

1-1 By: Cook of Colorado (Senate Sponsor - Ellis) H.B. No. 3042
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on
1-4 Government Organization; May 26, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 5, Nays
1-6 0; May 26, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3042 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration and functions of the Texas Building
1-11 and Procurement Commission and related matters.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. GENERAL ADMINISTRATION

1-14 SECTION 1.01. Section 2152.058(b), Government Code, is
1-15 amended to read as follows:

1-16 (b) The commission shall meet at least quarterly [~~once each~~
1-17 ~~month~~]. The commission may meet at other times at the call of the
1-18 presiding officer or as provided by the commission's rules.

1-19 SECTION 1.02. Subchapter B, Chapter 2152, Government Code,
1-20 is amended by adding Section 2152.065 to read as follows:

1-21 Sec. 2152.065. REPRESENTATION ON BOARD OR COMMITTEE. If
1-22 the commission must be represented on a board or committee, the
1-23 executive director or the executive director's designee shall serve
1-24 as the commission's representative on the board or committee unless
1-25 the presiding officer of the commission elects to personally serve
1-26 as the commission's representative or appoints a specific person to
1-27 serve as the commission's representative on the board or committee.

1-28 SECTION 1.03. Section 2152.104(a), Government Code, is
1-29 amended to read as follows:

1-30 (a) The commission shall have an appropriate number of
1-31 [~~three~~] associate deputy directors.

1-32 ARTICLE 2. FACILITIES MANAGEMENT SERVICES

1-33 SECTION 2.01. Subchapter A, Chapter 2165, Government Code,
1-34 is amended by adding Section 2165.007 to read as follows:

1-35 Sec. 2165.007. FACILITIES MANAGEMENT SERVICES. (a) In this
1-36 section, "facilities management services" means any state agency
1-37 facilities management service that is not unique to carrying out a
1-38 program of the agency. The term includes services related to
1-39 facilities construction, facilities management, general building
1-40 and grounds maintenance, cabling, and facility reconfiguration.

1-41 (b) Notwithstanding any other law, the commission shall
1-42 provide facilities management services in relation to all state
1-43 agency facilities in Travis County or a county adjacent to Travis
1-44 County. The commission's duty does not apply to:

1-45 (1) a facility owned or operated by an institution of
1-46 higher education;

1-47 (2) military facilities;

1-48 (3) facilities owned or operated by the Texas
1-49 Department of Criminal Justice;

1-50 (4) facilities owned or operated by the Texas Youth
1-51 Commission;

1-52 (5) facilities owned or operated by the Texas
1-53 Department of Transportation;

1-54 (6) the Capitol, including the Capitol Extension, the
1-55 General Land Office building, and any museum located on the Capitol
1-56 grounds;

1-57 (7) a facility determined by the commission to be
1-58 completely residential; or

1-59 (8) a regional or field office of a state agency.

1-60 SECTION 2.02. Subchapter B, Chapter 2165, Government Code,
1-61 is amended by adding Section 2165.057 to read as follows:

1-62 Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The
1-63 commission shall develop and implement policies that clearly define

2-1 the responsibilities of the commission and the commission's staff
2-2 that relate to conducting facilities management services for state
2-3 agency facilities under Section 2165.007.

2-4 (b) The state energy conservation office shall provide
2-5 utility management services for state agency facilities for which
2-6 the commission provides facilities management services under
2-7 Section 2165.007.

2-8 SECTION 2.03. On September 1, 2003:

2-9 (1) all powers and duties of a state agency that relate
2-10 to the facilities management services treated by Section
2-11 2165.007(b), Government Code, as added by this article, are
2-12 transferred to the Texas Building and Procurement Commission or the
2-13 state energy conservation office, as appropriate;

2-14 (2) all obligations and contracts of a state agency
2-15 that relate to the transferred services are transferred to the
2-16 Texas Building and Procurement Commission or the state energy
2-17 conservation office, as appropriate;

2-18 (3) all records and other property in the custody of a
2-19 state agency that relate to the transferred services and all funds
2-20 appropriated by the legislature to a state agency that relate to the
2-21 transferred services are transferred to the Texas Building and
2-22 Procurement Commission or the state energy conservation office, as
2-23 appropriate;

2-24 (4) all complaints and investigations that are pending
2-25 before a state agency that relate to the transferred services are
2-26 transferred without change in status to the Texas Building and
2-27 Procurement Commission or the state energy conservation office, as
2-28 appropriate; and

2-29 (5) a rule or form adopted by a state agency that
2-30 relates to the transferred services is considered to be a rule or
2-31 form of the Texas Building and Procurement Commission and remains
2-32 in effect until altered by the commission or the state energy
2-33 conservation office, as appropriate.

2-34 ARTICLE 3. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

2-35 SECTION 3.01. Subchapter E, Chapter 2165, Government Code,
2-36 is amended by adding Section 2165.2035 to read as follows:

2-37 Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS
2-38 AND GARAGES. (a) In this section, "lease" includes a management
2-39 agreement.

