

1 AN ACT

2 relating to the administration and functions of the Texas Building
3 and Procurement Commission and related matters.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. GENERAL ADMINISTRATION

6 SECTION 1.01. Section 2152.058(b), Government Code, is
7 amended to read as follows:

8 (b) The commission shall meet at least quarterly [~~once each~~
9 ~~month~~]. The commission may meet at other times at the call of the
10 presiding officer or as provided by the commission's rules.

11 SECTION 1.02. Subchapter B, Chapter 2152, Government Code,
12 is amended by adding Section 2152.065 to read as follows:

13 Sec. 2152.065. REPRESENTATION ON BOARD OR COMMITTEE. If
14 the commission must be represented on a board or committee, the
15 executive director or the executive director's designee shall serve
16 as the commission's representative on the board or committee unless
17 the presiding officer of the commission elects to personally serve
18 as the commission's representative or appoints a specific person to
19 serve as the commission's representative on the board or committee.

20 SECTION 1.03. Section 2152.104(a), Government Code, is
21 amended to read as follows:

22 (a) The commission shall have an appropriate number of
23 [~~three~~] associate deputy directors.

24 ARTICLE 2. FACILITIES MANAGEMENT SERVICES

1 SECTION 2.01. Subchapter A, Chapter 2165, Government Code,
2 is amended by adding Section 2165.007 to read as follows:

3 Sec. 2165.007. FACILITIES MANAGEMENT SERVICES. (a) In
4 this section, "facilities management services" means any state
5 agency facilities management service that is not unique to carrying
6 out a program of the agency. The term includes services related to
7 facilities construction, facilities management, general building
8 and grounds maintenance, cabling, and facility reconfiguration.

9 (b) Notwithstanding any other law, the commission shall
10 provide facilities management services in relation to all state
11 agency facilities in Travis County or a county adjacent to Travis
12 County. The commission's duty does not apply to:

13 (1) a facility owned or operated by an institution of
14 higher education;

15 (2) military facilities;

16 (3) facilities owned or operated by the Texas
17 Department of Criminal Justice;

18 (4) facilities owned or operated by the Texas Youth
19 Commission;

20 (5) facilities owned or operated by the Texas
21 Department of Transportation;

22 (6) the Capitol, including the Capitol Extension, the
23 General Land Office building, the Bob Bullock Texas State History
24 Museum, and any museum located on the Capitol grounds;

25 (7) a facility determined by the commission to be
26 completely residential;

27 (8) a regional or field office of a state agency; or

1 (9) a facility located within or on state park
2 property.

3 SECTION 2.02. Subchapter B, Chapter 2165, Government Code,
4 is amended by adding Section 2165.057 to read as follows:

5 Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The
6 commission shall develop and implement policies that clearly define
7 the responsibilities of the commission and the commission's staff
8 that relate to conducting facilities management services for state
9 agency facilities under Section 2165.007.

10 (b) The state energy conservation office shall provide
11 utility management services for state agency facilities for which
12 the commission provides facilities management services under
13 Section 2165.007.

14 SECTION 2.03. On September 1, 2003:

15 (1) all powers and duties of a state agency that relate
16 to the facilities management services treated by Section
17 2165.007(b), Government Code, as added by this article, are
18 transferred to the Texas Building and Procurement Commission or the
19 state energy conservation office, as appropriate;

20 (2) all obligations and contracts of a state agency
21 that relate to the transferred services are transferred to the
22 Texas Building and Procurement Commission or the state energy
23 conservation office, as appropriate;

24 (3) all records and other property in the custody of a
25 state agency that relate to the transferred services and all funds
26 appropriated by the legislature to a state agency that relate to the
27 transferred services are transferred to the Texas Building and

1 Procurement Commission or the state energy conservation office, as
2 appropriate;

3 (4) all complaints and investigations that are pending
4 before a state agency that relate to the transferred services are
5 transferred without change in status to the Texas Building and
6 Procurement Commission or the state energy conservation office, as
7 appropriate; and

8 (5) a rule or form adopted by a state agency that
9 relates to the transferred services is considered to be a rule or
10 form of the Texas Building and Procurement Commission and remains
11 in effect until altered by the commission or the state energy
12 conservation office, as appropriate.

13 ARTICLE 3. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

14 SECTION 3.01. Subchapter E, Chapter 2165, Government Code,
15 is amended by adding Section 2165.2035 to read as follows:

16 Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS
17 AND GARAGES. (a) In this section, "lease" includes a management
18 agreement.

19 (b) The commission shall develop private, commercial uses
20 for state-owned parking lots and garages located in the city of
21 Austin at locations the commission determines are appropriate for
22 commercial uses outside of regular business hours.

23 (c) The commission may contract with a private vendor to
24 manage the commercial use of state-owned parking lots and garages.

25 (d) Money received from a lease under this program shall be
26 deposited to the credit of the general revenue fund.

27 (e) On or before December 1 of each even-numbered year, the

1 commission shall submit a report to the legislature and the
2 Legislative Budget Board describing the effectiveness of the
3 program under this section.

4 (f) The limitation on the amount of space allocated to
5 private tenants prescribed by Section 2165.205(b) does not apply to
6 the lease of a state-owned parking lot or garage under this section.

7 (g) Any lease of a state-owned parking lot or garage under
8 this section must contain a provision that allows state employees
9 who work hours other than regular working hours under Section
10 658.005 to retain their parking privileges in a state-owned parking
11 lot or garage.

