criteria exemption for vehicles purchased with local or federal funds or received through donations or seizure.
4. Research opportunities for further consolidation of inter-agency fleet management operations.
5. Encourage state agencies to be more aggressive in seeking vehicle pooling or sharing options at an inter-agency level.
6. Distinguish between "asset" and "inventory" management in future research, committee charges and proposed reforms in inventory management practices.
7. Consider adopting a system similar to its fleet management tracking system to track designated inventories in agencies across the state and incorporate a systematic way to identify where and when inventory system and data sharing makes sense.
8. The Committee recommends that the State Auditor have a more active role in reviewing certain areas of inventory or asset management practices.
9. Improve state owned office building efficiency by enforcing statutory square foot requirements by renovating sixteen state-owned office buildings by fiscal year 2009.
10. Consolidate agencies from leased into new owned facilities when agency occupies at least 50,000 square feet of office space (when it has been determined local real estate conditions would allow the state to recover full costs of this purchase within five years).
11. Consolidate agencies into centralized lease sites when it is in the state's best financial and operational interests.
12. Amend statutes to clearly direct agencies to share defined office space amenities.

Inventory Management in Transportation

Specific Recommendations

1. Review individual agency fleets for opportunities for licensed road vehicles to be replaced with electric utility vehicles, primarily in campus or complex bound locations.
2. Re-evaluate the need for interagency consolidation and pooling of vehicles used for administrative purposes in the Capitol Complex.
3. Remove the minimum use criteria exemption for vehicles purchased with local or federal funds or received through donations or seizure.
4. Research opportunities for further consolidation of inter-agency fleet management operations.
5. More aggressive pursue vehicle pooling or sharing options at an inter-agency level.

Background and Current Efforts

Inventory management in transportation has made significant progress in the past few years. In 2000, the State of Texas began using the FleetAnywhere fleet data management system. This system, which reports on fleet inventories of approximately 100 state agencies, is administered by the Texas Buildings and Procurement Commission (TBPC).

House Bill 3125, passed during the 76th Legislative session, established a statewide fleet management plan to improve the administration and operation of the state's vehicle fleet. The plan's components address the size and use of the state's fleet, agency reporting requirements and approved fleet management procedures. All state agencies and institutions of higher education are required to act in accordance with the rules, regulations and reporting procedures in this plan and report vehicle usage numbers to the TBPC's Office of Vehicle Fleet Management (OVFM).

According to information solicited from the TBPC and OVFM, 100 percent of state agencies are currently reporting usage numbers (37 state agencies and 61 institutions). As of August 2004, state agencies and universities operated 27,462 vehicles. The state plan for fleet management recommends that most vehicles be replaced every six years or 100,000 miles. Currently, state vehicles have an average usage-span of 6.97 years (this includes 3.69 years for law enforcement vehicles and 9.57 years for materials transport vehicles). Since the fleet management system was implemented, statewide fleet totals have decreased by more than 8 percent.

The OVFM manages a surplus vehicle identification process and oversees the proper disposal of surplus vehicles. The main statutory components of the Plan address the size and use of the state's fleet by identifying the number and type of vehicles operated and maintained by the state and setting guidelines to maximize vehicle usage.

Under the Plan, vehicles failing to meet minimum usage criteria are disposed of as surplus. If a surplus is identified at a state agency, excess vehicles are auctioned through the State Surplus Property Program. If a surplus is identified at an institution of higher learning, it is up to that institution to decide how to dispose of surplus. In addition, lower vehicle usage caps are imposed on agencies that have identified vehicle surpluses by TBPC.

Finally, the Plan sets procedures to reduce the cost of maintaining state vehicles by defining replacement goals and specific fueling policies. Cost-savings from these and all

efforts under the Plan have not been determined. This information will be made available in a TBPC report to be issued January 2005.

Inventory Management in Other Areas

Specific Recommendations

6. Distinguish between "asset" and "inventory" management in future research, committee charges and proposed reforms in inventory management practices.
7. Adopt a system similar to its fleet management tracking system to track designated inventories in agencies across the state and incorporate a systematic way to identify where and when inventory system and data sharing makes sense.
8. The Committee recommends that the State Auditor have a more active role in reviewing certain areas of inventory or asset management practices.

Background and Current Efforts

Most efforts to consolidate state inventories (excluding transportation inventories) have involved more efficient storage and warehousing of state agency materials and resources. The centralized warehousing of various materials used by state agencies with multiple locations is one way larger state agencies have attempted to manage their inventories more cost-effectively. Not all agencies with multiple locations have regional warehouses. Currently, TBPC lease records include a total of 63 warehouse leases containing 706,547 square feet at a cost of \$4.37 million per year. Travis County accounts for 19 service warehouse leases or 52 percent of all leased warehouse space. In addition, there are two state owned warehouses in Travis County that serve multiple agencies. The Health & Human Services Warehouse serves the Department of Aging and Disability Services, the Texas Youth Commission and the Department of Assistive & Rehabilitation Services. The central surplus property warehouse serves all state agencies in Austin.