2-40 (b) The commission shall develop private, commercial uses
2-41 for state-owned parking lots and garages located in the city of
2-42 Austin at locations the commission determines are appropriate for
2-43 commercial uses outside of regular business hours.

2-44 (c) The commission may contract with a private vendor to
2-45 manage the commercial use of state-owned parking lots and garages.

2-46 (d) Money received from a lease under this program shall be
2-47 deposited to the credit of the general revenue fund.

2-48 (e) On or before December 1 of each even-numbered year, the
2-49 commission shall submit a report to the legislature and the
2-50 Legislative Budget Board describing the effectiveness of the
2-51 program under this section.

2-52 (f) The limitation on the amount of space allocated to
2-53 private tenants prescribed by Section 2165.205(b) does not apply to
2-54 the lease of a state-owned parking lot or garage under this section.

2-55 (g) Any lease of a state-owned parking lot or garage under
2-56 this section must contain a provision that allows state employees
2-57 who work hours other than regular working hours under Section
2-58 658.005 to retain their parking privileges in a state-owned parking
2-59 lot or garage.

2-60 ARTICLE 4. LEASE OF SPACE FOR STATE AGENCIES

2-61 SECTION 4.01. Section 2167.001, Government Code, is amended
2-62 to read as follows:

2-63 Sec. 2167.001. APPLICABILITY. (a) This chapter applies
2-64 to:

- 2-65 (1) office space;
- 2-66 (2) warehouse space;
- 2-67 (3) laboratory space;
- 2-68 (4) storage space exceeding 1,000 gross square feet;

2-69 [~~and~~]

3-1 (5) boat storage space;
 3-2 (6) aircraft hangar space;
 3-3 (7) vehicle parking space; and
 3-4 (8) a combination of those kinds of space.

3-5 (b) This chapter does not apply to:
 3-6 (1) [~~aircraft hangar space;~~
 3-7 [~~2~~] radio antenna space;
 3-8 (2) [~~3~~] ~~boat storage space;~~
 3-9 [~~4~~] ~~vehicle parking space;~~
 3-10 [~~5~~] residential space for a Texas Department of
 3-11 Mental Health and Mental Retardation program;
 3-12 (3) [~~6~~] residential space for a Texas Youth
 3-13 Commission program;
 3-14 (4) [~~7~~] space to be used for less than one month for
 3-15 meetings, conferences, conventions, seminars, displays,
 3-16 examinations, auctions, or similar purposes;
 3-17 (5) [~~8~~] district office space for members of the
 3-18 legislature;
 3-19 (6) [~~9~~] space used by the Texas Workforce
 3-20 [~~Employment~~] Commission;
 3-21 (7) [~~10~~] residential property acquired by the Texas
 3-22 Department of Housing and Community Affairs or the Texas State
 3-23 Affordable Housing Corporation that is offered for sale or rental
 3-24 to individuals and families of low or very low income or families of
 3-25 moderate income; or
 3-26 (8) [~~11~~] except as provided by Section 2167.007,
 3-27 classroom and instructional space for an institution of higher
 3-28 education.

3-29 SECTION 4.02. Section 2167.005, Government Code, is amended
 3-30 by adding Subsection (d) to read as follows:
 3-31 (d) The commission may revoke a delegation of authority made
 3-32 under this section.

3-33 SECTION 4.03. Section 2167.007(c), Government Code, is
 3-34 amended to read as follows:
 3-35 (c) The commission may [~~shall~~] establish a system of charges
 3-36 and billings to assure the recovery of the cost of providing
 3-37 services under Subsection (a) and may [~~shall~~] submit, after the
 3-38 close of each month, a purchase voucher or journal voucher to an
 3-39 agency for which services were provided.

3-40 SECTION 4.04. Section 2167.054(d), Government Code, is
 3-41 amended to read as follows:
 3-42 (d) As provided in a request for proposals and under rules
 3-43 adopted by the commission, the commission may discuss acceptable or
 3-44 potentially acceptable proposals with offerors to assess an
 3-45 offeror's ability to meet the solicitation requirements and to
 3-46 obtain the most advantageous lease contract for the state. The
 3-47 commission may [~~shall~~] invite a leasing state agency to participate
 3-48 in discussions and negotiations conducted under this section.
 3-49 After receiving a proposal but before making an award, the
 3-50 commission may permit the offeror to revise the proposal to obtain
 3-51 the best final proposal.

3-52 SECTION 4.05. Sections 2167.055(d) and (f), Government
 3-53 Code, are amended to read as follows:
 3-54 (d) A lease contract that does not contain an option to
 3-55 renew may, on agreement of the parties, be renewed under terms to
 3-56 which all parties to the contract agree [~~once under the provisions~~
 3-57 ~~of the original contract for a term that does not exceed one year~~].
 3-58 (f) The obligation of the lessor to provide lease space and
 3-59 of the commission to accept the space is binding on the execution of
 3-60 the lease [~~award of the~~] contract.

