

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 572.054, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

SECTION 2. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2017 [~~2011~~].

SECTION 3. Sections 2054.021(a), (c), (g), and (h), Government Code, are amended to read as follows:

(a) The department is governed by a board composed of seven voting members appointed by the governor with the advice and consent of the senate. One member must be employed by an institution of higher education as defined by Section 61.003, Education Code. Each member must have expertise in at least one of the following areas:

(1) business or financial management;

(2) information technology;

(3) telecommunications; or

(4) any other area necessary for policymaking and oversight of the department.

(c) Three [~~Two~~] groups each composed of three ex officio members serve on the board on a rotating basis. The ex officio members serve as nonvoting members of the board. [~~Only one group serves at a time.~~] The first group is composed of the commissioner of insurance, the executive

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

commissioner of the Health and Human Services Commission, and the executive director of a small state agency ~~[the Texas Department of Transportation]~~. ~~[Members of the first group serve for two-year terms that begin February 1 of every other odd-numbered year and that expire on February 1 of the next odd-numbered year.]~~ The second group is composed of the executive director of the Texas Department of Transportation, the commissioner of education, and the executive director of a small state agency. The third group is composed of the executive director of the Texas Department of Criminal Justice, ~~and~~ the executive director of the Parks and Wildlife Department, and the executive director of a small state agency. Members of a ~~[the second]~~ group serve on the board for two-year terms that begin February 1 of ~~[the]~~ odd-numbered years ~~[in which the terms of members of the first group expire]~~ and ~~[that]~~ expire on February 1 of the next odd-numbered year. Only one group serves at a time. The governor shall appoint the small state agency representative for each group. In this subsection, "small state agency" means a state agency with fewer than 100 employees.

(g) The training program must provide information to the person regarding:

- (1) this chapter and the board ~~[the enabling legislation that created the department and its policymaking body]~~ to which the person is appointed to serve;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (7) the requirements of the:
  - (A) open meetings law, Chapter 551;
  - (B) open records law, Chapter 552; and
  - (C) administrative procedure law, Chapter 2001;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; ~~and~~
- (9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and
- (10) contract management training.
- (h) A person appointed to the board under Subsection (a) is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

SECTION 4. Section 2054.022(c), Government Code, is amended to read as follows:

- (c) An employee of the department, other than the executive director, ~~is~~
  - ~~[(1) may not participate in the department's bidding process, including the proposal development related to a contract and the negotiation of a contract, if:~~
    - ~~[(A) the employee receives more than five percent of the employee's income from any likely bidder on the contract; or~~
    - ~~[(B) the employee's spouse is employed by any likely bidder on the contract; and~~
  - ~~[(2)] may not:~~
    - (1) [(A)] be a person required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies

SECTION 4. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

industry; or  
(2) ~~(B)~~ be employed by a state agency as a consultant on information resources technologies.

SECTION 5. Section 2054.0285(b), Government Code, is amended to read as follows:

(b) The executive director has authority for certain ~~all~~ aspects of information technology for state agencies, including:

- (1) the use of technology to support state goals;
- (2) functional support to state agencies;
- (3) ~~technology purchases;~~
- ~~(4)~~ deployment of new technology;
- ~~(4)~~ ~~(5)~~ delivery of technology services; and
- ~~(5)~~ ~~(6)~~ provision of leadership on technology issues.

SECTION 6. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.0331 to read as follows:

Sec. 2054.0331. CUSTOMER ADVISORY COMMITTEE.

(a) The board shall appoint a customer advisory committee under Section 2054.033.

(b) The advisory committee is composed of customers who receive services from each of the department's key programs and of members of the public, including at least:

- (1) one member representing a state agency with fewer than 100 employees;
- (2) one member appointed by the Information Technology Council for Higher Education; and
- (3) one public member.

(c) The advisory committee shall report to and advise the

SECTION 5. Same as House version.

SECTION 6. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

board on the status of the department's delivery of critical statewide services.

SECTION 7. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.0345 and 2054.0346 to read as follows:

Sec. 2054.0345. DETERMINATION OF ADMINISTRATIVE FEES. (a) The department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs, including fees charged for programs under Sections 2054.380 and 2170.057.

(b) The process must require that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations, as determined by the department's annual budget process.

(c) The department shall develop clear procedures directing staff for each department program and the department's financial staff to work together to determine the amount of administrative fees. The procedures must require review and approval of all administrative fees by the board, the executive director, and the department's chief financial officer.

