

1-1 By: Zaffirini S.B. No. 1638
 1-2 (In the Senate - Filed March 13, 2015; March 23, 2015, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 21, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 21, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1638 By: Schwertner

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to training for state employees, including procurement and
 1-22 contract management training; authorizing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 656.047, Government Code, is amended to
 1-25 read as follows:

1-26 Sec. 656.047. PAYMENT OF PROGRAM EXPENSES. (a) A state
 1-27 agency may spend public funds as appropriate to pay the salary,
 1-28 tuition and other fees, travel and living expenses, training
 1-29 stipend, expense of training materials, and other necessary
 1-30 expenses of an instructor, student, or other participant in a
 1-31 training or education program.

1-32 (b) A state agency that spends more than \$5,000 in a state
 1-33 fiscal year for a training or education program for any individual
 1-34 employee shall not later than August 31 of that year submit to the
 1-35 Legislative Budget Board a report including:

1-36 (1) a list of the employees participating in a
 1-37 training or education program and receiving payment from the
 1-38 agency;

1-39 (2) the amount spent on each employee; and

1-40 (3) the certification earned by each employee through
 1-41 the training or education program.

1-42 SECTION 2. Subchapter C, Chapter 656, Government Code, is
 1-43 amended by adding Section 656.054 to read as follows:

1-44 Sec. 656.054. TRAINING BY COMPTROLLER. (a) The
 1-45 comptroller shall develop each training program provided by the
 1-46 comptroller under this subchapter to meet the needs of a state
 1-47 agency.

1-48 (b) On an annual basis the comptroller will assess the
 1-49 number of employees requiring procurement or contract management
 1-50 training and will maintain a regular schedule of classes to
 1-51 accommodate that number.

1-52 (c) The comptroller may use its own staff or contract with
 1-53 private entities or other state agencies to conduct the training.

1-54 (d) The comptroller may assess a fee for a training program
 1-55 in an amount not to exceed the costs incurred by the comptroller to
 1-56 provide the training program under this subchapter.

1-57 SECTION 3. Sections 2054.057, 2155.078, 2262.053, and
 1-58 2262.0535, Government Code, are transferred to Subchapter C,
 1-59 Chapter 656, Government Code, redesignated as Sections 656.050,
 1-60 656.051, 656.052, and 656.053, Government Code, respectively, and

2-1 amended to read as follows:

2-2 Sec. 656.050 [~~2054.057~~]. TRAINING IN CONTRACT NEGOTIATION.

2-3 (a) In this section:

2-4 (1) "Department" means the Department of Information
2-5 Resources.

2-6 (2) "Information resources technologies" has the
2-7 meaning assigned by Section 2054.003.

2-8 (a-1) The department, with the cooperation of the
2-9 comptroller and other appropriate state agencies, shall develop and
2-10 implement a program to train state agency personnel in effectively
2-11 negotiating contracts for the purchase of information resources
2-12 technologies.

2-13 (b) The department shall make the training available to
2-14 state agency personnel who are directly or indirectly involved in
2-15 contract negotiations, such as senior or operational management,
2-16 purchasers, users of the purchased technologies, and personnel with
2-17 relevant technical, legal, or financial knowledge. State agency
2-18 personnel directly involved in contract negotiations for the
2-19 purchase of information resources technologies shall complete the
2-20 training developed by the department.

2-21 (c) The department shall include in the training:

2-22 (1) information on developing a structured purchasing
2-23 method that meets an agency's needs;

2-24 (2) information drawn from the state's previous
2-25 procurement experience about what is or is not advantageous for the
2-26 state;

2-27 (3) the perspective of state agencies with oversight
2-28 responsibilities related to the state's procurement of information
2-29 resources technologies; ~~and~~

2-30 (4) information on how to use contracts entered into
2-31 by the department under Section 2157.068; and

2-32 (5) other information that the department considers
2-33 to be useful.