12 (h) Nonprofit, charitable, and other community
13 organizations may apply to use state parking lots and garages
14 located in the city of Austin in the area bordered by West Fourth
15 Street, Lavaca Street, West Third Street, and Nueces Street free of
16 charge or at a reduced rate. The executive director of the
17 commission shall develop a form to be used to make such
18 applications. The form shall require information related to:

19 (1) the dates and times of the free use requested;

20 (2) the nature of the applicant's activities
21 associated with the proposed use of state parking lots and garages;
22 and

23 (3) any other information determined by the executive
24 director of the commission to be necessary to evaluate an
25 application.

26 (i) To be considered timely, an application must be
27 submitted at least one month before the proposed use, unless this

1 provision is waived by the executive director of the commission.

2 (j) The executive director of the commission may approve or
3 reject an application made under Subsection (h).

4 ARTICLE 4. LEASE OF SPACE FOR STATE AGENCIES

5 SECTION 4.01. Section 2167.001, Government Code, is amended
6 to read as follows:

7 Sec. 2167.001. APPLICABILITY. (a) This chapter applies
8 to:

- 9 (1) office space;
- 10 (2) warehouse space;
- 11 (3) laboratory space;
- 12 (4) storage space exceeding 1,000 gross square feet;

13 [~~and~~]

- 14 (5) boat storage space;
- 15 (6) aircraft hangar space other than hangar space and
16 adjacent space leased by the State Aircraft Pooling Board at
17 Austin-Bergstrom International Airport and operated for the
18 purpose of providing air transportation services for the State of
19 Texas;

- 20 (7) vehicle parking space; and
- 21 (8) a combination of those kinds of space.

22 (b) This chapter does not apply to:

- 23 (1) [~~aircraft hangar space,~~
- 24 [~~2~~] radio antenna space;
- 25 (2) [~~3~~] ~~boat storage space,~~
- 26 [~~4~~] ~~vehicle parking space,~~
- 27 [~~5~~] residential space for a Texas Department of

1 Mental Health and Mental Retardation program;

2 (3) [~~(6)~~] residential space for a Texas Youth
3 Commission program;

4 (4) [~~(7)~~] space to be used for less than one month for
5 meetings, conferences, conventions, seminars, displays,
6 examinations, auctions, or similar purposes;

7 (5) [~~(8)~~] district office space for members of the
8 legislature;

9 (6) [~~(9)~~] space used by the Texas Workforce
10 [~~Employment~~] Commission;

11 (7) [~~(10)~~] residential property acquired by the Texas
12 Department of Housing and Community Affairs or the Texas State
13 Affordable Housing Corporation that is offered for sale or rental
14 to individuals and families of low or very low income or families of
15 moderate income; or

16 (8) [~~(11)~~] except as provided by Section 2167.007,
17 classroom and instructional space for an institution of higher
18 education.

19 SECTION 4.02. Section 2167.005, Government Code, is amended
20 by adding Subsection (d) to read as follows:

21 (d) The commission may revoke a delegation of authority made
22 under this section.

23 SECTION 4.03. Section 2167.007(c), Government Code, is
24 amended to read as follows:

25 (c) The commission may [~~shall~~] establish a system of charges
26 and billings to assure the recovery of the cost of providing
27 services under Subsection (a) and may [~~shall~~] submit, after the

1 close of each month, a purchase voucher or journal voucher to an
2 agency for which services were provided.

3 SECTION 4.04. Section 2167.054(d), Government Code, is
4 amended to read as follows:

5 (d) As provided in a request for proposals and under rules
6 adopted by the commission, the commission may discuss acceptable or
7 potentially acceptable proposals with offerors to assess an
8 offeror's ability to meet the solicitation requirements and to
9 obtain the most advantageous lease contract for the state. The
10 commission may [~~shall~~] invite a leasing state agency to participate
11 in discussions and negotiations conducted under this section.
12 After receiving a proposal but before making an award, the
13 commission may permit the offeror to revise the proposal to obtain
14 the best final proposal.

15 SECTION 4.05. Sections 2167.055(d) and (f), Government
16 Code, are amended to read as follows:

17 (d) A lease contract that does not contain an option to
18 renew may, on agreement of the parties, be renewed under terms to
19 which all parties to the contract agree [~~once under the provisions~~
20 ~~of the original contract for a term that does not exceed one year~~].

21 (f) The obligation of the lessor to provide lease space and
22 of the commission to accept the space is binding on the execution of
23 the lease [~~award of the~~] contract.

24 SECTION 4.06. Section 2167.101, Government Code, is amended
25 to read as follows:

26 Sec. 2167.101. CERTIFICATION OF AVAILABLE MONEY. A state
27 agency occupying space leased under this chapter shall certify to

1 the commission, at least 60 days before the beginning of each fiscal
2 biennium during the lease term, that money is available to pay for
3 the lease until the end of the next fiscal biennium.

4 SECTION 4.07. The following laws are repealed:

- 5 (1) Section 2167.003(c), Government Code;
6 (2) Section 2167.004(b), Government Code; and
7 (3) Section 2167.106, Government Code.

8 SECTION 4.08. A lease contract entered into by the Texas
9 Building and Procurement Commission before September 1, 2003, under
10 Chapter 2167, Government Code, is governed during the remaining
11 term of the lease by Chapter 2167, Government Code, as it existed
12 immediately before September 1, 2003, and the prior law is
13 continued in effect for this purpose. Chapter 2167, Government
14 Code, as amended by this article, applies to the renewal of a lease
15 described by this section.