Sec. 2054.0346. REPORTING OF ADMINISTRATIVE FEES. (a) The department shall report to the Legislative Budget Board all administrative fees that the department sets under Section 2054.0345 each fiscal year. The report must include:

(1) the underlying analysis and methodology used to determine the fee amounts; and

(2) the cost allocation charged to customers.

(b) The department shall post on the department's website information about each administrative fee the department

SECTION 7. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

charges, including a description of how the fee is determined. The department must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the department or a customer of the department.

SECTION 8. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.037 to read as follows:

Sec. 2054.037. **NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION.** (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SENATE VERSION (IE)

SECTION 8. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 9. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.038, 2054.039, and 2054.040 to read as follows:

Sec. 2054.038. INTERNAL AUDITOR; POWERS AND DUTIES. (a) The board shall:

(1) appoint an internal auditor who reports directly to the board and serves at the will of the board; and

(2) provide staff and other resources to the internal auditor as appropriate.

(b) The internal auditor shall prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department. The internal auditor shall submit the annual audit plan to the board for consideration and approval. The board may change the plan as necessary or advisable.

(c) The internal auditor may bring before the board an issue outside of the annual audit plan that requires the immediate attention of the board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations. The internal auditor may provide guidance or other advice before an operational or management decision is made but may not make the decision, approve the decision, or otherwise violate this subsection.

(e) The department shall give the internal auditor unrestricted access to the activities and records of the department unless restricted by other law.

Sec. 2054.039. OPEN MEETINGS EXCEPTION FOR INTERNAL AUDITOR. A meeting between the board and the department's internal auditor to discuss issues related to fraud, waste, or abuse is not required to be an open meeting under Chapter 551.

Sec. 2054.040. AUDIT SUBCOMMITTEE. (a) The board

SENATE VERSION (IE)

SECTION 9. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

shall maintain an audit subcommittee of the board. The subcommittee shall oversee the department's internal auditor and any other audit issues that the board considers appropriate.

(b) The subcommittee shall evaluate whether the internal auditor has sufficient resources to perform the auditor's duties and ensure that sufficient resources are available.

SECTION 10. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.041 to read as follows:

Sec. 2054.041. ADDITIONAL BOARD OVERSIGHT. (a) The board shall adopt a policy describing the board's role in setting a strategic direction for the department. The policy must address the board's role in developing new initiatives for and service offerings by the department, including requiring the board to evaluate and approve new initiatives for, or categories of, services offered by the department under the department's various programs.

(b) The board shall regularly evaluate the extent to which the department fulfills the department's information resources technology mission by providing cost-effective services and meeting customer needs.

(c) The board shall regularly evaluate department operations, including an evaluation of analytical data and information regarding trends in department revenue and expenses, as well as performance information.

SECTION 11. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0525 to read as follows:

SENATE VERSION (IE)

SECTION 10. Same as House version.

SECTION 11. Same as House version.

CONFERENCE



**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

Sec. 2054.0525. ASSISTANCE TO STATE AGENCIES. The department on request shall advise and provide technical assistance to a state agency to determine the agency's information resources technology needs and to solve the agency's information resources technology problems.

SECTION 12. Section 2054.0565(a), Government Code, is amended to read as follows:

(a) The comptroller ~~[department]~~ may include terms in a procurement contract entered into by the comptroller ~~[department]~~, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

SECTION 13. Section 2054.057, Government Code, is amended to read as follows:

Sec. 2054.057. TRAINING IN CONTRACT NEGOTIATION. (a) The ~~[department, with the cooperation of the]~~ comptroller and other appropriate state agencies~~;~~ shall develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

(b) The comptroller ~~[department]~~ shall make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge.

(c) The comptroller ~~[department]~~ shall include in the training:

SECTION 12. Same as House version.

SECTION 13. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

- (1) information on developing a structured purchasing method that meets an agency's needs;
  - (2) information drawn from the state's previous procurement experience about what is or is not advantageous for the state;
  - (3) the perspective of state agencies with oversight responsibilities related to the state's procurement of information resources technologies; and
  - (4) other information that the comptroller [~~department~~] considers to be useful.
- (d) The comptroller [~~department~~] may use its own staff or contract with private entities or other state agencies to conduct the training.