3-61 SECTION 4.06. Section 2167.101, Government Code, is amended
 3-62 to read as follows:
 3-63 Sec. 2167.101. CERTIFICATION OF AVAILABLE MONEY. A state
 3-64 agency occupying space leased under this chapter shall certify to
 3-65 the commission, at least 60 days before the beginning of each fiscal
 3-66 biennium during the lease term, that money is available to pay for
 3-67 the lease until the end of the next fiscal biennium.

3-68 SECTION 4.07. The following laws are repealed:
 3-69 (1) Section 2167.003(c), Government Code;

- 4-1 (2) Section 2167.004(b), Government Code; and
- 4-2 (3) Section 2167.106, Government Code.

4-3 SECTION 4.08. A lease contract entered into by the Texas
 4-4 Building and Procurement Commission before September 1, 2003, under
 4-5 Chapter 2167, Government Code, is governed during the remaining
 4-6 term of the lease by Chapter 2167, Government Code, as it existed
 4-7 immediately before September 1, 2003, and the prior law is
 4-8 continued in effect for this purpose. Chapter 2167, Government
 4-9 Code, as amended by this article, applies to the renewal of a lease
 4-10 described by this section.

4-11 ARTICLE 5. ALLOCATION OF OFFICE SPACE TO STATE AGENCIES

4-12 SECTION 5.01. Section 2165.104(c), Government Code, is
 4-13 amended to read as follows:

4-14 (c) To the extent possible without sacrificing critical
 4-15 public or client services, the commission may not allocate usable
 4-16 office space, as defined by the commission, to a state agency under
 4-17 Article I, II, V, VI, VII, or VIII of the General Appropriations Act
 4-18 or to the Texas Higher Education Coordinating Board, the Texas
 4-19 Education Agency, the State Board for Educator Certification, the
 4-20 Telecommunications Infrastructure Fund Board, or the Office of
 4-21 Court Administration of the Texas Judicial System in an amount that
 4-22 exceeds an average of 135 ~~[153]~~ square feet per agency employee for
 4-23 each agency site. To the extent that any of those agencies
 4-24 allocates its own usable office space, as defined by the
 4-25 commission, the agency shall allocate the space to achieve the
 4-26 required ratio. This subsection does not apply to:

4-27 (1) an agency site at which there are so few employees
 4-28 that it is not practical to apply this subsection to that site, as
 4-29 determined by the commission ~~[fewer than 16 employees are located];~~
 4-30 and

4-31 (2) an agency site at which it is not practical to
 4-32 apply this subsection because of the site's type of space or use of
 4-33 space, as determined by the commission ~~[warehouse space,~~

- 4-34 ~~[(3) laboratory space,~~
- 4-35 ~~[(4) storage space exceeding 1,000 gross square feet,~~
- 4-36 ~~[(5) library space,~~
- 4-37 ~~[(6) space for hearing rooms used to conduct hearings~~
 4-38 ~~required under the administrative procedure law, Chapter 2001, or~~
- 4-39 ~~[(7) another type of space specified by commission~~
 4-40 ~~rule, if the commission determines that it is not practical to apply~~
 4-41 ~~this subsection to that space].~~

4-42 SECTION 5.02. This article applies only to a lease for
 4-43 usable office space entered into or renewed on or after September 1,
 4-44 2003. A lease entered into or renewed before September 1, 2003,
 4-45 shall be reviewed by the Texas Building and Procurement Commission
 4-46 as the lease comes up for renewal to determine whether it would be
 4-47 cost-effective to bring the lease into compliance with Section
 4-48 2165.104(c), Government Code, as amended by this article.

4-49 ARTICLE 6. WRITTEN COMMENTS BY THE GENERAL LAND OFFICE ON TEXAS
 4-50 BUILDING AND PROCUREMENT COMMISSION LEASES

4-51 SECTION 6.01. The following sections are repealed:

- 4-52 (1) Section 2165.154, Government Code; and
- 4-53 (2) Section 2165.204, Government Code.

4-54 ARTICLE 7. GENERAL STATE PROCUREMENT

4-55 SECTION 7.01. Section 2171.101(a), Government Code, is
 4-56 amended to read as follows:

4-57 (a) The office of vehicle fleet management shall establish a
 4-58 vehicle reporting system to assist each state agency in the
 4-59 management of its vehicle fleet. A state agency shall be required
 4-60 to submit the reports on a monthly basis ~~[not more often than~~
 4-61 ~~semiannually].~~

4-62 SECTION 7.02. Sections 2171.102(a) and (b), Government
 4-63 Code, are amended to read as follows:

4-64 (a) The office of vehicle fleet management may, for a fee,
 4-65 ~~[shall]~~ provide routine periodic maintenance service to state
 4-66 agencies located in Travis County. ~~[The office shall charge a fee~~
 4-67 ~~for the service.]~~

4-68 (b) The office may ~~[shall]~~ negotiate contracts for major
 4-69 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;

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

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

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

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

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

(A) using rental cars; and

(B) reimbursing employees for using personal vehicles.