16 ARTICLE 5. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

17 SECTION 5.01. Section 2165.104(c), Government Code, is
18 amended to read as follows:

19 (c) To the extent possible without sacrificing critical
20 public or client services, the commission may not allocate usable
21 office space, as defined by the commission, to a state agency under
22 Article I, II, V, VI, VII, or VIII of the General Appropriations Act
23 or to the Texas Higher Education Coordinating Board, the Texas
24 Education Agency, the State Board for Educator Certification, the
25 Telecommunications Infrastructure Fund Board, or the Office of
26 Court Administration of the Texas Judicial System in an amount that
27 exceeds an average of 135 [~~153~~] square feet per agency employee for

1 each agency site. To the extent that any of those agencies
2 allocates its own usable office space, as defined by the
3 commission, the agency shall allocate the space to achieve the
4 required ratio. This subsection does not apply to:

5 (1) an agency site at which there are so few employees
6 that it is not practical to apply this subsection to that site, as
7 determined by the commission [~~fewer than 16 employees are located~~];
8 and

9 (2) an agency site at which it is not practical to
10 apply this subsection because of the site's type of space or use of
11 space, as determined by the commission [~~warehouse space,~~

12 [~~(3) laboratory space,~~

13 [~~(4) storage space exceeding 1,000 gross square feet,~~

14 [~~(5) library space,~~

15 [~~(6) space for hearing rooms used to conduct hearings~~
16 ~~required under the administrative procedure law, Chapter 2001, or~~

17 [~~(7) another type of space specified by commission~~
18 ~~rule, if the commission determines that it is not practical to apply~~
19 ~~this subsection to that space].~~

20 SECTION 5.02. This article applies only to a lease for
21 usable office space entered into or renewed on or after September 1,
22 2003. A lease entered into or renewed before September 1, 2003,
23 shall be reviewed by the Texas Building and Procurement Commission
24 as the lease comes up for renewal to determine whether it would be
25 cost-effective to bring the lease into compliance with Section
26 2165.104(c), Government Code, as amended by this article.

27 ARTICLE 6. WRITTEN COMMENTS BY THE GENERAL LAND OFFICE ON TEXAS

BUILDING AND PROCUREMENT COMMISSION LEASES

SECTION 6.01. The following sections are repealed:

(1) Section 2165.154, Government Code; and

(2) Section 2165.204, Government Code.

ARTICLE 7. GENERAL STATE PROCUREMENT

SECTION 7.01. Section 2171.101(a), Government Code, is amended to read as follows:

(a) The office of vehicle fleet management shall establish a vehicle reporting system to assist each state agency in the management of its vehicle fleet. A state agency shall be required to submit the reports on a monthly basis [~~not more often than semiannually~~].

SECTION 7.02. Sections 2171.102(a) and (b), Government Code, are amended to read as follows:

(a) The office of vehicle fleet management may, for a fee, [~~shall~~] provide routine periodic maintenance service to state agencies located in Travis County. [~~The office shall charge a fee for the service.~~]

(b) The office may [~~shall~~] negotiate contracts for major overhauls and other extensive mechanical work.

SECTION 7.03. Sections 2171.104(c) and (d), Government Code, are amended to read as follows:

(c) The management plan must address:

(1) opportunities for consolidating and privatizing the operation and management of vehicle fleets in areas where there is a concentration of state agencies, including the Capitol Complex and the Health and Human Services Complex in Austin;

1 (2) the number and type of vehicles owned by each
2 agency and the purpose each vehicle serves;

3 (3) procedures to increase vehicle use and improve the
4 efficiency of the state vehicle fleet;

5 (4) procedures to reduce the cost of maintaining state
6 vehicles;

7 (5) procedures to handle surplus or salvage [~~the sale~~
8 ~~of excess~~] state vehicles; and

9 (6) lower-cost alternatives to using state-owned
10 vehicles, including:

11 (A) using rental cars; and

12 (B) reimbursing employees for using personal
13 vehicles.

14 (d) The commission shall require a state agency to transfer
15 surplus or salvage vehicles identified by the management plan to
16 the commission and shall sell or dispose of the [~~excess~~] vehicles in
17 accordance with the provisions of Chapter 2175 that provide for
18 disposition of surplus or salvage property by the commission
19 [identified by the management plan and deposit the proceeds from
20 the sale into the account that the agency used to purchase the
21 vehicles].

22 SECTION 7.04. Chapter 2151, Government Code, is amended by
23 adding Section 2151.005 to read as follows:

24 Sec. 2151.005. EXEMPTIONS RELATED TO LEGAL SERVICES. This
25 subtitle does not apply to:

26 (1) obtaining outside legal counsel services;

27 (2) obtaining expert witnesses; or

1 (3) procuring litigation-related goods and services
2 for which competitive procurement is not feasible under the
3 circumstances.

4 SECTION 7.05. Section 2155.078(k), Government Code, is
5 amended to read as follows:

6 (k) The commission shall require a reasonable number of [24]
7 hours of continuing education [~~each year~~] to maintain a
8 certification level. The commission may allow attendance at
9 equivalent certification training recognized by the commission to
10 count toward the required number of [up to 16] hours [of the
11 continuing education requirement]. Maintenance of the
12 certification level may be by yearly renewal or another reasonable
13 renewal period comparable to nationally recognized certification
14 requirements.