SECTION 14. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.061 to read as follows:

Sec. 2054.061. USE OF CONSULTANTS AND OUTSIDE STAFF. (a) The department shall develop clear criteria for the appropriate use of consultants and outside staff by the department to temporarily augment the department's existing staff.

(b) The department shall annually analyze:

- (1) the department's staffing needs;
- (2) the need for and cost-effectiveness of contracting for consultants and outside staff;
- (3) whether the department could use department staff to accomplish tasks proposed for the consultants and outside staff; and
- (4) whether and what type of training or additional resources are necessary for the department to use the department's own staff to accomplish tasks proposed for the consultants or outside staff.

SENATE VERSION (IE)

SECTION 14. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(c) In conjunction with the budget process, the department shall provide the analysis to the board for approval. The department may not hire or train any consultants or outside staff unless it has been approved during this budget process.

SECTION 15. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.062 to read as follows:

Sec. 2054.062. INFORMATION RESOURCES TECHNOLOGIES CONSOLIDATION. (a) The department shall develop a consistent and clear method of measuring the costs and progress of an information resources technology consolidation initiative, including a consolidation under Subchapter L.

(b) The department shall work with any entity involved in an information resources technology consolidation to develop an agreed on methodology for collecting and validating data to determine a baseline assessment of costs. The department shall use the data both in the department's initial cost projections and in any later cost comparison. The department shall coordinate with the internal auditor for guidance, subject to Section 2054.038(d), on developing a methodology that provides an objective assessment of costs and project status.

(c) Using the methodology agreed on under Subsection (b), the department shall evaluate actual costs and cost savings related to the consolidation. The department shall also evaluate the progress of the department's information resources consolidation projects compared to the initially projected timelines for implementation. The evaluation results must break out the information on both statewide and individual entity levels.

(d) The department shall annually report the evaluation

SECTION 15. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

results to:

- (1) the board;
- (2) the Legislative Budget Board; and
- (3) customers involved in the consolidation.
- (e) The department shall post on the department's website the report required by this section.

SECTION 16. Sections 2054.1015(b), (c), (d), and (e), Government Code, are amended to read as follows:

(b) The comptroller [department] may require a state agency to provide ~~[to the department]~~ a planned procurement schedule for commodity items if the comptroller [department] determines that the information in the schedule can be used to provide a benefit to the state. If required by the comptroller [department], a state agency must provide a planned procurement schedule for commodity items to the comptroller and the department before the agency's operating plan may be approved under Section 2054.102.

(c) The comptroller [department] shall use information contained in the schedules to plan future vendor solicitations of commodity items or for any other activity that provides a benefit to the state.

(d) A state agency shall notify the comptroller [department], the Legislative Budget Board, and the state auditor's office if the agency makes a substantive change to a planned procurement schedule for commodity items.

(e) The comptroller [department] shall specify hardware configurations for state commodity items in its instructions for the preparation of planned procurement schedules.

**No equivalent provision.**

SECTION 16. Same as House version.

SECTION \_\_. Section 2054.113, Government Code, is

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

amended by adding Subsection (a-1) to read as follows:  
(a-1) This section does not apply to a state agency in the judicial branch of state government that implements electronic filing and service of documents under rules adopted or approved by the supreme court. [FA1(3)]

SECTION 17. Section 2054.122, Government Code, is amended to read as follows:

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. A state agency each calendar quarter shall coordinate agency training for the use of information resources technologies with training offered or coordinated by the department or comptroller. The agency shall use training offered or coordinated by the department or comptroller if it meets agency requirements and is cost-competitive.

SECTION 17. Same as House version.

SECTION 18. Section 2054.124, Government Code, is amended to read as follows:

Sec. 2054.124. POWER MANAGEMENT SOFTWARE. (a) After researching the software available, the comptroller [~~department~~] shall by competitive bid select power management software to be used, if technically feasible, by state agencies to reduce the amount of energy required to operate state computer networks and networked personal computers.

(b) [~~(c)~~] An institution of higher education shall purchase, lease, or otherwise acquire and use power management software only if the comptroller [~~department~~], in consultation with the Information Technology Council for Higher Education, determines that the institution of higher education's use of power management software would provide cost

SECTION 18. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

savings to this state. In making a determination under this subsection, the comptroller [department] must perform the analysis described by Section 2054.121(c) in the same manner as the department under that subsection. The analysis must include an assessment of how the use of power management software affects the security of electronic data, including data protected from public disclosure by state or federal law.