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

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

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

(1) obtaining outside legal counsel services;

(2) obtaining expert witnesses; or

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

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

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

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

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

[(1) for resale;

[(2)] for an auxiliary enterprise [, or

[(3) for an organized activity relating to an instructional department of an institution of higher learning or a similar activity of another state agency].

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

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

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

(2) not including consulting services, professional

6-1 services, health care services, information resources technology,
6-2 goods or services acquired for the benefit or on behalf of clients
6-3 of programs operated by the agency, procurements specifically
6-4 authorized or delegated to the agency by statute, or the
6-5 contracting out of agency purchasing functions or other
6-6 administrative or program functions.

6-7 SECTION 7.08. Subchapter C, Chapter 2155, Government Code,
6-8 is amended by adding Section 2155.148 to read as follows:

6-9 Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS STATEWIDE
6-10 EMERGENCY SERVICES PERSONNEL RETIREMENT FUND. (a) The fire
6-11 fighters' pension commissioner is delegated all purchasing
6-12 functions relating to the purchase of goods or services from funds
6-13 other than general revenue funds for a purpose the state board of
6-14 trustees of the Texas statewide emergency services personnel
6-15 retirement fund determines relates to the fiduciary duties of the
6-16 retirement fund.

6-17 (b) The fire fighters' pension commissioner shall acquire
6-18 goods or services by any procurement method approved by the state
6-19 board of trustees of the Texas statewide emergency services
6-20 personnel retirement fund that provides the best value to the
6-21 retirement fund. The fire fighters' pension commissioner shall
6-22 consider the best value standards provided by Section 2155.074.

6-23 (c) The commission shall procure goods or services for the
6-24 fire fighters' pension commissioner at the request of the pension
6-25 commissioner, and the pension commissioner may use the services of
6-26 the commission in procuring goods or services.

6-27 SECTION 7.09. Subchapter I, Chapter 2155, Government Code,
6-28 is amended by adding Section 2155.510 to read as follows:

6-29 Sec. 2155.510. REBATES. (a) The commission may collect a
6-30 rebate from a vendor under a contract listed on a schedule developed
6-31 under this subchapter.

6-32 (b) If a purchase resulting in a rebate under this section
6-33 is made in whole or in part with federal funds, the commission shall
6-34 ensure that, to the extent the purchase was made with federal funds,
6-35 the appropriate portion of the rebate is reported to the purchasing
6-36 agency for reporting and reconciliation purposes with the
6-37 appropriate federal funding agency.

6-38 SECTION 7.10. The heading to Subchapter B, Chapter 2157,
6-39 Government Code, is amended to read as follows:

6-40 SUBCHAPTER B. CATALOG [~~CATALOGUE~~] PURCHASE METHOD

6-41 SECTION 7.11. Section 2157.061, Government Code, is amended
6-42 to read as follows:

6-43 Sec. 2157.061. USE OF CATALOG [~~CATALOGUE~~] PURCHASE METHOD
6-44 REQUIRED UNLESS BEST VALUE AVAILABLE ELSEWHERE. The commission or
6-45 a state agency shall purchase an automated information system
6-46 through the catalog [~~catalogue~~] procedure provided by this
6-47 subchapter unless the commission or state agency determines that
6-48 the best value may be obtained from another purchase method
6-49 authorized by this subtitle.

6-50 SECTION 7.12. Section 2157.0611, Government Code, is
6-51 amended to read as follows:

6-52 Sec. 2157.0611. REQUIREMENT TO EVALUATE THREE OFFERS
6-53 [~~PROPOSALS~~] WHEN POSSIBLE. A catalog [~~catalogue~~] purchase or lease
6-54 that exceeds \$2,000 or a greater amount prescribed by commission
6-55 rule shall, when possible, be based on an evaluation of at least
6-56 three catalog offers [~~catalogue proposals~~] made to the commission
6-57 or other state agency by catalog [~~qualified~~] information systems
6-58 vendors. If at least three catalog offers [~~catalogue proposals~~]
6-59 are not evaluated by the commission or other state agency before a
6-60 purchase or lease that exceeds the threshold amount is made, the
6-61 commission or other agency shall document the reasons for that fact
6-62 before making the purchase or lease under Section 2157.063.