2-34 (d) The department may use its own staff or contract with
2-35 private entities or other state agencies to conduct the training.

2-36 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF
2-37 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The
2-38 comptroller [~~commission~~] shall establish and administer a system of
2-39 training, continuing education, and certification for state agency
2-40 purchasing personnel. The comptroller [~~commission~~] may establish
2-41 and offer appropriate training to vendors on a cost recovery basis.
2-42 The comptroller [~~commission~~] may adopt rules to administer this
2-43 section, including rules relating to monitoring a certified
2-44 purchaser's compliance with the continuing education requirements
2-45 of this section.

2-46 (b) Except as provided by Subsection (n), all state agency
2-47 purchasing personnel, including agencies exempted from the
2-48 purchasing authority of the comptroller [~~commission~~], must receive
2-49 the training and continuing education to the extent required by
2-50 comptroller rule [~~of the commission~~]. A state agency employee who
2-51 is required to receive the training may not participate in
2-52 purchases by the employing agency unless the employee has received
2-53 the required training or received equivalent training from a
2-54 national association recognized by the comptroller [~~commission~~].
2-55 The equivalent training may count, as provided by Subsection (k),
2-56 toward the continuing education requirements.

2-57 (c) The comptroller [~~commission~~] shall set and collect a fee
2-58 from state agencies that employ purchasing personnel. The
2-59 comptroller [~~commission~~] shall set the fee in an amount that
2-60 recovers the comptroller's [~~commission's~~] costs under this section.

2-61 (d) The comptroller [~~commission~~] may provide training,
2-62 continuing education, and certification under this section to
2-63 purchasing personnel employed by a political subdivision or other
2-64 public entity of the state. Political subdivision purchasing
2-65 personnel may receive, but are not required to receive, the
2-66 training, continuing education, or certification provided under
2-67 this section. The comptroller [~~commission~~] shall collect the fees
2-68 described by Subsection (c) for training, education, or
2-69 certification under this subsection.

3-1 (e) The comptroller [~~commission~~] may provide training and
 3-2 continuing education under this section using the comptroller's
 3-3 [~~its~~] own personnel or through contracts with private entities.
 3-4 The comptroller [~~commission~~] may also, by agreement with a public
 3-5 entity, use the services of persons employed by the public entity to
 3-6 provide training and continuing education under this section.

3-7 (f) The comptroller [~~commission~~] shall provide at least
 3-8 three levels of training under this section.

3-9 (g) The basic training level must include an introduction to
 3-10 contract purchasing methods, ethical issues affecting purchasing
 3-11 decisions, and instruction in any other processes and issues that
 3-12 the comptroller [~~commission~~] considers appropriate for
 3-13 introductory purchasing training.

3-14 (h) The second training level must include advanced
 3-15 instruction in formal and informal bidding methods, introduction to
 3-16 negotiation methods, instruction in writing specifications, and
 3-17 instruction in any other processes and issues that the comptroller
 3-18 [~~commission~~] considers appropriate for the second level of
 3-19 purchasing training.

3-20 (i) The third training level must include an introduction to
 3-21 complex negotiations, instruction in the criteria for determining
 3-22 which product or service offers the best value for the state, and
 3-23 instruction in any other processes and issues that the comptroller
 3-24 [~~commission~~] considers appropriate for advanced purchasing
 3-25 training.

3-26 (j) The comptroller [~~commission~~] may prescribe the
 3-27 circumstances under which a state agency may delegate to a
 3-28 certified purchaser signature purchasing authority to approve
 3-29 purchase orders.

3-30 (k) The comptroller [~~commission~~] shall require a reasonable
 3-31 number of hours of continuing education to maintain a certification
 3-32 level. The comptroller [~~commission~~] may allow attendance at
 3-33 equivalent certification training recognized by the comptroller
 3-34 [~~commission~~] to count toward the required number of hours.
 3-35 Maintenance of the certification level may be by yearly renewal or
 3-36 another reasonable renewal period comparable to nationally
 3-37 recognized certification requirements.