**No equivalent provision.**

SENATE VERSION (IE)

SECTION 19. Section 2054.376(b), Government Code, is amended to read as follows:

(b) This subchapter does not apply to:

- (1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;
- (2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;
- (3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;
- (4) the state treasury cash and treasury management system; ~~or~~
- (5) a database or network managed by the comptroller to:
  - (A) collect and process multiple types of taxes imposed by the state; or
  - (B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404;
- ~~(6) a database or network managed by the Department of Agriculture;~~
- ~~(7) a database or network managed by the General Land Office; or~~
- ~~(8) a database or network managed by a state agency in the~~

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

judicial branch of state government. [FA1(1),(2)]

SECTION 19. Subchapter L, Chapter 2054, Government Code, is amended by adding Section 2054.392 to read as follows:

Sec. 2054.392. STATEWIDE TECHNOLOGY ACCOUNT. The comptroller shall establish in the state treasury the statewide technology account. The account is a revolving fund account for the administration of this subchapter. The account is the depository for all money received from entities served under this subchapter. Money in the account may be used only for the operation and management of a statewide technology center or for any other purpose specified by the legislature.

SECTION 20. Same as House version.

SECTION 20. Chapter 2054, Government Code, is amended by adding Subchapters N and O to read as follows:

SUBCHAPTER N. MAJOR OUTSOURCED CONTRACTS  
Sec. 2054.501. MAJOR OUTSOURCED CONTRACT DEFINED; RULE. The board by rule shall define what constitutes a major outsourced contract with regard to contracts the department executes with entities other than this state or a political subdivision of this state. The definition must include as a major outsourced contract:

(1) outsourced contracts entered into under Subchapter I and Subchapter L of this chapter or Chapter 2170; and  
(2) contracts that exceed a monetary threshold, other than those described by Subdivision (1).

Sec. 2054.502. BOARD APPROVAL AND OVERSIGHT OF MAJOR OUTSOURCED CONTRACTS. (a) The department must receive approval from the board before:

SECTION 21. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(1) entering into a major outsourced contract; or  
(2) amending any major outsourced contract, if the amendment has significant statewide impact.  
(b) The board shall establish one or more subcommittees to monitor the department's major outsourced contracts.  
Sec. 2054.503. MANAGEMENT PLANS FOR MAJOR OUTSOURCED CONTRACTS. (a) The department shall specify procedures for administering, monitoring, and overseeing each major outsourced contract by creating a management plan for each contract. In each management plan, the department shall specify the department's approach to managing and mitigating the risks inherent in each contract.  
(b) Department staff who perform contract administration and program duties shall jointly develop the management plans with input from executive management and the board. Each management plan must be approved by the executive director.  
(c) Each management plan must establish clear lines of accountability and coordination of contract activities. The plan must provide details about implementing the program that is the subject of the contract as well as procedures for monitoring contractor performance, identifying and mitigating risks related to the contract, and involving and communicating with customers who will be served by any programs implemented through the contract. As appropriate, the plan must define an approach for transitioning from one major outsourced contract to another major outsourced contract.  
(d) The department shall revise each management plan:  
(1) as necessary to keep current during the contracting process; and  
(2) when the department renews, amends, or resolicits a major outsourced contract to ensure the plan remains updated and incorporates any changes resulting from a new contract.  
Sec. 2054.504. CUSTOMER INVOLVEMENT IN MAJOR



**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

OUTSOURCED CONTRACTS. The department shall establish formal procedures to ensure customer involvement in decision making regarding each of the department's major outsourced contracts, including initial analysis, solicitation development, and contract award and implementation, that affect those customers.

SUBCHAPTER O. ADDITIONAL PROVISIONS ON CONTRACTING

Sec. 2054.531. DEFINITION. In this subchapter, "contract management guide" means the guide developed under this subchapter.

Sec. 2054.532. RULES. In addition to the rules adopted under Subchapter N for major outsourced contracts, the board by rule shall establish approval requirements for all other contracts, including a monetary threshold above which board approval is required before the contract may be executed.

Sec. 2054.533. CONFLICT OF INTEREST IN CONTRACTING. (a) A department employee may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by the department; or

(2) in any manner, including by rebate or gift, directly or indirectly accept or receive from a person to whom a contract may be awarded anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A department employee who violates Subsection (a)(2) is subject to dismissal.

(c) The board shall adopt rules to implement this section.