6-63 SECTION 7.13. Section 2157.062, Government Code, is amended
6-64 to read as follows:

6-65 Sec. 2157.062. BASIC REQUIREMENTS FOR CATALOG [~~APPLICATION~~
6-66 ~~PROCESS FOR QUALIFICATION AS]~~ VENDOR. [(a) To sell or lease an
6-67 automated information system under this subchapter to a state
6-68 agency, a vendor must apply to the commission for designation as a
6-69 qualified information systems vendor. The commission shall

7-1 ~~prescribe the application process. The commission may allow or~~
7-2 ~~require a vendor to apply on-line.~~

7-3 ~~[(b)] At a minimum, a catalog information systems vendor~~
7-4 ~~must [the commission shall require an applicant to submit]:~~

7-5 (1) maintain an Internet catalog [a catalogue]
7-6 containing each product and service eligible for purchase by a
7-7 state agency, including for each product or service:

- 7-8 (A) a description;
- 7-9 (B) the list price; and
- 7-10 (C) the price to a state agency;

7-11 (2) maintain a maintenance, repair, and support plan
7-12 for each eligible product or service;

7-13 (3) provide on request proof of the applicant's
7-14 financial resources and ability to perform; and

7-15 (4) provide a guarantee that the vendor will make
7-16 available equivalent replacement parts for a product sold to the
7-17 state until at least the third anniversary of the date the product
7-18 is discontinued.

7-19 SECTION 7.14. Section 2157.063(a), Government Code, is
7-20 amended to read as follows:

7-21 (a) If a purchase or lease is the best value available and is
7-22 in the state's best interest, a state agency may under this
7-23 subchapter purchase or lease an automated information system
7-24 directly from a catalog [qualified] information systems vendor and
7-25 may negotiate price and additional terms and conditions to be
7-26 included in a contract relating to the purchase or lease.

7-27 SECTION 7.15. Section 2157.066, Government Code, is amended
7-28 by amending Subsections (a), (b), and (f) and adding Subsection (g)
7-29 to read as follows:

7-30 (a) A catalog [vendor designated by the commission as a
7-31 qualified] information systems vendor shall publish and maintain a
7-32 catalog [catalogue] described by Section 2157.062(1)
7-33 [2157.062(b)(1)] in the manner required by the commission.

7-34 (b) The vendor shall revise the catalog [catalogue] as
7-35 necessary in the manner required by the commission.

7-36 (f) The commission may audit a catalog [qualified]
7-37 information systems vendor's catalog [approved catalogue] for
7-38 compliance with rules adopted under Subsection (g) [(e)].

7-39 (g) The commission shall adopt rules that specify the
7-40 requirements for a catalog information systems vendor's
7-41 maintenance of Internet catalogs, including:

- 7-42 (1) availability;
- 7-43 (2) format; and
- 7-44 (3) other relevant requirements.

7-45 SECTION 7.16. Section 2157.067(a), Government Code, is
7-46 amended to read as follows:

7-47 (a) The commission shall make the catalog [catalogue]
7-48 purchasing procedure available to a local government that qualifies
7-49 for cooperative purchasing under Sections 271.082 and 271.083,
7-50 Local Government Code.

7-51 SECTION 7.17. Section 2157.068(b), Government Code, is
7-52 amended to read as follows:

7-53 (b) The department shall negotiate with catalog [qualified]
7-54 information systems vendors to attempt to obtain a favorable price
7-55 for all of state government on licenses for commodity software
7-56 items, based on the aggregate volume of purchases expected to be
7-57 made by the state. The terms and conditions of a license agreement
7-58 between a vendor and the department under this section may not be
7-59 less favorable to the state than the terms of similar license
7-60 agreements between the vendor and retail distributors.

7-61 SECTION 7.18. Chapter 2254, Government Code, is amended by
7-62 adding Subchapter D to read as follows:

7-63 SUBCHAPTER D. OUTSIDE LEGAL SERVICES

7-64 Sec. 2254.151. DEFINITION. In this subchapter, "state
7-65 agency" means a department, commission, board, authority, office,
7-66 or other agency in the executive branch of state government created
7-67 by the state constitution or a state statute.

7-68 Sec. 2254.152. APPLICABILITY. This subchapter does not
7-69 apply to a contingent fee contract for legal services.

8-1 Sec. 2254.153. CONTRACTS FOR LEGAL SERVICES AUTHORIZED.
8-2 Subject to Section 402.0212, a state agency may contract for
8-3 outside legal services.

8-4 Sec. 2254.154. ATTORNEY GENERAL; COMPETITIVE PROCUREMENT.
8-5 The attorney general may require state agencies to obtain outside
8-6 legal services through a competitive procurement process, under
8-7 conditions prescribed by the attorney general.

8-8 SECTION 7.19. Section 2262.001, Government Code, is amended
8-9 by adding Subdivision (1-a) to read as follows:

8-10 (1-a) "Commission" means the Texas Building and
8-11 Procurement Commission.

