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Subject: S 22 - DoA Bill

You've asked for some bulletpoints on my first take, now that I've done an initial read-through on the DoA bill. These aren't in any particular order, but are the things that stick with me after my first look overnight. There's lots of other stuff that's more second-tier, obviously:

- The Procurement Oversight Board still doesn't make any sense. The bill doesn't say what it does, how it does it, who really has daily control over that "agency", etc. I also continue to believe that procurement belongs – intact – in the Department of Administration.
- The bill doesn't contain the reform language on Strategic Sourcing. Or the OEPP language requiring a study/review of where all those programs really belong. Or the reform language on IRF, requiring that they reopen the attorneys list from time to time. All are important; the first two are essential. In the long run, OEPP doesn't belong in DoA. At all.
- The SFAA is still in many respects a renamed Budget and Control Board. It's a little funny that they accidentally retained the "SCAA" language in some places, which is from some of the late House versions of last session's DoA bill. I take that as a mistake and not an intention to create both.
- The bill creates the SFAA and the Procurement Oversight Board, and then sticks DoA with the tab for their operating costs and support. If they (half-wrongly) believe that both those agencies are necessary for some semi-nonsensical "independence" reasons, then they should be independent. And they certainly ought to pay their own bills.
- The bill would now have the DoA head be a protected species. The Governor should be able to fire that person whenever he/she wants...as it is in other states. And as it is with COOs out in the real world.
- They've dramatically changed the budget office language so as to expand the scope of the office's duties, but also to wildly increase the amount of paperwork for the bureaucracy to create. They're right in principle on several points – that we can and must be more systematic about performance measurement, legitimate capital budgeting, etc. But the application envisioned by this bill concerns me. It only slightly amends some decades-old language that compels the Comptroller to produce some reports by a certain date – even though what's described in the bill (and current law for that matter) is fairly useless for budget development...and is also available in SCEIS pretty much whenever you want it. Just an example. The point is that if we're going to reopen those sections of law (which previous DoA drafts did not do), then I think we need a pretty different and more modern approach. I'm not sure these guys appreciate how much work it would be to stand up a serious performance measurement initiative or a capital budgeting regime. You certainly couldn't do it between the effective date of the act and the drop-dead date for the first new budget to follow. Oh...especially if most of the folks in the Office of State Budget land in the Legislative Fiscal Office (which the bill does, in my reading), instead of over here. Heh heh heh.
- Finally, I continue to have very serious discomfort with essentially every aspect of the legislative oversight language.
 - First, I think much of it could (but not should) be implemented by rule...for whatever that's worth.
 - I think it's also going to cost a great deal of money to hire all the staffers who would be needed to support the inquisitions. I'd have to look back at my notes, but last time I checked, Texas had something like 30 staffers for its Sunset Commission, and they're on a 12-year review cycle for most agencies. Here, we're talking about two parallel processes (since the House and Senate have so far refused to do this on a joint committee basis) on a 7-year cycle. So that's a lot of staffwork...more than I think anyone really recognizes.
 - I've asked several times for (and have drafted and offered) language that would compel the legislature to come up with tangible action items after their inquisitions, so that we can try to make these

oversight meetings into something that will yield some specific results for the general public, instead of the blamestorming/demagoguery events into which I think it's more likely they will devolve. This bill creates unfathomable compliance burdens for agencies without creating any obligations for the legislature to do anything with all the paperwork they're creating. If we're going to chop down all these trees, I'd like to accomplish something on the back-end.

- Although much of the "new crimes" language appears to be gone (the procurement stuff and the "Contempt of General Assembly" bit), there is still a severely menacing tone to the legislative oversight language that (1) will further impede our ability to hire qualified individuals to run these agencies and (2) puts members of the general public at risk of being subpoenaed and compelled to testify, potentially about matters of peripheral relevance. The bill as currently drafted also explicitly restricts individuals' rights to appeal certain actions taken by these oversight committees. Of all the critiques offered by the Policy Council on last year's DoA bill, this is the one where I thought they had the best argument. There are some scary Star Chamber implications here.

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