3-38 (l) The comptroller's [~~commission's~~] prerequisites for
 3-39 receiving a level-two purchaser certification must include
 3-40 completion of the basic training level, passage of a written
 3-41 examination, and a minimum number of years of purchasing experience
 3-42 prescribed by the comptroller [~~commission~~].

3-43 (m) The comptroller's [~~commission's~~] prerequisites for
 3-44 receiving a level-three purchaser certification must include
 3-45 completion of the second training level, passage of a written
 3-46 examination, and a minimum of three years of purchasing experience.

3-47 (n) This section does not apply to an institution to which
 3-48 Section 51.9335, Education Code, applies or to an institution to
 3-49 which Section 73.115, Education Code, applies.

3-50 Sec. 656.052 [~~2262.053~~]. TRAINING FOR CONTRACT MANAGERS.

3-51 (a) In this section:

3-52 (1) "Contract management guide" means the guide
 3-53 developed under Section 2262.051.

3-54 (2) "Contract manager" has the meaning assigned by
 3-55 Section 2262.001.

3-56 (a-1) In coordination with the Department of Information
 3-57 Resources, state auditor, and Health and Human Services Commission,
 3-58 the comptroller shall develop a training program for contract
 3-59 managers.

3-60 (b) The training must provide the contract manager with
 3-61 information regarding how to:

3-62 (1) fairly and objectively select and negotiate with
 3-63 the most qualified contractor;

3-64 (2) establish prices that are cost-effective and that
 3-65 reflect the cost of providing the service;

3-66 (3) include provisions in a contract that hold the
 3-67 contractor accountable for results;

3-68 (4) monitor and enforce a contract;

3-69 (5) make payments consistent with the contract;

- 4-1 (6) comply with any requirements or goals contained in
4-2 the contract management guide; ~~and~~
4-3 (7) use and apply advanced sourcing strategies,
4-4 techniques, and tools;
4-5 (8) maintain required documentation for contracting
4-6 decisions, changes to a contract, and problems with a contract;
4-7 (9) create a risk evaluation and mitigation strategy;
4-8 (10) create a plan for potential problems with the
4-9 contract;
4-10 (11) develop an accurate and comprehensive statement
4-11 of work; and
4-12 (12) complete the contract and evaluate performance
4-13 under the contract.
4-14 (c) Each state agency shall ensure that the agency's
4-15 contract managers complete the training developed under this
4-16 section.
4-17 (d) The comptroller shall administer training under this
4-18 section.
4-19 (e) The comptroller shall certify contract managers who
4-20 have completed the contract management training required under this
4-21 section.
4-22 (f) A state agency may develop qualified contract manager
4-23 training to supplement the training required under this section.
4-24 The comptroller may incorporate the training developed by the
4-25 agency into the training program under this section.
4-26 (g) The comptroller shall develop and administer an
4-27 abbreviated training program meeting the relevant training
4-28 requirements under this section for state agency employees, other
4-29 than contract managers, with contract management duties.
4-30 Sec. 656.053 [~~2262.0535~~]. TRAINING FOR GOVERNING BODIES.
4-31 (a) In this section, "state agency" has the meaning assigned by
4-32 Section 2056.001.
4-33 (a-1) The comptroller shall adapt the program developed
4-34 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
4-35 for training the members of the governing bodies of state agencies.
4-36 The training may be provided together with other required training
4-37 for members of state agency governing bodies.
4-38 (b) All members of the governing body of a state agency
4-39 shall complete at least one course of the training provided under
4-40 this section. This subsection does not apply to a state agency that
4-41 does not enter into any contracts.
4-42 SECTION 4. Section 2056.002(b), Government Code, is amended
4-43 to read as follows:
4-44 (b) The Legislative Budget Board and the Governor's Office
4-45 of Budget, Policy, and Planning shall determine the elements
4-46 required to be included in each agency's strategic plan. Unless
4-47 modified by the Legislative Budget Board and the Governor's Office
4-48 of Budget, Policy, and Planning, and except as provided by
4-49 Subsection (c), a plan must include:
4-50 (1) a statement of the mission and goals of the state
4-51 agency;
4-52 (2) a description of the indicators developed under
4-53 this chapter and used to measure the output and outcome of the
4-54 agency;
4-55 (3) identification of the groups of people served by
4-56 the agency, including those having service priorities, or other
4-57 service measures established by law, and estimates of changes in
4-58 those groups expected during the term of the plan;
4-59 (4) an analysis of the use of the agency's resources to
4-60 meet the agency's needs, including future needs, and an estimate of
4-61 additional resources that may be necessary to meet future needs;
4-62 (5) an analysis of expected changes in the services
4-63 provided by the agency because of changes in state or federal law;
4-64 (6) a description of the means and strategies for
4-65 meeting the agency's needs, including future needs, and achieving
4-66 the goals established under Section 2056.006 for each area of state
4-67 government for which the agency provides services;
4-68 (7) a description of the capital improvement needs of
4-69 the agency during the term of the plan and a statement, if