(d) The department shall train staff in the requirements of this section and Section 572.054 and incorporate the requirements into the contract management guide and the department's internal policies, including employee manuals.

Sec. 2054.534. CONTRACT MANAGEMENT TRAINING

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

POLICY. (a) The department shall develop a policy for training department staff in contract management.

(b) The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.

(c) The policy must specify the department's overall approach to procuring and managing contracts, as well as contract-specific procedures developed in the contract management guide and under Subchapter N.

Sec. 2054.535. CONTRACT MANAGEMENT GUIDE;

RULES. (a) The department shall develop and periodically update a contract management guide to provide an overall, consistent approach on procurement and management of major outsourced contracts under Subchapter N and other contracts. In updating the guide, the department shall make changes based on contract experiences and account for changing conditions to guide the updates.

(b) The department shall coordinate with the department's internal auditor, subject to Section 2054.038(d), as needed for assistance and guidance in developing procedures in the contract management guide for monitoring contracts and individual contractors.

(c) The board may adopt rules necessary to develop or update the contract management guide.

(d) The contract management guide must provide information regarding the department's:

(1) general approach to business case analysis, procurement planning, contract solicitation, contract execution, and contract monitoring and oversight;

(2) ethics standards and policies, including those required by Section 2054.533; and

(3) approach to changing a program's internal structure or

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

model for delivering services to customers.

(e) The contract management guide must:

(1) establish clear lines of accountability, staff roles and responsibilities, and decision-making authority for program staff, contract management staff, executive management, customers, and the board;

(2) include the procedures established under Section 2054.504 regarding customer involvement; and

(3) establish the department's process for evaluating and managing risk during each stage of contract procurement, implementation, and management.

(f) The contract management guide must describe the expectations and standards for obtaining and using customer input during all contract management phases.

No equivalent provision.

SENATE VERSION (IE)

CONFERENCE

SECTION \_\_. Section 2155.003, Government Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) The comptroller must report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority, including authority under this subtitle.

(f) In this section, "campaign contribution" and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code.

(g) For purposes of Subsection (e), a campaign contribution to a specific-purpose committee for the purpose of supporting a candidate for comptroller, opposing the candidate's opponent, or assisting the comptroller is considered to be a campaign contribution to the comptroller. [FA5]

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 21. Sections 2155.502(a), (b), and (c), Government Code, are amended to read as follows:

(a) The comptroller [~~commission~~] shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1) the federal government, including the federal General Services Administration; or

(2) any other governmental entity in any state.

(b) In developing a schedule under Subsection (a) [~~or (c)~~], the comptroller [~~commission or department, as appropriate,~~] shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The comptroller [~~commission~~] may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1) are available from only one vendor; or

(2) are telecommunications services, facilities, or equipment[; ~~or~~

~~[(3) are commodity items as defined by Section 2157.068(a)].~~

SECTION 22. Section 2155.503, Government Code, is amended to read as follows:

Sec. 2155.503. RULES. (a) The comptroller [~~and the department~~] shall adopt rules to implement this subchapter.

The rules must:

(1) establish standard terms for contracts listed on a schedule; and

(2) maintain consistency with existing purchasing standards.

(b) The comptroller [~~and the department~~] shall consult with the attorney general in developing rules under this section.

SENATE VERSION (IE)

SECTION 22. Same as House version.

CONFERENCE

SECTION 23. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

SECTION 23. Section 2157.004, Government Code, is amended to read as follows:

Sec. 2157.004. TRANSFERS AND LOANS. A state agency that acquires a telecommunications device, system, or service or an automated information system by interagency transfer, contract, or loan, or by public loan, shall comply with the requirements that apply to that acquisition under [øf] Chapter 2054 and this chapter.

SECTION 24. Same as House version.

SECTION 24. Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS. (a) In this section, "commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the comptroller [department] determines that a reasonable demand exists in two or more state agencies. The term includes seat management, through which a state agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the state agency, including all necessary hardware, software, and support services.

SECTION 25. Same as House version.

(b) The comptroller [department] shall negotiate with vendors to attempt to obtain a favorable price for all of state government on licenses for commodity items, based on the aggregate volume of purchases expected to be made by the state. The terms and conditions of a license agreement between a vendor and the comptroller [department] under this

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

(c) In contracting for commodity items under this section, the comptroller [~~department~~] shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

(d) The comptroller [~~department~~] may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the comptroller [~~department~~] in an amount that is sufficient to recover costs associated with the administration of this section. The comptroller shall develop a clear procedure for calculating the fee under this subsection, including procedures for review and approval of the fee.

