

1-1 By: Zaffirini S.B. No. 255
 1-2 (In the Senate - Filed November 28, 2016; January 30, 2017,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 May 1, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 1; May 1, 2017,
 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. 255 By: Zaffirini

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

1-21 relating to training for governmental entities and vendors,
 1-22 including purchasing and contract management training; authorizing
 1-23 fees.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 656.047, Government Code, is amended by
 1-26 adding Subsection (c) to read as follows:

1-27 (c) A state agency that spends more than \$5,000 in a state
 1-28 fiscal year for a training or education program for any individual
 1-29 administrator or employee shall, not later than August 31 of that
 1-30 year, submit to the Legislative Budget Board a report including:

1-31 (1) a list of the administrators and employees
 1-32 participating in a training or education program;

1-33 (2) the amount spent on each administrator or
 1-34 employee; and

1-35 (3) the certification earned by each administrator or
 1-36 employee through the training or education program.

1-37 SECTION 2. Subchapter C, Chapter 656, Government Code, is
 1-38 amended by adding Sections 656.054 and 656.055 to read as follows:

1-39 Sec. 656.054. PURCHASING AND CONTRACT MANAGEMENT TRAINING
 1-40 BY COMPTROLLER. (a) The comptroller shall develop training
 1-41 programs provided by the comptroller under this subchapter to meet
 1-42 the needs of state agencies.

1-43 (b) Each year a state agency shall estimate the number of
 1-44 employees requiring purchasing or contract management training and
 1-45 report the anticipated training needs of the state agency to the
 1-46 comptroller in the manner and form prescribed by the comptroller.

1-47 (c) On an annual basis the comptroller shall assess the
 1-48 number of employees requiring purchasing or contract management
 1-49 training and shall maintain a regular schedule of classes to
 1-50 accommodate that number.

1-51 (d) The comptroller may use staff or contract with private
 1-52 or public entities, including state agencies, to conduct the
 1-53 training.

1-54 (e) The comptroller may assess a fee for a training program,
 1-55 including continuing education and certification, in an amount
 1-56 sufficient to recover the costs incurred by the comptroller to
 1-57 provide the training program under this subchapter.

1-58 Sec. 656.055. PURCHASING AND CONTRACT MANAGEMENT TRAINING
 1-59 BY AGENCY. (a) A state agency, in consultation with the
 1-60 comptroller, may develop agency-specific purchasing and contract

2-1 management training programs to be administered by the agency to
 2-2 the agency's employees instead of or as a supplement to training
 2-3 programs developed by the comptroller under this subchapter.

2-4 (b) An employee who participates in an agency-specific
 2-5 training program under this section remains subject to any other
 2-6 applicable certification requirements established for training
 2-7 programs under this subchapter, including written or oral
 2-8 examinations administered by the comptroller.

2-9 SECTION 3. Sections 2054.057, 2155.078, 2262.053, and
 2-10 2262.0535, Government Code, are transferred to Subchapter C,
 2-11 Chapter 656, Government Code, redesignated as Sections 656.050,
 2-12 656.051, 656.052, and 656.053, Government Code, and amended to read
 2-13 as follows:

2-14 Sec. 656.050 [2054.057]. TRAINING IN CONTRACT NEGOTIATION
 2-15 FOR PURCHASES OF INFORMATION RESOURCES TECHNOLOGIES. (a) In this
 2-16 section:

2-17 (1) "Department" means the Department of Information
 2-18 Resources.

2-19 (2) "Information resources technologies" has the
 2-20 meaning assigned by Section 2054.003.

2-21 (a-1) The department, with the cooperation of the
 2-22 comptroller and other appropriate state agencies, shall develop and
 2-23 implement a program to train state agency personnel in effectively
 2-24 negotiating contracts for the purchase of information resources
 2-25 technologies.

2-26 (b) The department shall make the training available to
 2-27 state agency personnel who are directly or indirectly involved in
 2-28 contract negotiations, such as senior or operational management,
 2-29 purchasers, users of the purchased technologies, and personnel with
 2-30 relevant technical, legal, or financial knowledge. State agency
 2-31 personnel directly involved in contract negotiations for the
 2-32 purchase of information resources technologies shall complete the
 2-33 training developed by the department.

2-34 (c) The department shall include in the training:

2-35 (1) information on developing a structured purchasing
 2-36 method that meets an agency's needs;

2-37 (2) information drawn from the state's previous
 2-38 procurement experience about what is or is not advantageous for the
 2-39 state;

2-40 (3) the perspective of state agencies with oversight
 2-41 responsibilities related to the state's procurement of information
 2-42 resources technologies; ~~and~~

2-43 (4) information on how to use contracts entered into
 2-44 by the department under Section 2157.068; and

2-45 (5) other information that the department considers to
 2-46 be useful.