8-12 SECTION 7.20. Sections 2262.051(a) and (b), Government
8-13 Code, are amended to read as follows:

8-14 (a) In consultation with the attorney general [~~Texas~~
8-15 ~~Building and Procurement Commission~~], the Department of
8-16 Information Resources, the comptroller, and the state auditor, the
8-17 commission [~~attorney general~~] shall develop or [~~and~~] periodically
8-18 update a contract management guide for use by state agencies.

8-19 (b) The commission [~~attorney general~~] may adopt rules
8-20 necessary to develop or update the guide.

8-21 SECTION 7.21. Section 2262.052(b), Government Code, is
8-22 amended to read as follows:

8-23 (b) The state auditor shall:

8-24 (1) periodically monitor compliance with this
8-25 section;

8-26 (2) report any noncompliance to:

8-27 (A) the governor;

8-28 (B) the lieutenant governor;

8-29 (C) the speaker of the house of representatives;

8-30 and

8-31 (D) the team; and

8-32 (3) assist, in coordination with the commission
8-33 [~~attorney general~~] and the comptroller, a noncomplying state agency
8-34 to comply with this section.

8-35 SECTION 7.22. Section 2262.053(a), Government Code, is
8-36 amended to read as follows:

8-37 (a) In coordination with the [~~Texas Building and~~
8-38 ~~Procurement Commission, the~~] comptroller, [~~and the~~] Department of
8-39 Information Resources, and [~~the~~] state auditor, the commission
8-40 shall develop or administer a training program for contract
8-41 managers.

8-42 SECTION 7.23. Section 2262.054, Government Code, is amended
8-43 to read as follows:

8-44 Sec. 2262.054. PUBLIC COMMENT. The commission [~~attorney~~
8-45 ~~general~~] by rule may establish procedures by which each state
8-46 agency is required to invite public comment by publishing the
8-47 proposed technical specifications for major contracts on the
8-48 Internet through the information service known as the Texas
8-49 Marketplace or through a suitable successor information service.
8-50 The guide must define "technical specifications."

8-51 SECTION 7.24. Section 2262.101, Government Code, is amended
8-52 to read as follows:

8-53 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory
8-54 Team is created to assist state agencies in improving contract
8-55 management practices by:

8-56 (1) reviewing the solicitation of major contracts by
8-57 state agencies;

8-58 (2) reviewing any findings or recommendations made by
8-59 the state auditor, including those made under Section 2262.052(b),
8-60 regarding a state agency's compliance with the contract management
8-61 guide; and

8-62 (3) providing recommendations to the commission
8-63 regarding:

8-64 (A) [~~the attorney general regarding~~] the
8-65 development of the contract management guide; and

8-66 (B) [~~the state auditor regarding~~] the training
8-67 under Section 2262.053.

8-68 SECTION 7.25. Sections 2155.142, 2157.001(2), 2157.064,
8-69 2157.065, 2157.066(c) and (d), and 2261.001(e), Government Code,

9-1 are repealed.

9-2 SECTION 7.26. The changes in law made by this article to
 9-3 Section 2155.141, Government Code, apply only to a purchase made on
 9-4 or after the effective date of this article. A purchase made before
 9-5 the effective date of this article is covered by the law in effect
 9-6 when the purchase was made, and the former law is continued in
 9-7 effect for that purpose.

9-8 SECTION 7.27. (a) In this section, "commission" means the
 9-9 Texas Building and Procurement Commission.

9-10 (b) Not later than February 1, 2004:

9-11 (1) the attorney general and state auditor shall
 9-12 complete the transfer of powers and duties to the commission under
 9-13 Chapter 2262, Government Code, as amended by this article;

9-14 (2) a rule or form adopted by the attorney general or
 9-15 state auditor under Chapter 2262, Government Code, is a rule or form
 9-16 of the commission and remains in effect until changed by the
 9-17 commission;

9-18 (3) the commission assumes, without a change in
 9-19 status, the position of the attorney general or state auditor with
 9-20 respect to any matter regarding which the duties of the attorney
 9-21 general or state auditor under Chapter 2262, Government Code, have
 9-22 been transferred to the commission;

9-23 (4) all property, including records, and rights and
 9-24 obligations of the attorney general and state auditor related to
 9-25 those entities' express duties under Chapter 2262, Government Code,
 9-26 are transferred to the commission; and

9-27 (5) all funds appropriated by the legislature to the
 9-28 attorney general and state auditor related to those entities'
 9-29 express powers and duties under Chapter 2262, Government Code, are
 9-30 transferred to the commission.

9-31 SECTION 7.28. Section 2175.061, Government Code, is amended
 9-32 by adding Subsection (c) to read as follows:

9-33 (c) The commission may by rule determine the best method of
 9-34 disposal for surplus and salvage property of the state under this
 9-35 chapter.