(e) The comptroller [~~department~~] shall compile and maintain a list of commodity items available for purchase through the comptroller [~~department~~] that have a lower price than the prices for commodity items otherwise available to state agencies under this chapter. The comptroller [~~department~~] shall make the list available on the comptroller's website [~~world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so~~].

(f) The comptroller [~~department~~] may adopt rules regulating a purchase by a state agency of a commodity item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the comptroller [~~department~~] unless the agency obtains:

SENATE VERSION (IE)

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

- (1) an exemption from the comptroller [~~department~~]; or
- (2) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase.
- (g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(2). A state agency must request an exemption from the comptroller [~~department~~] under Subsection (f)(1) before seeking prior approval from the Legislative Budget Board under Subsection (f)(2).
- (h) The comptroller [~~department~~] shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The comptroller [~~department~~] may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.
- (i) Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the comptroller [~~commission~~] under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:
  - (1) the agency has obtained an exemption from the comptroller [~~department~~] or approval from the Legislative Budget Board under Subsection (f); or
  - (2) the agency is otherwise exempt from this section.

SECTION 25. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.0685 to read as follows:  
Sec. 2157.0685. REPORTING OF ADMINISTRATIVE FEES FOR COMMODITY ITEMS. (a) The comptroller shall report to the Legislative Budget Board any

SENATE VERSION (IE)

SECTION 26. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

administrative fee the comptroller sets under Section 2157.068 for each fiscal year. The report must include the underlying analysis and methodology used to determine the fee amounts.

(b) The comptroller shall post on the comptroller's website information about the fee, including a description of how the fee is determined. The comptroller must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the comptroller or a customer of the comptroller.

SECTION 26. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.069 to read as follows:

Sec. 2157.069. CLEARING FUND ACCOUNT. The comptroller shall establish in the state treasury the clearing fund account. The account is a revolving fund account for the administration of Section 2157.068. The account is the depository for all money received from entities served under that section. Money in the account may be used only to administer that section or for any other purpose specified by the legislature.

SECTION 27. Section 2157.121, Government Code, is amended to read as follows:

Sec. 2157.121. ACQUISITION THROUGH COMPETITIVE SEALED PROPOSALS. (a) The comptroller [~~commission~~] or other state agency may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals if the comptroller [~~commission~~] determines that competitive sealed bidding and informal competitive bidding are not practical or are

SENATE VERSION (IE)

SECTION 27. Same as House version.

SECTION 28. Same as House version.

CONFERENCE



**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

disadvantageous to the state.

(b) A state agency, other than the department under Subsection (c), shall send its proposal specifications and criteria to the comptroller [~~commission~~] for approval or request the comptroller [~~commission~~] to develop the proposal specifications and criteria.

(c) The department may acquire a telecommunications device, system, or service [~~or an automated information system~~] by using competitive sealed proposals without regard to whether the comptroller [~~commission~~] makes the determination required under Subsection (a) for other state agencies. This subsection applies only to an acquisition under Subchapter H, Chapter 2054, or under Chapter 2170.

SECTION 28. Section 2157.181(a), Government Code, is amended to read as follows:

(a) The comptroller [~~commission, with the concurrence of the department,~~] may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of [~~a telecommunication device, system, or service or~~] an automated information system awarded to a vendor by a state agency.

SECTION 29. Section 2157.182, Government Code, is amended to read as follows:

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor[~~, the commission,~~] and the comptroller [~~department~~] agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two

SECTION 29. Same as House version.

SECTION 30. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

years.

(b) The comptroller [~~commission and the department jointly~~] shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

SECTION 30. Section 2157.184, Government Code, is amended to read as follows:

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The comptroller [~~commission and the department jointly~~] shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

SECTION 31. Sections 2054.024(c), 2155.501(1), 2155.502(e), 2157.0611, and 2157.181(b), Government Code, are repealed.

**No equivalent provision.**

SECTION 32. (a) Not later than September 1, 2011, the governor shall appoint the initial members of the governing board of the Department of Information Resources under Section 2054.021, Government Code, as amended by this Act. The governor shall appoint:

- (1) two members whose terms expire February 1, 2013;
- (2) two members whose terms expire February 1, 2015; and
- (3) three members whose terms expire February 1, 2017.

SECTION 31. Same as House version.