2-47 (d) The department may use its own staff or contract with
 2-48 private entities or other state agencies to conduct the training.

2-49 Sec. 656.051 [2155.078]. TRAINING AND CERTIFICATION OF
 2-50 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The
 2-51 comptroller [~~commission~~] shall establish and administer a system of
 2-52 training, continuing education, and certification for state agency
 2-53 purchasing personnel. The training and continuing education for
 2-54 state agency purchasing personnel must include ethics training.
 2-55 The comptroller [~~commission~~] may establish and offer appropriate
 2-56 training to vendors on a cost recovery basis. The comptroller
 2-57 [~~commission~~] may adopt rules to administer this section [~~, including~~
 2-58 ~~rules relating to monitoring a certified purchaser's compliance~~
 2-59 ~~with the continuing education requirements of this section~~].

2-60 (b) [~~(a-1)~~] The training, continuing education, and
 2-61 certification required under Subsection (a) must include:

2-62 (1) training on the selection of an appropriate
 2-63 procurement method by project type; and

2-64 (2) training conducted by the Department of
 2-65 Information Resources on purchasing technologies.

2-66 (c) [~~(b)~~] Notwithstanding Subsection (i) [~~(n)~~], all state
 2-67 agency purchasing personnel, including agencies exempted from the
 2-68 purchasing authority of the comptroller [~~commission~~], must receive
 2-69 the training and continuing education to the extent required by the

3-1 ~~comptroller [rule of the commission. The training and continuing~~
 3-2 ~~education must include ethics training].~~ A state agency employee
 3-3 who is required to receive the training may not participate in
 3-4 purchases by the employing agency unless the employee has received
 3-5 the required training or received equivalent training from a
 3-6 national association recognized by the comptroller ~~[commission.~~
 3-7 ~~The equivalent training may count, as provided by Subsection (k),~~
 3-8 ~~toward the continuing education requirements.~~

3-9 ~~[(c) The commission shall set and collect a fee from state~~
 3-10 ~~agencies that employ purchasing personnel. The commission shall~~
 3-11 ~~set the fee in an amount that recovers the commission's costs under~~
 3-12 ~~this section].~~

3-13 (d) The comptroller ~~[commission]~~ may provide training,
 3-14 continuing education, and certification under this section to
 3-15 purchasing personnel employed by a political subdivision or other
 3-16 public entity of the state. Political subdivision purchasing
 3-17 personnel may receive, but are not required to receive, the
 3-18 training, continuing education, or certification provided under
 3-19 this section. ~~[The commission shall collect the fees described by~~
 3-20 ~~Subsection (c) for training, education, or certification under this~~
 3-21 ~~subsection.]~~

3-22 (e) ~~[The commission may provide training and continuing~~
 3-23 ~~education under this section using its own personnel or through~~
 3-24 ~~contracts with private entities. The commission may also, by~~
 3-25 ~~agreement with a public entity, use the services of persons~~
 3-26 ~~employed by the public entity to provide training and continuing~~
 3-27 ~~education under this section.~~

3-28 ~~[(f) The commission shall provide at least three levels of~~
 3-29 ~~training under this section.~~

3-30 ~~[(g)]~~ The ~~[basic]~~ training provided by the comptroller
 3-31 ~~[level]~~ must include instruction in:

3-32 (1) ~~[an introduction to]~~ contract purchasing methods;
 3-33 (2) ~~[]~~ ethical issues affecting purchasing
 3-34 decisions;
 3-35 (3) negotiation methods;
 3-36 (4) writing specifications;
 3-37 (5) the criteria for determining which product or
 3-38 service offers the best value for the state;

3-39 (6) developing evaluation criteria;
 3-40 (7) formal and informal bidding methods;
 3-41 (8) complex negotiations; ~~[]~~ and
 3-42 (9) ~~[instruction in]~~ any other processes and issues
 3-43 that the comptroller ~~[commission]~~ considers appropriate for
 3-44 ~~[introductory]~~ purchasing training.

3-45 (f) ~~[(h) The second training level must include advanced~~
 3-46 ~~instruction in formal and informal bidding methods, introduction to~~
 3-47 ~~negotiation methods, instruction in writing specifications, and~~
 3-48 ~~instruction in any other processes and issues that the commission~~
 3-49 ~~considers appropriate for the second level of purchasing training.~~

3-50 (i) ~~The third training level must include an introduction~~
 3-51 ~~to complex negotiations, instruction in the criteria for~~
 3-52 ~~determining which product or service offers the best value for the~~
 3-53 ~~state, and instruction in any other processes and issues that the~~
 3-54 ~~commission considers appropriate for advanced purchasing training.~~

3-55 ~~[(j)]~~ The comptroller ~~[commission]~~ may prescribe the
 3-56 circumstances under which a state agency may delegate to a
 3-57 certified purchaser signature purchasing authority to approve
 3-58 purchase orders.