- 5-1 appropriate, of the priority of those needs;
- 5-2 (8) identification of each geographic region of this
- 5-3 state, including the Texas-Louisiana border region and the
- 5-4 Texas-Mexico border region, served by the agency, and if
- 5-5 appropriate the agency's means and strategies for serving each
- 5-6 region;
- 5-7 (9) a description of the training of the agency's
- 5-8 contract managers under Section 656.052 [~~2262.053~~];
- 5-9 (10) an analysis of the agency's expected expenditures
- 5-10 that relate to federally owned or operated military installations
- 5-11 or facilities, or communities where a federally owned or operated
- 5-12 military installation or facility is located;
- 5-13 (11) an analysis of the strategic use of information
- 5-14 resources as provided by the instructions prepared under Section
- 5-15 2054.095; and
- 5-16 (12) other information that may be required.

5-17 SECTION 5. Section 2262.101(a), Government Code, as amended
 5-18 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd
 5-19 Legislature, Regular Session, 2013, is reenacted and amended to
 5-20 read as follows:

5-21 (a) The Contract Advisory Team is created to assist state
 5-22 agencies in improving contract management practices by:

5-23 (1) reviewing and making recommendations on the
 5-24 solicitation documents and contract documents for contracts of
 5-25 state agencies that have a value of at least \$10 million;

5-26 (2) reviewing any findings or recommendations made by
 5-27 the state auditor, including those made under Section 2262.052(b),
 5-28 regarding a state agency's compliance with the contract management
 5-29 guide;

5-30 (3) providing recommendations to the comptroller
 5-31 regarding:

5-32 (A) the development of the contract management
 5-33 guide; and

5-34 (B) the training under Section 656.052
 5-35 [~~2262.053~~];

5-36 (4) providing recommendations and assistance to state
 5-37 agency personnel throughout the contract management process;

5-38 (5) coordinating and consulting with the quality
 5-39 assurance team established under Section 2054.158 on all contracts
 5-40 relating to a major information resources project; [~~and~~]

5-41 (6) [~~(4)~~] developing and recommending policies and
 5-42 procedures to improve state agency contract management practices;

5-43 (7) [~~(5)~~] developing and recommending procedures to
 5-44 improve state agency contracting practices by including
 5-45 consideration for best value; and

5-46 (8) [~~(6)~~] creating and periodically performing a risk
 5-47 assessment to determine the appropriate level of management and
 5-48 oversight of contracts by state agencies.

5-49 SECTION 6. To the extent of any conflict, this Act prevails
 5-50 over another Act of the 84th Legislature, Regular Session, 2015,
 5-51 relating to nonsubstantive additions to and corrections in enacted
 5-52 codes.

5-53 SECTION 7. This Act takes effect September 1, 2015.

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