SECTION 32. Same as House version.

SECTION \_\_. Section 2059.060, Government Code, is repealed. [FA4]

SECTION 33. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

(b) The terms of the current members of the board expire September 1, 2011.

SECTION 33. (a) Not later than September 1, 2011, the first group of ex officio members shall begin serving or be appointed under Section 2054.021(c), Government Code, as amended by this Act.

(b) The governor shall appoint to the first group an ex officio member from a state agency with 100 or fewer employees under Section 2054.021(c), Government Code, as amended by this Act. When that member is appointed, the term of the executive director of the Texas Department of Transportation expires.

(c) The commissioner of insurance and the executive commissioner of the Health and Human Services Commission shall continue to serve in the first group under Section 2054.021(c), Government Code, as amended by this Act, until February 1, 2013.

SECTION 34. (a) In this section, "department" means the Department of Information Resources.

(b) On the effective date of this Act, the powers and duties of the department under Section 2157.068, Government Code, or other law relating to information and communications technology cooperative contracts are transferred to the comptroller.

(c) The department shall work in cooperation with and at the direction of the comptroller to facilitate the transfer described by this section.

(d) A rule, form, policy, procedure, or decision of the department that is related to a power or duty transferred under

SENATE VERSION (IE)

SECTION 34. (a) Not later than September 1, 2011, the first group of ex officio members shall begin serving or be appointed under Section 2054.021(c), Government Code, as amended by this Act.

(b) The governor shall appoint to the first group an ex officio member from a state agency with fewer than 100 employees under Section 2054.021(c), Government Code, as amended by this Act. When that member is appointed, the term of the executive director of the Texas Department of Transportation expires.

(c) The commissioner of insurance and the executive commissioner of the Health and Human Services Commission shall continue to serve in the first group under Section 2054.021(c), Government Code, as amended by this Act, until February 1, 2013.

SECTION 35. Same as House version.

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

Subsection (b) of this section continues in effect as a rule, form, policy, procedure, or decision of the comptroller until superseded by an act of the comptroller.

(e) A court case, administrative proceeding, contract negotiation, or other proceeding involving the department that is related to a power or duty transferred under Subsection (b) of this section is transferred without change in status to the comptroller, and the comptroller assumes, without a change in status, the position of the department in a negotiation or proceeding relating to a power or duty transferred under Subsection (b) of this section to which the department is a party.

(f) All department employees who primarily perform duties related to a power or duty transferred under Subsection (b) of this section, including employees who provide administrative support for those powers or duties, are transferred to the office of the comptroller. A management employee of the department who is transferred to the office of the comptroller under this section does not automatically continue to hold the person's management position. To hold the management position on other than an interim basis, the person must apply for the position with the comptroller.

(g) All personal property, including records, in the custody of the department related to a power or duty transferred under Subsection (b) of this section is transferred to and becomes the property of the comptroller.

(h) All contracts, memoranda of understanding, leases, and rights of the department related to a power or duty transferred under Subsection (b) of this section are transferred to the comptroller.

(i) All money appropriated by the legislature to the department related to a power or duty transferred under Subsection (b) of this section, including money for providing

SENATE VERSION (IE)

CONFERENCE

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

administrative support, is transferred to the comptroller.

SECTION 35. The comptroller may not terminate a contract entered into by the Department of Information Resources that is transferred to the comptroller under this Act.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 36. Sections 2054.502 and 2054.533, Government Code, as added by this Act, apply only to a contract for which a solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2011. A contract for which a solicitation of bids or proposals or similar expressions of interest is published before September 1, 2011,

No equivalent provision.

SECTION \_\_. Section 2155.003, Government Code, as amended by this Act, applies only to a campaign contribution made on or after the effective date of this Act. A campaign contribution made before the effective date of this Act is governed by the law in effect when the contribution was made, and the former law is continued in effect for that purpose. [FA5]

SECTION 36. A contract transferred under Section 35 of this Act may not be canceled by the comptroller except as provided by the terms of the contract.

SECTION \_\_. Section 2054.113(a-1), Government Code, as added by this Act, takes effect September 1, 2012. [FA1(3)]

SECTION 37. Same as House version.

**House Bill 2499**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

is governed by the law in effect on the date the state agency first publishes the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose.

SECTION 37. This Act takes effect September 1, 2011.

SENATE VERSION (IE)

SECTION 38. Same as House version.

CONFERENCE