15 SECTION 7.06. Section 2155.141, Government Code, is amended
16 to read as follows:

17 Sec. 2155.141. [~~CERTAIN OTHER~~] PURCHASES FOR AUXILIARY
18 ENTERPRISE NOT WITHIN COMMISSION'S PURCHASING AUTHORITY. The
19 commission's authority does not extend to a purchase of goods and
20 services[+]

21 [~~(1) for resale,~~
22 [~~(2)~~] for an auxiliary enterprise[+, or
23 [~~(3) for an organized activity relating to an~~
24 ~~instructional department of an institution of higher learning or a~~
25 ~~similar activity of another state agency].~~

26 SECTION 7.07. Section 2155.144, Government Code, is amended
27 by adding Subsection (b-1) to read as follows:

1 (b-1) An agency to which this section applies is not
2 delegated the authority to procure common commodities or services:

3 (1) including goods and services acquired for direct
4 consumption or use by the agency in the day-to-day support of the
5 agency's administrative operations, such as office supplies and
6 equipment, building maintenance and cleaning services, or
7 temporary employment services; and

8 (2) not including consulting services, professional
9 services, health care services, information resources technology,
10 goods or services acquired for the benefit or on behalf of clients
11 of programs operated by the agency, procurements specifically
12 authorized or delegated to the agency by statute, or the
13 contracting out of agency purchasing functions or other
14 administrative or program functions.

15 SECTION 7.08. Subchapter C, Chapter 2155, Government Code,
16 is amended by adding Section 2155.148 to read as follows:

17 Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS STATEWIDE
18 EMERGENCY SERVICES PERSONNEL RETIREMENT FUND. (a) The fire
19 fighters' pension commissioner is delegated all purchasing
20 functions relating to the purchase of goods or services from funds
21 other than general revenue funds for a purpose the state board of
22 trustees of the Texas statewide emergency services personnel
23 retirement fund determines relates to the fiduciary duties of the
24 retirement fund.

25 (b) The fire fighters' pension commissioner shall acquire
26 goods or services by any procurement method approved by the state
27 board of trustees of the Texas statewide emergency services

1 personnel retirement fund that provides the best value to the
2 retirement fund. The fire fighters' pension commissioner shall
3 consider the best value standards provided by Section 2155.074.

4 (c) The commission shall procure goods or services for the
5 fire fighters' pension commissioner at the request of the pension
6 commissioner, and the pension commissioner may use the services of
7 the commission in procuring goods or services.

8 SECTION 7.09. Subchapter I, Chapter 2155, Government Code,
9 is amended by adding Section 2155.510 to read as follows:

10 Sec. 2155.510. REBATES. (a) The commission may collect a
11 rebate from a vendor under a contract listed on a schedule developed
12 under this subchapter.

13 (b) If a purchase resulting in a rebate under this section
14 is made in whole or in part with federal funds, the commission shall
15 ensure that, to the extent the purchase was made with federal funds,
16 the appropriate portion of the rebate is reported to the purchasing
17 agency for reporting and reconciliation purposes with the
18 appropriate federal funding agency.

19 SECTION 7.10. The heading to Subchapter B, Chapter 2157,
20 Government Code, is amended to read as follows:

21 SUBCHAPTER B. CATALOG [~~CATALOGUE~~] PURCHASE METHOD

22 SECTION 7.11. Section 2157.061, Government Code, is amended
23 to read as follows:

24 Sec. 2157.061. USE OF CATALOG [~~CATALOGUE~~] PURCHASE METHOD
25 REQUIRED UNLESS BEST VALUE AVAILABLE ELSEWHERE. The commission or
26 a state agency shall purchase an automated information system
27 through the catalog [~~catalogue~~] procedure provided by this

1 subchapter unless the commission or state agency determines that
2 the best value may be obtained from another purchase method
3 authorized by this subtitle.

4 SECTION 7.12. Section 2157.0611, Government Code, is
5 amended to read as follows:

6 Sec. 2157.0611. REQUIREMENT TO EVALUATE THREE OFFERS
7 ~~[PROPOSALS]~~ WHEN POSSIBLE. A catalog ~~[catalogue]~~ purchase or lease
8 that exceeds \$2,000 or a greater amount prescribed by commission
9 rule shall, when possible, be based on an evaluation of at least
10 three catalog offers ~~[catalogue proposals]~~ made to the commission
11 or other state agency by catalog ~~[qualified]~~ information systems
12 vendors. If at least three catalog offers ~~[catalogue proposals]~~
13 are not evaluated by the commission or other state agency before a
14 purchase or lease that exceeds the threshold amount is made, the
15 commission or other agency shall document the reasons for that fact
16 before making the purchase or lease under Section 2157.063.

17 SECTION 7.13. Section 2157.062, Government Code, is amended
18 to read as follows:

19 Sec. 2157.062. BASIC REQUIREMENTS FOR CATALOG ~~[APPLICATION~~
20 ~~PROCESS FOR QUALIFICATION AS]~~ VENDOR. ~~[(a) To sell or lease an~~
21 ~~automated information system under this subchapter to a state~~
22 ~~agency, a vendor must apply to the commission for designation as a~~
23 ~~qualified information systems vendor. The commission shall~~
24 ~~prescribe the application process. The commission may allow or~~
25 ~~require a vendor to apply on-line.~~

26 ~~[(b)]~~ At a minimum, a catalog information systems vendor
27 must ~~[the commission shall require an applicant to submit]:~~

1 (1) maintain an Internet catalog [~~a catalogue~~]
2 containing each product and service eligible for purchase by a
3 state agency, including for each product or service:

4 (A) a description;

5 (B) the list price; and

6 (C) the price to a state agency;

7 (2) maintain a maintenance, repair, and support plan
8 for each eligible product or service;

9 (3) provide on request proof of the applicant's
10 financial resources and ability to perform; and

11 (4) provide a guarantee that the vendor will make
12 available equivalent replacement parts for a product sold to the
13 state until at least the third anniversary of the date the product
14 is discontinued.

15 SECTION 7.14. Section 2157.063(a), Government Code, is
16 amended to read as follows:

17 (a) If a purchase or lease is the best value available and is
18 in the state's best interest, a state agency may under this
19 subchapter purchase or lease an automated information system
20 directly from a catalog [~~qualified~~] information systems vendor and
21 may negotiate price and additional terms and conditions to be
22 included in a contract relating to the purchase or lease.