3-59 (g) ~~[(k)]~~ The comptroller ~~[commission]~~ shall require a
 3-60 reasonable number of hours of continuing education to maintain ~~[a]~~
 3-61 certification ~~[level]~~. The comptroller ~~[commission]~~ may allow
 3-62 attendance at equivalent certification training recognized by the
 3-63 comptroller ~~[commission]~~ to count toward the required number of
 3-64 hours. Maintenance of ~~[the]~~ certification ~~[level]~~ may be by yearly
 3-65 renewal or another reasonable renewal period comparable to
 3-66 nationally recognized certification requirements. The comptroller
 3-67 shall adopt rules to monitor compliance with this subsection.

3-68 (h) The comptroller shall certify a state agency employee as
 3-69 a state agency purchaser when the employee has:

4-1 (1) completed the training required by this section or
 4-2 as prescribed by rule; and

4-3 (2) passed a written examination.

4-4 (i) [(1) The commission's prerequisites for receiving a
 4-5 level-two purchaser certification must include completion of the
 4-6 basic training level, passage of a written examination, and a
 4-7 minimum number of years of purchasing experience prescribed by the
 4-8 commission.

4-9 [(m) The commission's prerequisites for receiving a
 4-10 level-three purchaser certification must include completion of the
 4-11 second training level, passage of a written examination, and a
 4-12 minimum of three years of purchasing experience.

4-13 [(n)] This section does not apply to an institution to which
 4-14 Section 51.9335, Education Code, applies or to an institution to
 4-15 which Section 73.115, Education Code, applies.

4-16 Sec. 656.052 [2262.053]. TRAINING AND CERTIFICATION FOR
 4-17 CONTRACT MANAGERS. (a) In this section:

4-18 (1) "Contract management guide" means the guide
 4-19 developed under Section 2262.051.

4-20 (2) "Contract manager" has the meaning assigned by
 4-21 Section 2262.001.

4-22 (a-1) In coordination with the Department of Information
 4-23 Resources, state auditor, and Health and Human Services Commission,
 4-24 the comptroller shall develop a training program for contract
 4-25 managers.

4-26 (b) The training must provide the contract manager with
 4-27 information regarding how to:

4-28 (1) fairly and objectively select and negotiate with
 4-29 the most qualified contractor;

4-30 (2) establish prices that are cost-effective and that
 4-31 reflect the cost of providing the service;

4-32 (3) include provisions in a contract that hold the
 4-33 contractor accountable for results;

4-34 (4) monitor and enforce a contract;

4-35 (5) make payments consistent with the contract;

4-36 (6) comply with any requirements or goals contained in
 4-37 the contract management guide; [and]

4-38 (7) use and apply advanced sourcing strategies,
 4-39 techniques, and tools;

4-40 (8) maintain required documentation for contracting
 4-41 decisions, changes to a contract, and problems with a contract;

4-42 (9) create a risk evaluation and mitigation strategy;

4-43 (10) create a plan for potential problems with the
 4-44 contract;

4-45 (11) develop an accurate and comprehensive statement
 4-46 of work; and

4-47 (12) complete the contract and evaluate performance
 4-48 under the contract.

4-49 (c) Each state agency shall ensure that the agency's
 4-50 contract managers complete the training developed under this
 4-51 section.

4-52 (d) The comptroller shall administer training under this
 4-53 section and may assess a fee for the training in an amount
 4-54 sufficient to recover the comptroller's costs under this section.

4-55 (e) The comptroller shall certify contract managers who
 4-56 have completed the contract management training required under this
 4-57 section.

4-58 (f) A state agency may develop qualified contract manager
 4-59 training to supplement the training required under this section.
 4-60 The comptroller may incorporate the training developed by the
 4-61 agency into the training program under this section.

4-62 (g) The comptroller shall adapt the training required under
 4-63 this section and administer an abbreviated training program meeting
 4-64 the relevant training requirements under this section for state
 4-65 agency employees, other than contract managers, with contract
 4-66 management duties.

4-67 (h) This section does not apply to an institution of higher
 4-68 education as defined by Section 61.003, Education Code.

4-69 Sec. 656.053 [2262.0535]. TRAINING FOR GOVERNING BODIES.

5-1 (a) In this section, "state agency" has the meaning assigned by
 5-2 Section 2056.001.

5-3 (a-1) The comptroller shall adapt the program developed
 5-4 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
 5-5 for training the members of the governing bodies of state agencies.
 5-6 The training may be provided together with other required training
 5-7 for members of state agency governing bodies.