Other attempts to pool inventories of agencies located within the Capitol complex include an established review process at TBPC for any agency requesting a renewal on a warehouse lease.

Agency Co-Location and Other Forms of Agency and Inventory Consolidation

Specific Recommendations

9. Improve state owned office building efficiency by enforcing statutory square foot requirements by renovating sixteen state-owned office buildings by fiscal 2009.
10. Consolidate agencies from leased into new owned facilities when agency occupies at least 50,000 square feet of office space (when it has been determined local real estate conditions would allow the state to recover full costs of this purchase within five years).
11. Consolidate agencies into centralized lease sites when it is in the state's best financial and operational interests.
12. Amend statutes to clearly direct agencies to share defined office space amenities.

Background and Current Efforts

State owned buildings currently average 264 square feet per FTE, containing over one million square feet of office space in excess of statutory allocation limits. The Commission has determined that 6,760 FTEs can be housed in the excess square footage. These employees are currently located in leased office space at a cost of \$23.8 million per year. Estimated costs to renovate these buildings total \$86 million. On completion, the state could recover project expenses from eliminated lease costs in less than 4 years and collect savings that are projected at \$357 million over a 15 year period.

The TBPC has performed preliminary analysis of real estate market conditions in areas where agencies occupy at least 50,000 square feet of office space. Evaluation supports

buying and renovating buildings in Dallas, Houston, Arlington, and Fort Worth and moving employees into owned facilities. Projects could result in a 20-year cumulative savings by eliminating lease costs totaling \$14.6 million. TBPC plans on performing detailed analyses of market conditions in other areas to validate project cost benefits.

The Texas Government Code requires TBPC to pursue leasing consolidations in counties with populations of 75,000 or more when it is in the states best economic or operational interest. Texas can save money by consolidating agencies from single tenant sites into larger multi-tenant leases in cities where such leases exist. Currently, TBPC plans on coordinating office lease expirations and procurement of 202 individual leases and then changing these leases into 58 centralized multi-tenant leased offices in 30 cities around the state. Existing analyses on this project indicate that \$2.7 million will be saved annually by this consolidation effort by 2007 (and an additional \$2.8 million by 2009). The primary barrier to building consolidations is the reluctance of agencies to cooperate on the basis that relocating costs are prohibitive or that their mission bars them from sharing certain amenities with other state agencies.

Interim Charge 4

Study the effectiveness and make recommendations on improving debt collection strategies across all state programs and the identification of uncollectible state receivables.

Recommendations

1. The Committee recommends that all state agencies and institutions of higher education, to the greatest extent possible, implement and follow the debt collection procedures found in the *Best Practices for Effective Accounts Receivable Management* study conducted by the State Auditor's Office. (See Appendix B)
2. The Committee recommends that state agencies seek out contracts with Private Collections Agencies for delinquent accounts that fall below the threshold for referral to the Office of the Attorney General.
3. The Committee recommends that state agencies and institutions of higher education be required to report debtor information to the Comptroller of Public Accounts no later than 120 days after the obligation of the debtor becomes delinquent.
4. The Committee recommends that the Comptroller of Public Accounts, in conjunction with the Office of the Attorney General, study the feasibility of prohibiting licensing authorities from issuing or renewing any licenses, certificates, or permits, to any individuals or entities that have delinquent state debt and the consolidation of debtor information into a statewide debtor database.
5. The Committee recommends that state law be modified to make judgment liens in favor of the State or a state agency continual.

Background

The Senate Government Organization Committee met on September 14, 2004 to discuss Committee Interim Charge 4. Representatives from the Office of the Attorney General, Comptroller of Public Accounts, and State Auditor's Office were present to testify about the Charge and provide the Committee with background information. Committee staff has also met with representatives of these state agencies and others to discuss the interim charge and provide the Committee members with background information.

During the 75th Legislative Session, the Legislature directed the Comptroller of Public Accounts and the Office of Attorney General to conduct a study on the State's process of debt collection and report back to the Legislature. This study group thoroughly studied collection procedures across state agencies, consulted with the Federation of Tax Administrators, and conducted a national survey of debt collection practices in other states.

The final report, "State Collection of Receivables and Delinquent Obligations," was issued to the Legislature in December 1998 and included several recommendations for improving the effectiveness and efficiency of debt collections in Texas. The Legislature subsequently implemented several of the study group's recommendations, including recommendations to increase agency participation in the Comptroller's Warrant Hold Program and to require agencies to refer delinquent debt to the Office of the Attorney General in a timely manner.

Key provisions that were not implemented include the recommendations to prohibit licensing agencies from issuing or reissuing licenses to state debtors to allow agencies to impose pre-judgment interest on delinquent debt, to centralize all private collections in the Office of the Attorney General, and to make the life of judgments in favor of the state or state agency continual.