23 SECTION 7.15. Section 2157.066, Government Code, is amended
24 by amending Subsections (a), (b), and (f) and adding Subsection (g)
25 to read as follows:

26 (a) A catalog [~~vendor designated by the commission as a~~
27 ~~qualified~~] information systems vendor shall publish and maintain a

1 catalog [~~catalogue~~] described by Section 2157.062(1)
2 [~~2157.062(b)(1)~~] in the manner required by the commission.

3 (b) The vendor shall revise the catalog [~~catalogue~~] as
4 necessary in the manner required by the commission.

5 (f) The commission may audit a catalog [~~qualified~~]
6 information systems vendor's catalog [~~approved catalogue~~] for
7 compliance with rules adopted under Subsection (g) [~~(e)~~].

8 (g) The commission shall adopt rules that specify the
9 requirements for a catalog information systems vendor's
10 maintenance of Internet catalogs, including:

- 11 (1) availability;
- 12 (2) format; and
- 13 (3) other relevant requirements.

14 SECTION 7.16. Section 2157.067(a), Government Code, is
15 amended to read as follows:

16 (a) The commission shall make the catalog [~~catalogue~~]
17 purchasing procedure available to a local government that qualifies
18 for cooperative purchasing under Sections 271.082 and 271.083,
19 Local Government Code.

20 SECTION 7.17. Section 2157.068(b), Government Code, is
21 amended to read as follows:

22 (b) The department shall negotiate with catalog [~~qualified~~]
23 information systems vendors to attempt to obtain a favorable price
24 for all of state government on licenses for commodity software
25 items, based on the aggregate volume of purchases expected to be
26 made by the state. The terms and conditions of a license agreement
27 between a vendor and the department under this section may not be

1 less favorable to the state than the terms of similar license
2 agreements between the vendor and retail distributors.

3 SECTION 7.18. Chapter 2254, Government Code, is amended by
4 adding Subchapter D to read as follows:

5 SUBCHAPTER D. OUTSIDE LEGAL SERVICES

6 Sec. 2254.151. DEFINITION. In this subchapter, "state
7 agency" means a department, commission, board, authority, office,
8 or other agency in the executive branch of state government created
9 by the state constitution or a state statute.

10 Sec. 2254.152. APPLICABILITY. This subchapter does not
11 apply to a contingent fee contract for legal services.

12 Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED.
13 Subject to Section 402.0212, a state agency may contract for
14 outside legal services.

15 Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT.
16 The attorney general may require state agencies to obtain outside
17 legal services through a competitive procurement process, under
18 conditions prescribed by the attorney general.

19 SECTION 7.19. Section 2262.001, Government Code, is amended
20 by adding Subdivision (1-a) to read as follows:

21 (1-a) "Commission" means the Texas Building and
22 Procurement Commission.

23 SECTION 7.20. Sections 2262.051(a) and (b), Government
24 Code, are amended to read as follows:

25 (a) In consultation with the attorney general [~~Texas~~
26 ~~Building and Procurement Commission~~], the Department of
27 Information Resources, the comptroller, and the state auditor, the

1 commission [~~attorney general~~] shall develop or [~~and~~] periodically
2 update a contract management guide for use by state agencies.

3 (b) The commission [~~attorney general~~] may adopt rules
4 necessary to develop or update the guide.

5 SECTION 7.21. Section 2262.052(b), Government Code, is
6 amended to read as follows:

7 (b) The state auditor shall:

8 (1) periodically monitor compliance with this
9 section;

10 (2) report any noncompliance to:

11 (A) the governor;

12 (B) the lieutenant governor;

13 (C) the speaker of the house of representatives;

14 and

15 (D) the team; and

16 (3) assist, in coordination with the commission
17 [~~attorney general~~] and the comptroller, a noncomplying state agency
18 to comply with this section.

19 SECTION 7.22. Section 2262.053(a), Government Code, is
20 amended to read as follows:

21 (a) In coordination with the [~~Texas Building and~~
22 ~~Procurement Commission, the~~] comptroller, [~~and the~~] Department of
23 Information Resources, and [~~the~~] state auditor, the commission
24 shall develop or administer a training program for contract
25 managers.

26 SECTION 7.23. Section 2262.054, Government Code, is amended
27 to read as follows:

1 Sec. 2262.054. PUBLIC COMMENT. The commission [~~attorney~~
2 ~~general~~] by rule may establish procedures by which each state
3 agency is required to invite public comment by publishing the
4 proposed technical specifications for major contracts on the
5 Internet through the information service known as the Texas
6 Marketplace or through a suitable successor information service.
7 The guide must define "technical specifications."

8 SECTION 7.24. Section 2262.101, Government Code, is amended
9 to read as follows:

10 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory
11 Team is created to assist state agencies in improving contract
12 management practices by:

13 (1) reviewing the solicitation of major contracts by
14 state agencies;

15 (2) reviewing any findings or recommendations made by
16 the state auditor, including those made under Section 2262.052(b),
17 regarding a state agency's compliance with the contract management
18 guide; and

19 (3) providing recommendations to the commission
20 regarding:

21 (A) [~~the attorney general regarding~~] the
22 development of the contract management guide; and

23 (B) [~~the state auditor regarding~~] the training
24 under Section 2262.053.

25 SECTION 7.25. Sections 2155.142, 2157.001(2), 2157.064,
26 2157.065, 2157.066(c) and (d), and 2261.001(e), Government Code,
27 are repealed.