5-8 (b) All members of the governing body of a state agency
 5-9 shall complete at least one course of the training provided under
 5-10 this section. This subsection does not apply to a state agency that
 5-11 does not enter into any contracts.

5-12 (c) The comptroller may assess a fee for the training
 5-13 provided under this section in an amount sufficient to recover the
 5-14 comptroller's costs under this section.

5-15 SECTION 4. Section 2056.002(b), Government Code, is amended
 5-16 to read as follows:

5-17 (b) The Legislative Budget Board and the governor's office
 5-18 [~~Governor's Office of Budget, Policy, and Planning~~] shall determine
 5-19 the elements required to be included in each agency's strategic
 5-20 plan. Unless modified by the Legislative Budget Board and the
 5-21 governor's office [~~Governor's Office of Budget, Policy, and~~
 5-22 ~~Planning~~], and except as provided by Subsection (c), a plan must
 5-23 include:

5-24 (1) a statement of the mission and goals of the state
 5-25 agency;

5-26 (2) a description of the indicators developed under
 5-27 this chapter and used to measure the output and outcome of the
 5-28 agency;

5-29 (3) identification of the groups of people served by
 5-30 the agency, including those having service priorities, or other
 5-31 service measures established by law, and estimates of changes in
 5-32 those groups expected during the term of the plan;

5-33 (4) an analysis of the use of the agency's resources to
 5-34 meet the agency's needs, including future needs, and an estimate of
 5-35 additional resources that may be necessary to meet future needs;

5-36 (5) an analysis of expected changes in the services
 5-37 provided by the agency because of changes in state or federal law;

5-38 (6) a description of the means and strategies for
 5-39 meeting the agency's needs, including future needs, and achieving
 5-40 the goals established under Section 2056.006 for each area of state
 5-41 government for which the agency provides services;

5-42 (7) a description of the capital improvement needs of
 5-43 the agency during the term of the plan and a statement, if
 5-44 appropriate, of the priority of those needs;

5-45 (8) identification of each geographic region of this
 5-46 state, including the Texas-Louisiana border region and the
 5-47 Texas-Mexico border region, served by the agency, and if
 5-48 appropriate the agency's means and strategies for serving each
 5-49 region;

5-50 (9) a description of the training of the agency's
 5-51 contract managers under Section 656.052 [~~2262.053~~];

5-52 (10) an analysis of the agency's expected expenditures
 5-53 that relate to federally owned or operated military installations
 5-54 or facilities, or communities where a federally owned or operated
 5-55 military installation or facility is located;

5-56 (11) an analysis of the strategic use of information
 5-57 resources as provided by the instructions prepared under Section
 5-58 2054.095; and

5-59 (12) other information that may be required.

5-60 SECTION 5. Section 2262.101(a), Government Code, is amended
 5-61 to read as follows:

5-62 (a) The Contract Advisory Team is created to assist state
 5-63 agencies in improving contract management practices by:

5-64 (1) reviewing and making recommendations on the
 5-65 solicitation documents and contract documents for contracts of
 5-66 state agencies that have a value of at least \$10 million;

5-67 (2) reviewing any findings or recommendations made by
 5-68 the state auditor, including those made under Section 2262.052(b),
 5-69 regarding a state agency's compliance with the contract management

6-1 guide;
6-2 (3) providing recommendations to the comptroller
6-3 regarding:
6-4 (A) the development of the contract management
6-5 guide; and
6-6 (B) the training under Section 656.052
6-7 [~~2262.053~~];
6-8 (4) providing recommendations and assistance to state
6-9 agency personnel throughout the contract management process;
6-10 (5) coordinating and consulting with the quality
6-11 assurance team established under Section 2054.158 on all contracts
6-12 relating to a major information resources project;
6-13 (6) developing and recommending policies and
6-14 procedures to improve state agency contract management practices;
6-15 (7) developing and recommending procedures to improve
6-16 state agency contracting practices by including consideration for
6-17 best value; and
6-18 (8) creating and periodically performing a risk
6-19 assessment to determine the appropriate level of management and
6-20 oversight of contracts by state agencies.

6-21 SECTION 6. (a) Not later than February 1, 2018, the
6-22 comptroller of public accounts shall adopt rules to implement
6-23 Section 656.051, Government Code, as transferred, redesignated,
6-24 and amended by this Act.

6-25 (b) Section 656.051, Government Code, as transferred,
6-26 redesignated, and amended by this Act, applies only to an
6-27 application for certification under that section that is submitted
6-28 on or after March 1, 2018. An application submitted before that
6-29 date is governed by the law in effect immediately before the
6-30 effective date of this Act, and the former law is continued in
6-31 effect for that purpose.

6-32 SECTION 7. This Act takes effect September 1, 2017.

6-33 * * * * *