9-36 SECTION 7.29. Section 2175.134(a), Government Code, is
 9-37 amended to read as follows:

9-38 (a) Proceeds from the sale of surplus or salvage property,
 9-39 less the cost of advertising the sale, the cost of selling the
 9-40 surplus or salvage property, including the cost of auctioneer
 9-41 services, and the amount of the fee collected under Section
 9-42 2175.131, shall be deposited to the credit of the general revenue
 9-43 fund of the state treasury [~~appropriate appropriation item of the~~
 9-44 ~~state agency for which the sale was made~~].

9-45 SECTION 7.30. Section 2175.182(a), Government Code, is
 9-46 amended to read as follows:

9-47 (a) The commission is responsible for the disposal of
 9-48 surplus or salvage property under this subchapter. The commission
 9-49 may take physical possession of the property. [~~A state agency~~
 9-50 ~~maintains ownership of property throughout the disposal process.~~]

9-51 SECTION 7.31. Section 2175.185(b), Government Code, is
 9-52 amended to read as follows:

9-53 (b) On receiving notice under this section, the comptroller
 9-54 shall, if necessary, [+
 9-55 [~~(1) debit and credit the proper appropriations, and~~
 9-56 [~~(2)~~] adjust state property accounting records.

9-57 SECTION 7.32. Section 2175.191(a), Government Code, is
 9-58 amended to read as follows:

9-59 (a) Proceeds from the sale of surplus or salvage property,
 9-60 less the cost of advertising the sale, the cost of selling the
 9-61 surplus or salvage property, including the cost of auctioneer
 9-62 services, and the amount of the fee collected under Section
 9-63 2175.188, shall be deposited to the credit of the general revenue
 9-64 fund of the state treasury [~~appropriate appropriation item of the~~
 9-65 ~~state agency for which the sale was made~~].

9-66 SECTION 7.33. Section 2175.361, Government Code, is amended
 9-67 to read as follows:

9-68 Sec. 2175.361. DEFINITIONS. In this subchapter:

9-69 (1) "Federal act" means the Federal Property and

Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq. [484]), as amended, or any other federal law providing for the disposal of federal surplus property.

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

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

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

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

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

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

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

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

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

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

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

(5) engage in an activity relating to the use of federal property by another state agency, institution, or organization engaging in or receiving assistance under a federal program.

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

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

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

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

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

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

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

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

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

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

(B) requires advance preparation of working plans or drawings.

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

(d) The commission shall prepare a request for qualifications that includes general information on the project site, project scope, [~~budget~~] special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The commission shall also prepare a design criteria package that includes more detailed information on the project. If the

11-1 preparation of the design criteria package requires engineering or
 11-2 architectural services that constitute the practice of engineering
 11-3 within the meaning of The Texas Engineering Practice Act (Article
 11-4 3271a, Vernon's Texas Civil Statutes) or the practice of
 11-5 architecture within the meaning of Chapter 478, Acts of the 45th
 11-6 Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas
 11-7 Civil Statutes), those services shall be provided in accordance
 11-8 with the applicable law.

11-9 SECTION 7.41. Sections 2166.2532(e) and (g), Government
 11-10 Code, are amended to read as follows:

11-11 (e) The commission shall select the construction
 11-12 manager-at-risk in either a one-step or two-step process. The
 11-13 commission shall prepare a request for proposals, in the case of a
 11-14 one-step process, or a request for qualifications, in the case of a
 11-15 two-step process, that includes general information on the project
 11-16 site, project scope, schedule, selection criteria, ~~[estimated~~
 11-17 ~~budget,]~~ and the time and place for receipt of proposals or
 11-18 qualifications, as applicable; a statement as to whether the
 11-19 selection process is a one-step or two-step process; and other
 11-20 information that may assist the commission in its selection of a
 11-21 construction manager-at-risk. The commission shall state the
 11-22 selection criteria in the request for proposals or qualifications,
 11-23 as applicable. The selection criteria may include the offeror's
 11-24 experience, past performance, safety record, proposed personnel
 11-25 and methodology, and other appropriate factors that demonstrate the
 11-26 capability of the construction manager-at-risk. If a one-step
 11-27 process is used, the commission may request, as part of the
 11-28 offeror's proposal, proposed fees and prices for fulfilling the
 11-29 general conditions. If a two-step process is used, the commission
 11-30 may not request fees or prices in step one. In step two, the
 11-31 commission may request that five or fewer offerors, selected solely
 11-32 on the basis of qualifications, provide additional information,
 11-33 including the construction manager-at-risk's proposed fee and its
 11-34 price for fulfilling the general conditions.

11-35 (g) At each step, the commission shall receive, publicly
 11-36 open, and read aloud the names of the offerors. ~~[At the appropriate~~
 11-37 ~~step, the commission shall also read aloud the fees and prices, if~~
 11-38 ~~any, stated in each proposal as the proposal is opened.]~~ Within 45
 11-39 days after the date of opening the proposals, the commission or its
 11-40 representative shall evaluate and rank each proposal submitted in
 11-41 relation to the criteria set forth in the request for proposals.