1 SECTION 7.26. The changes in law made by this article to
2 Section 2155.141, Government Code, apply only to a purchase made on
3 or after the effective date of this article. A purchase made before
4 the effective date of this article is covered by the law in effect
5 when the purchase was made, and the former law is continued in
6 effect for that purpose.

7 SECTION 7.27. (a) In this section, "commission" means the
8 Texas Building and Procurement Commission.

9 (b) Not later than February 1, 2004:

10 (1) the attorney general and state auditor shall
11 complete the transfer of powers and duties to the commission under
12 Chapter 2262, Government Code, as amended by this article;

13 (2) a rule or form adopted by the attorney general or
14 state auditor under Chapter 2262, Government Code, is a rule or form
15 of the commission and remains in effect until changed by the
16 commission;

17 (3) the commission assumes, without a change in
18 status, the position of the attorney general or state auditor with
19 respect to any matter regarding which the duties of the attorney
20 general or state auditor under Chapter 2262, Government Code, have
21 been transferred to the commission;

22 (4) all property, including records, and rights and
23 obligations of the attorney general and state auditor related to
24 those entities' express duties under Chapter 2262, Government Code,
25 are transferred to the commission; and

26 (5) all funds appropriated by the legislature to the
27 attorney general and state auditor related to those entities'

1 express powers and duties under Chapter 2262, Government Code, are
2 transferred to the commission.

3 SECTION 7.28. Section 2175.061, Government Code, is amended
4 by adding Subsection (c) to read as follows:

5 (c) The commission may by rule determine the best method of
6 disposal for surplus and salvage property of the state under this
7 chapter.

8 SECTION 7.29. Section 2175.134, Government Code, is amended
9 by amending Subsection (a) and adding Subsection (c) to read as
10 follows:

11 (a) Proceeds from the sale of surplus or salvage property,
12 less the cost of advertising the sale, the cost of selling the
13 surplus or salvage property, including the cost of auctioneer
14 services, and the amount of the fee collected under Section
15 2175.131, shall be deposited to the credit of the general revenue
16 fund of the state treasury [~~appropriate appropriation item of the~~
17 ~~state agency for which the sale was made~~].

18 (c) Proceeds from the sale of surplus and salvage property
19 of the State Aircraft Pooling Board shall be deposited to the credit
20 of the board.

21 SECTION 7.30. Section 2175.182(a), Government Code, is
22 amended to read as follows:

23 (a) The commission is responsible for the disposal of
24 surplus or salvage property under this subchapter. The commission
25 may take physical possession of the property. [~~A state agency~~
26 ~~maintains ownership of property throughout the disposal process.~~]

27 SECTION 7.31. Section 2175.185(b), Government Code, is

1 amended to read as follows:

2 (b) On receiving notice under this section, the comptroller
3 shall, if necessary, [+]

4 ~~[(1) debit and credit the proper appropriations, and~~
5 ~~[(2)]~~ adjust state property accounting records.

6 SECTION 7.32. Section 2175.191, Government Code, is amended
7 by amending Subsection (a) and adding Subsection (c) to read as
8 follows:

9 (a) Proceeds from the sale of surplus or salvage property,
10 less the cost of advertising the sale, the cost of selling the
11 surplus or salvage property, including the cost of auctioneer
12 services, and the amount of the fee collected under Section
13 2175.188, shall be deposited to the credit of the general revenue
14 fund of the state treasury ~~[appropriate appropriation item of the~~
15 ~~state agency for which the sale was made]~~.

16 (c) Proceeds from the sale of surplus and salvage property
17 of the State Aircraft Pooling Board shall be deposited to the credit
18 of the board.

19 SECTION 7.33. Section 2175.361, Government Code, is amended
20 to read as follows:

21 Sec. 2175.361. DEFINITIONS. In this subchapter:

22 (1) "Federal act" means the Federal Property and
23 Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.
24 [484]), as amended, or any other federal law providing for the
25 disposal of federal surplus property.

26 (2) "Federal property" means federal surplus property
27 acquired:

1 (A) by the commission or under the commission's
2 jurisdiction under this subchapter; and

3 (B) under 40 U.S.C. Section 483c, 549, or 550, or
4 under any other federal law providing for the disposal [~~Section~~
5 ~~484(j) or (k)~~] of [~~the~~] federal surplus property [~~act~~]. [~~The term~~
6 ~~includes federal real property acquired under Section 484(k) of the~~
7 ~~federal act.~~]

8 SECTION 7.34. Section 2175.362(a), Government Code, is
9 amended to read as follows:

10 (a) The commission is the designated state agency under 40
11 U.S.C. Section 549 and any other federal law providing for the
12 disposal [~~484(j)~~] of [~~the~~] federal surplus property [~~act~~].

13 SECTION 7.35. Section 2175.364, Government Code, is amended
14 to read as follows:

15 Sec. 2175.364. COMMISSION ASSISTANCE IN PROCUREMENT AND USE
16 OF PROPERTY. The commission may:

17 (1) disseminate information and assist a potential
18 applicant regarding the availability of federal real property;

19 (2) assist in the processing of an application for
20 acquisition of federal real property and related personal property
21 under 40 U.S.C. Section 550 or any other federal law providing for
22 the disposal [~~484(k)~~] of [~~the~~] federal surplus property [~~act~~];

23 (3) act as an information clearinghouse for an entity
24 that may be eligible to acquire federal property and, as necessary,
25 assist the entity to obtain federal property;

26 (4) assist in assuring use of the property; and

27 (5) engage in an activity relating to the use of

1 federal property by another state agency, institution, or
2 organization engaging in or receiving assistance under a federal
3 program.