Agency Debt Collection Procedures

The State Auditor's Office has learned that, despite legislative directive, many agencies lack adequate policies and procedures for accounts receivable management. The State Auditor's Office has also found that several licensing agencies fail to use the full spectrum of enforcement mechanisms that they are allowed under law in order to collect on delinquent obligations. The failure of agencies to implement simple measures such as performing monthly bad debt analyses and refusing to renew the licenses of the debtors makes it more difficult for them to collect on delinquent debt and hampers the state's ability to measure agency performance in accounts receivable management.

Through a number of audits on a host of different agencies, the State Auditor's Office has compiled a list of "Best Practices for Effective Accounts Receivable Management." Each state agency and institution of higher education should be required to implement these practices, to the greatest extent possible, into their current debt collection rules and procedures.

Uncollected Collectible Agency Debt

Under Government Code 2107, Section 2107.005, agencies are required to report annual debt collection reports to the Attorney General. According to Texas Administrative Code, Rule 59.3, agencies must report information on their total debt, total accounts, amount of delinquent loans, accounts in bankruptcy and accounts in judgment. They may report additional information as they deem appropriate.

According to the Fiscal Year 2003 annual debt collection report, 192 agencies reported a total of 1,310,546 accounts with debts totaling almost \$4.3 billion. Thirty-seven percent, or about \$1.6 billion, of that debt was designated uncollectible. The remaining \$2.7 billion was collectible debt, or current receivables, though it remains unclear what percentage of that amount was delinquent.

Currently, state agencies are required to report uncollected and delinquent obligations to the Office of the Attorney General no later than the 120th day after the obligations becomes delinquent. The current OAG-established referral threshold for individual delinquent accounts ranges from \$1,000 to \$2,500 for state agencies. An agency remains responsible for collecting delinquent obligations that fall below these amounts until it determines that all of its collection efforts have been exhausted.

One alternative that more state agencies should carefully consider is the use of private collection agencies (PCA's). Several states use private collection agencies in order to collect on delinquent obligations. A state's use of PCA's is beneficial because they can generate significant additional revenue and do not require payments on failed collection attempts.

Under current Texas state law any agency contract with a PCA must first be reviewed by the Office of Attorney General. In fiscal year 2003, the overwhelming majority of the contracts approved by the OAG were negotiated by institutions of higher education. Few other state agencies have sought out such contracts for their individual accounts that fall

below the OAG threshold. Instead of writing off significant amounts of their delinquent obligations as uncollectible, all state agencies should be encouraged to seek out contracts with PCAs to collect on these delinquent obligations.

Statewide Debt Reporting

State agencies are currently required to report delinquent obligations to the Office of the Attorney General no later than 120 days after the obligation becomes delinquent. Agencies are similarly required to report debtor information to the Comptroller of Public Accounts after they determine that their collection efforts have been exhausted. However, state law prohibits the CPA from verifying an agency's compliance with this requirement.

The Comptroller currently consolidates this information into a database as part of its Warrant Hold System, and is authorized to refuse payment to state vendors who are indebted to the state. Agencies are currently required to check the Warrant Hold System before negotiating contracts, and are prohibited from signing a contract with any individual or entity indebted to the state.

The Warrant Hold System has been an effective tool in the collection of delinquent obligations. However, each state agency has a different interpretation of what constitutes "exhausting all collection efforts" and therefore can vary greatly in the period before they report debtor information to the Comptroller. For consistency with current OAG procedures, the Committee recommends that agencies be required to report debtor

information to the Comptroller no later than 120 days after the obligation becomes delinquent.

License Suspension

In the 1998 "State Collection of Receivables and Delinquent Obligations" report, the study group recommended that "licensing authorities be prohibited from issuing or renewing, and have the ability to suspend or revoke, a license, including driver's licenses, certificate, registration, or permit if the applicant or license holder is delinquent in paying any type of state debt."

In 1995, state law authorized the Child Support Division of the Office of the Attorney General to suspend licenses, certificates, registrations, and permits of individuals who are delinquent in child support payments. The expansion of this authorization to all licensing authorities could facilitate their collection efforts and generate additional state revenue. The Committee recommends that the Comptroller, in conjunction with the Office of the Attorney General, study and make recommendations to the Legislature regarding the feasibility of prohibiting state licenses, certificates, registrations, and permits to individuals or entities that are indebted to the State. Because the implementation of such a program would require the development of an extensive state debtors database, the Committee recommends that the Comptroller and OAG study and report to the Legislature on this issue.

Judgments in Favor of the State

Under current state law, the Office of the Attorney General is authorized to file suit against an individual or entity to recover monies that are owed to the State. Judgments are valid for ten years, after which time they become dormant if they are not renewed. Currently, the Office of the Attorney General has thousands of judgments that will require renewal in the next several years.

There are several costs associated with this process, including the costs to obtain a writ of execution, to cover the service fees for law enforcement officials who serve the writs, and to re-file the abstract. The Office of the Attorney General estimates that the actual costs to renew one judgment can run well over \$200. This figure excludes the costs associated with the number of hours that OAG staff work on each case. The OAG estimates that the abolition of the requirement to renew judgments every ten years will save the state over \$1 million over the next several years. For this reason, the Committee recommends that state law be modified to make judgment liens in favor of the State continual.