11-42 SECTION 7.42. Sections 2166.2533(d) and (f), Government
 11-43 Code, are amended to read as follows:

11-44 (d) The commission shall prepare a request for competitive
 11-45 sealed proposals that includes construction documents, selection
 11-46 criteria, ~~[estimated budget,]~~ project scope, schedule, and other
 11-47 information that contractors may require to respond to the request.
 11-48 The commission shall state in the request for proposals all of the
 11-49 selection criteria that will be used in selecting the successful
 11-50 offeror.

11-51 (f) The commission shall receive, publicly open, and read
 11-52 aloud the names of the offerors ~~[and, if any are required to be~~
 11-53 ~~stated, all prices stated in each proposal]~~. Within 45 days after
 11-54 the date of opening the proposals, the commission shall evaluate
 11-55 and rank each proposal submitted in relation to the published
 11-56 selection criteria.

11-57 SECTION 7.43. Subchapter F, Chapter 2166, Government Code,
 11-58 is amended by adding Section 2166.260 to read as follows:

11-59 Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED.
 11-60 A state agency may not spend more than the amount authorized for the
 11-61 cost of a project unless the governor and the Legislative Budget
 11-62 Board approve the expenditure. Once the cost of a project reaches
 11-63 the amount authorized for the project, each change to approved
 11-64 project plans must be approved by the governor and the Legislative
 11-65 Budget Board.

11-66 SECTION 7.44. Section 2166.302, Government Code, is amended
 11-67 to read as follows:

11-68 Sec. 2166.302. ADOPTION OF CONDITIONS. (a) Except as
 11-69 provided by Subsection (b), the [The] commission shall adopt

uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project excluded from this chapter by Section 2166.003, but not including a contract for a project excluded from this chapter by Section 2166.004.

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

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

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

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

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

(A) president of the Texas Society of Architects;

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 8. TRAVEL SERVICES CONTRACTS

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

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

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

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

ARTICLE 9. SCHOOL BUS SAFETY STANDARDS

SECTION 9.01. Section 34.002(a), Education Code, is amended

13-1 to read as follows:

13-2 (a) The Department of Public Safety, with the advice of the
13-3 [~~General Services Commission and the~~] Texas Education Agency, shall
13-4 establish safety standards for school buses used to transport
13-5 students in accordance with Section 34.003 [~~34.002, Education~~
13-6 ~~Code~~].

13-7 SECTION 9.02. Sections 547.7015(a) and (b), Transportation
13-8 Code, are amended to read as follows:

13-9 (a) The department [~~General Services Commission, with the~~
13-10 ~~advice of the department,~~] shall adopt and enforce rules governing
13-11 the design, color, lighting and other equipment, construction, and
13-12 operation of a school bus for the transportation of schoolchildren
13-13 that is:

13-14 (1) owned and operated by a school district in this
13-15 state; or

13-16 (2) privately owned and operated under a contract with
13-17 a school district in this state.

13-18 (b) In adopting rules under this section, the department
13-19 [~~General Services Commission~~] shall emphasize:

13-20 (1) safety features; and

13-21 (2) long-range, maintenance-free factors.

13-22 SECTION 9.03. Rules that were adopted under Section
13-23 547.7015, Transportation Code, before the effective date of this
13-24 article and that are in effect on the effective date of this article
13-25 are continued in effect as rules of the Department of Public Safety
13-26 until the rules are amended, repealed, or superseded by an action of
13-27 the department.

13-28 ARTICLE 10. CENTRAL SUPPLY STORE; REPAIR FACILITY

13-29 SECTION 10.01. Section 2172.001(a), Government Code, is
13-30 amended to read as follows:

13-31 [~~(a)~~] The commission may [~~shall~~] operate a central supply
13-32 store at which only state agencies, the legislature, and
13-33 legislative agencies may obtain small supply items. If the
13-34 commission operates a central supply store, the commission shall
13-35 devise an appropriate method of billing a using entity for the
13-36 supplies.

13-37 SECTION 10.02. Section 2172.002(a), Government Code, is
13-38 amended to read as follows:

13-39 (a) The commission may [~~shall~~] maintain a facility for
13-40 repairing office machines and may [~~shall~~] offer repair services to
13-41 the following entities located in Austin:

13-42 (1) state agencies;

13-43 (2) the legislature; and

13-44 (3) legislative agencies.

13-45 SECTION 10.03. Section 2172.001(b), Government Code, is
13-46 repealed.

13-47 ARTICLE 11. EFFECTIVE DATE

13-48 SECTION 11.01. This Act takes effect immediately if it
13-49 receives a vote of two-thirds of all the members elected to each
13-50 house, as provided by Section 39, Article III, Texas Constitution.
13-51 If this Act does not receive the vote necessary for immediate
13-52 effect, this Act takes effect September 1, 2003.

13-53 * * * * *