4 SECTION 7.36. Section 2175.367, Government Code, is amended
5 to read as follows:

6 Sec. 2175.367. CONTRACTS. The commission may enter into an
7 agreement, including:

8 (1) a cooperative agreement with a federal agency
9 under 40 U.S.C. Section 549 or any other federal law providing for
10 the disposal [~~484(n)~~] of [~~the~~] federal surplus property [~~act~~];

11 (2) an agreement with a state agency for surplus
12 property of a state agency that will promote the administration of
13 the commission's functions under this subchapter; or

14 (3) an agreement with a group or association of state
15 agencies for surplus property that will promote the administration
16 of the commission's functions under this subchapter.

17 SECTION 7.37. Sections 2175.134(b) and 2175.191(b),
18 Government Code, are repealed.

19 SECTION 7.38. The changes in law made by this article to
20 Chapter 2175, Government Code, apply only to surplus and salvage
21 property of the state sold on or after September 1, 2003.

22 SECTION 7.39. Section 2166.001(8), Government Code, is
23 amended to read as follows:

24 (8) "Small construction project" means a project that:

25 (A) has an estimated value of less than \$100,000
26 [~~\$25,000~~]; and

27 (B) requires advance preparation of working

1 plans or drawings.

2 SECTION 7.40. Section 2166.2531(d), Government Code, is
3 amended to read as follows:

4 (d) The commission shall prepare a request for
5 qualifications that includes general information on the project
6 site, project scope, [~~budget~~] special systems, selection
7 criteria, and other information that may assist potential
8 design-build firms in submitting proposals for the project. The
9 commission shall also prepare a design criteria package that
10 includes more detailed information on the project. If the
11 preparation of the design criteria package requires engineering or
12 architectural services that constitute the practice of engineering
13 within the meaning of The Texas Engineering Practice Act (Article
14 3271a, Vernon's Texas Civil Statutes) or the practice of
15 architecture within the meaning of Chapter 478, Acts of the 45th
16 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
17 Civil Statutes), those services shall be provided in accordance
18 with the applicable law.

19 SECTION 7.41. Sections 2166.2532(e) and (g), Government
20 Code, are amended to read as follows:

21 (e) The commission shall select the construction
22 manager-at-risk in either a one-step or two-step process. The
23 commission shall prepare a request for proposals, in the case of a
24 one-step process, or a request for qualifications, in the case of a
25 two-step process, that includes general information on the project
26 site, project scope, schedule, selection criteria, [~~estimated~~
27 ~~budget~~] and the time and place for receipt of proposals or

1 qualifications, as applicable; a statement as to whether the
2 selection process is a one-step or two-step process; and other
3 information that may assist the commission in its selection of a
4 construction manager-at-risk. The commission shall state the
5 selection criteria in the request for proposals or qualifications,
6 as applicable. The selection criteria may include the offeror's
7 experience, past performance, safety record, proposed personnel
8 and methodology, and other appropriate factors that demonstrate the
9 capability of the construction manager-at-risk. If a one-step
10 process is used, the commission may request, as part of the
11 offeror's proposal, proposed fees and prices for fulfilling the
12 general conditions. If a two-step process is used, the commission
13 may not request fees or prices in step one. In step two, the
14 commission may request that five or fewer offerors, selected solely
15 on the basis of qualifications, provide additional information,
16 including the construction manager-at-risk's proposed fee and its
17 price for fulfilling the general conditions.

18 (g) At each step, the commission shall receive, publicly
19 open, and read aloud the names of the offerors. ~~[At the appropriate
20 step, the commission shall also read aloud the fees and prices, if
21 any, stated in each proposal as the proposal is opened.]~~ Within 45
22 days after the date of opening the proposals, the commission or its
23 representative shall evaluate and rank each proposal submitted in
24 relation to the criteria set forth in the request for proposals.

25 SECTION 7.42. Sections 2166.2533(d) and (f), Government
26 Code, are amended to read as follows:

27 (d) The commission shall prepare a request for competitive

1 sealed proposals that includes construction documents, selection
2 criteria, [~~estimated budget,~~] project scope, schedule, and other
3 information that contractors may require to respond to the request.
4 The commission shall state in the request for proposals all of the
5 selection criteria that will be used in selecting the successful
6 offeror.

7 (f) The commission shall receive, publicly open, and read
8 aloud the names of the offerors [~~and, if any are required to be~~
9 ~~stated, all prices stated in each proposal~~]. Within 45 days after
10 the date of opening the proposals, the commission shall evaluate
11 and rank each proposal submitted in relation to the published
12 selection criteria.

13 SECTION 7.43. Subchapter F, Chapter 2166, Government Code,
14 is amended by adding Section 2166.260 to read as follows:

15 Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED.
16 A state agency may not spend more than the amount authorized for the
17 cost of a project unless the governor and the Legislative Budget
18 Board approve the expenditure. Once the cost of a project reaches
19 the amount authorized for the project, each change to approved
20 project plans must be approved by the governor and the Legislative
21 Budget Board.

22 SECTION 7.44. Section 2166.302, Government Code, is amended
23 to read as follows:

24 Sec. 2166.302. ADOPTION OF CONDITIONS. (a) Except as
25 provided by Subsection (b), the [~~The~~] commission shall adopt
26 uniform general conditions to be incorporated into all building
27 construction contracts made by the state, including a contract for

1 a project excluded from this chapter by Section 2166.003, but not
2 including a contract for a project excluded from this chapter by
3 Section 2166.004.

4 (b) The commission is not required to adopt uniform general
5 conditions for small construction projects, as defined by Section
6 2166.001.

7 SECTION 7.45. Section 2166.305(b), Government Code, is
8 amended to read as follows:

9 (b) A committee appointed by the commission shall perform
10 the review. The committee consists of:

11 (1) the director of facilities construction and space
12 management appointed under Section 2152.104, who serves [~~ex~~
13 ~~officio~~] as the presiding officer of the committee [~~and who votes~~
14 ~~only in case of a tie~~];

15 (2) seven individuals appointed by the commission, one
16 each from the lists of nominees submitted respectively by the:

17 (A) president of the Texas Society of Architects;

18 (B) president of the Texas Society of
19 Professional Engineers;

20 (C) presiding officer of the Executive Council of
21 the Texas Associated General Contractors Chapters;

22 (D) executive secretary of the Mechanical
23 Contractors Associations of Texas, Incorporated;

24 (E) executive secretary of the Texas Building and
25 Construction Trades Council;

26 (F) president of the Associated Builders and
27 Contractors of Texas; and

1 (G) executive director of the National
2 Association of Minority Contractors, with the list composed of
3 persons who reside in this state;

4 (3) one individual appointed by the commission
5 representing an institution of higher education, as defined by
6 Section 61.003, Education Code;

7 (4) one individual appointed by the commission
8 representing a state agency that has a substantial ongoing
9 construction program; ~~and~~

10 (5) one individual appointed by the commission
11 representing the attorney general's office; and

12 (6) one individual appointed by the commission
13 representing the interests of historically underutilized
14 businesses.

15 SECTION 7.46. Section 2166.201, Government Code, is
16 repealed.

17 SECTION 7.47. The changes in law made by this article to
18 Sections 2166.2531, 2166.2532, and 2166.2533, Government Code,
19 apply only in relation to a Texas Building and Procurement
20 Commission request for qualifications or proposals made on or after
21 September 1, 2003.

22 SECTION 7.48. CARLOS F. TRUAN NATURAL RESOURCES CENTER.

23 (a) The natural resources center located at Texas A&M University at
24 Corpus Christi that was dedicated on August 6, 1996, shall be known
25 as the Carlos F. Truan Natural Resources Center.

26 (b) The Texas Building and Procurement Commission shall
27 take appropriate action to ensure that the center is identified as

1 provided by this section.

2 ARTICLE 8. TRAVEL SERVICES CONTRACTS

3 SECTION 8.01. Sections 2171.052(b) and (c), Government
4 Code, are amended to read as follows:

5 (b) The central travel office may [~~shall~~] negotiate
6 contracts with private travel agents, with travel and
7 transportation providers, and with credit card companies that
8 provide travel services and other benefits to the state. The
9 central travel office may [~~shall~~] negotiate with commercial lodging
10 establishments to obtain the most cost-effective rates possible for
11 state employees traveling on state business.

12 (c) The commission may [~~shall~~] make contracts with travel
13 agents that meet certain reasonable requirements prescribed by the
14 central travel office, [~~allowing contracts to provide travel~~
15 ~~services by as many private travel agents as possible~~] with
16 preference given to resident entities of this state.

17 SECTION 8.02. Section 2171.052(e), Government Code, is
18 repealed.

19 ARTICLE 9. SCHOOL BUS SAFETY STANDARDS

20 SECTION 9.01. Section 34.002(a), Education Code, is amended
21 to read as follows:

22 (a) The Department of Public Safety, with the advice of the
23 [~~General Services Commission and the~~] Texas Education Agency, shall
24 establish safety standards for school buses used to transport
25 students in accordance with Section 34.003 [~~34.002, Education~~
26 ~~Code~~].

27 SECTION 9.02. Sections 547.7015(a) and (b), Transportation

1 Code, are amended to read as follows:

2 (a) The department [~~General Services Commission, with the~~
3 ~~advice of the department,~~] shall adopt and enforce rules governing
4 the design, color, lighting and other equipment, construction, and
5 operation of a school bus for the transportation of schoolchildren
6 that is:

7 (1) owned and operated by a school district in this
8 state; or

9 (2) privately owned and operated under a contract with
10 a school district in this state.

11 (b) In adopting rules under this section, the department
12 [~~General Services Commission~~] shall emphasize:

13 (1) safety features; and

14 (2) long-range, maintenance-free factors.

15 SECTION 9.03. Rules that were adopted under Section
16 547.7015, Transportation Code, before the effective date of this
17 article and that are in effect on the effective date of this article
18 are continued in effect as rules of the Department of Public Safety
19 until the rules are amended, repealed, or superseded by an action of
20 the department.

21 ARTICLE 10. CENTRAL SUPPLY STORE; REPAIR FACILITY

22 SECTION 10.01. Section 2172.001(a), Government Code, is
23 amended to read as follows:

24 [~~(a)~~] The commission may [~~shall~~] operate a central supply
25 store at which only state agencies, the legislature, and
26 legislative agencies may obtain small supply items. If the
27 commission operates a central supply store, the commission shall

1 devise an appropriate method of billing a using entity for the
2 supplies.

3 SECTION 10.02. Section 2172.002(a), Government Code, is
4 amended to read as follows:

5 (a) The commission may [~~shall~~] maintain a facility for
6 repairing office machines and may [~~shall~~] offer repair services to
7 the following entities located in Austin:

- 8 (1) state agencies;
9 (2) the legislature; and
10 (3) legislative agencies.

11 SECTION 10.03. Section 2172.001(b), Government Code, is
12 repealed.

13 ARTICLE 11. EFFECTIVE DATE

14 SECTION 11.01. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 3042 was passed by the House on May 2, 2003, by the following vote: Yeas 126, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3042 on May 30, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3042 on June 1, 2003, by the following vote: Yeas 147, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3042

I certify that H.B. No. 3042 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3042 on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor