

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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H.B. No. 3560

A BILL TO BE ENTITLED

1 AN ACT

2 relating to transferring to the comptroller the duties of the Texas  
3 Building and Procurement Commission that do not primarily concern  
4 state facilities.

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

6 ARTICLE 1. TRANSFER OF DUTIES TO COMPTROLLER

7 SECTION 1.01. Sections 2151.002, 2151.003, and 2151.004,  
8 Government Code, are amended to read as follows:

9 Sec. 2151.002. DEFINITION [~~DEFINITIONS~~]. Except as  
10 otherwise provided by this subtitle, in this subtitle "state  
11 agency" [+

12 [~~(1) "Commission" means the Texas Building and~~  
13 ~~Procurement Commission.~~

14 [~~(2) "State agency"~~] means:

15 (1) [~~(A)~~] a department, commission, board, office, or  
16 other agency in the executive branch of state government created by  
17 the state constitution or a state statute;

18 (2) [~~(B)~~] the supreme court, the court of criminal  
19 appeals, a court of appeals, or the Texas Judicial Council; or

20 (3) [~~(C)~~] a university system or an institution of  
21 higher education as defined by Section 61.003, Education Code,  
22 except a public junior college.

23 Sec. 2151.003. REFERENCE. A statutory reference to the  
24 General Services Commission, the State Board of Control, [~~or~~] the

1 State Purchasing and General Services Commission, or [~~means~~] the  
2 Texas Building and Procurement Commission means:

3 (1) the Texas Facilities Commission if the statutory  
4 reference concerns:

5 (A) charge and control of state buildings,  
6 grounds, or property;

7 (B) maintenance or repair of state buildings,  
8 grounds, or property;

9 (C) construction of a state building;

10 (D) purchase or lease of state buildings,  
11 grounds, or property by or for the state; or

12 (E) child care services for state employees under  
13 Chapter 663; and

14 (2) the comptroller in all other circumstances, except  
15 as otherwise provided by law.

16 Sec. 2151.004. TRANSFER AND ALLOCATION OF POWERS AND DUTIES  
17 [~~TO DEPARTMENT OF INFORMATION RESOURCES~~]. (a) The powers and  
18 duties of the former General Services Commission under Chapter 2170  
19 or other law relating to providing telecommunications services for  
20 state government are transferred to the Department of Information  
21 Resources.

22 (b) A reference in law to the General Services Commission  
23 that relates to the powers and duties of the former General Services  
24 Commission under Chapter 2170 or other law relating to providing  
25 telecommunications services for state government is a reference to  
26 the Department of Information Resources.

27 (c) The Texas Facilities Commission retains the powers and

1 duties of the former Texas Building and Procurement Commission  
2 relating to charge and control of state buildings, grounds, or  
3 property, maintenance or repair of state buildings, grounds, or  
4 property, child care services for state employees under Chapter  
5 663, construction of a state building, or purchase or lease of state  
6 buildings, grounds, or property by or for the state.

7 (d) Except as provided by Subsection (a) or (c) or other  
8 law, all other powers and duties of the Texas Building and  
9 Procurement Commission are transferred to the comptroller.

10 SECTION 1.02. The heading to Chapter 2152, Government Code,  
11 is amended to read as follows:

12 CHAPTER 2152. TEXAS FACILITIES [~~BUILDING AND PROCUREMENT~~]  
13 COMMISSION

14 SECTION 1.03. Section 2152.001, Government Code, is amended  
15 to read as follows:

16 Sec. 2152.001. COMMISSION. The Texas Facilities [~~Building~~  
17 ~~and Procurement~~] Commission is an agency of the state.

18 SECTION 1.04. Subchapter A, Chapter 2152, Government Code,  
19 is amended by adding Section 2152.0011 to read as follows:

20 Sec. 2152.0011. TEXAS FACILITIES COMMISSION; DEFINITION.

21 (a) The Texas Building and Procurement Commission is renamed the  
22 Texas Facilities Commission.

23 (b) In this chapter, "commission" or "Texas Building and  
24 Procurement Commission" means the Texas Facilities Commission.

25 SECTION 1.05. Subchapter A, Chapter 2155, Government Code,  
26 is amended by adding Sections 2155.0011 and 2155.0012 to read as  
27 follows:

1       Sec. 2155.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
2 powers and duties of the commission under this chapter are  
3 transferred to the comptroller.

4       (b) In this chapter, a reference to the commission means the  
5 comptroller.

6       Sec. 2155.0012. AUTHORITY TO ADOPT RULES. The comptroller  
7 may adopt rules to efficiently and effectively administer this  
8 chapter.

9       SECTION 1.06. Section 2155.003, Government Code, is amended  
10 to read as follows:

11       Sec. 2155.003. CONFLICT OF INTEREST. (a) The comptroller  
12 and the chief clerk or any other [~~A commission member,~~] employee of  
13 the comptroller [~~, or appointee~~] may not:

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

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

21       (b) The chief clerk or any other [~~A commission member,~~]  
22 employee of the comptroller [~~, or appointee~~] who violates  
23 Subsection (a)(2) is subject to dismissal.

24       (c) In consultation with the comptroller, the Texas Ethics  
25 Commission shall adopt rules to implement this section.

26       (d) The Texas Ethics Commission shall administer and  
27 enforce this section and may prepare written opinions regarding

1 this section in accordance with Subchapter D, Chapter 571.

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

5 SECTION 1.07. Section 2155.144(k), Government Code, is  
6 amended to read as follows:

7 (k) Subject to Section 531.0055(c), the Health and Human  
8 Services Commission, in cooperation with the comptroller, shall  
9 establish a central contract management database that identifies  
10 each contract made with a health and human services agency. The  
11 comptroller [~~commission~~] may use the database to monitor health and  
12 human services agency contracts, and health and human services  
13 agencies may use the database in contracting. A state agency shall  
14 send to the comptroller [~~commission~~] in the manner prescribed by  
15 the comptroller [~~commission~~] the information the agency possesses  
16 that the comptroller [~~commission~~] requires for inclusion in the  
17 database.

18 SECTION 1.08. Section 2155.322(b), Government Code, is  
19 amended to read as follows:

20 (b) If state law requires that a payment for the goods or  
21 services be made on a warrant drawn or an electronic funds transfer  
22 initiated by the comptroller or a state agency with delegated  
23 authority under Section 403.060, promptly after the later of the  
24 receipt of the invoice or the receipt of the goods or services, the  
25 agency shall send to the comptroller the certification, together  
26 with the financial information and purchase information provided by  
27 the invoice and purchase voucher, on a form or in the manner

1 prescribed [~~agreed to~~] by the comptroller [~~and the commission~~].

2 SECTION 1.09. Section 2155.323(b), Government Code, is  
3 amended to read as follows:

4 (b) If the comptroller approves the financial information,  
5 the comptroller shall determine whether [~~commission rules require~~  
6 ~~the commission to audit~~] the purchase information should also be  
7 audited under Section 2155.324. [~~If a commission audit is~~  
8 ~~required, the comptroller shall promptly send the certification and~~  
9 ~~purchase information to the commission using the method and format~~  
10 ~~agreed to by the comptroller and the commission.~~]

11 SECTION 1.10. Section 2155.324, Government Code, is amended  
12 to read as follows:

13 Sec. 2155.324. PURCHASE [~~COMMISSION~~] AUDIT. (a) When [~~Not~~  
14 ~~later than the eighth day after the date the commission receives the~~  
15 ~~certification and purchase information required by this subchapter~~  
16 ~~from~~] the comptroller considers a purchase audit to be advisable,  
17 the comptroller [~~, the commission~~] shall audit the purchase  
18 information for compliance with applicable purchasing statutes and  
19 [~~commission~~] rules.

20 (b) The comptroller [~~commission~~] may determine the auditing  
21 method used under this section, including stratified or statistical  
22 sampling techniques.

23 [~~(c) The commission shall notify the comptroller of the~~  
24 ~~results of the commission's audit, using the method and format~~  
25 ~~agreed to by the commission and the comptroller.~~]

26 SECTION 1.11. Section 2155.325, Government Code, is amended  
27 to read as follows:

1           Sec. 2155.325. PURCHASE [~~COMMISSION~~] AUDIT AFTER ISSUANCE  
2 OF WARRANT. (a) The comptroller [~~commission~~] may audit purchase  
3 information after a warrant has been issued if the audit will  
4 expedite the payment process.

5           (b) For audits under this section, the comptroller  
6 [~~commission~~] by rule shall:

7           (1) determine the types of purchases that will be  
8 audited after a warrant is issued; and

9           (2) specify the purchase information that a state  
10 agency must send to the comptroller [~~or the commission~~] before a  
11 warrant is issued.

12           [~~(c) For purchases audited after a warrant is issued, the~~  
13 ~~comptroller shall send the certification and purchase information~~  
14 ~~received by the comptroller under Section 2155.322(b) to the~~  
15 ~~commission under commission rules.~~]

16           SECTION 1.12. Section 2155.326, Government Code, is amended  
17 to read as follows:

18           Sec. 2155.326. AUDIT BY STATE AUDITOR [~~UPDATE OF COMMISSION~~  
19 ~~FILES AND RECORDS~~]. Transactions, processes, and the performance  
20 of functions under this chapter and Chapters 2156, 2157, and 2158  
21 are subject to audit by the state auditor under Chapter 321. [~~To~~  
22 ~~enable the commission to update periodically computer records and~~  
23 ~~close purchase order files, the comptroller shall, on request,~~  
24 ~~furnish the commission with information detailing all vouchers paid~~  
25 ~~under this subchapter and Section 2155.132.~~]

26           SECTION 1.13. Section 2155.381, Government Code, is amended  
27 to read as follows:

1           Sec. 2155.381. INVOICE. (a) The contractor or seller of  
2 goods or services contracted for by the comptroller [~~commission~~]  
3 shall submit an invoice to the ordering agency at the address shown  
4 on the purchase order.

5           (b) The invoice shall be prepared and submitted as provided  
6 by [~~commission~~] rule of the comptroller.

7           SECTION 1.14. Section 2155.382(a), Government Code, is  
8 amended to read as follows:

9           (a) After the comptroller approves [~~and the commission have~~  
10 ~~approved~~] financial information and purchase information, when  
11 advance approval of that information is required by [~~commission~~]  
12 rule of the comptroller, the comptroller shall draw a warrant on the  
13 state treasury for:

- 14                   (1) the amount due on the invoice; or  
15                   (2) the amount on the invoice that has been allowed.

16           SECTION 1.15. Section 2155.503, Government Code, is amended  
17 to read as follows:

18           Sec. 2155.503. RULES. (a) The comptroller [~~commission~~]  
19 and the department shall adopt rules to implement this subchapter.  
20 The rules must:

- 21                   (1) establish standard terms for contracts listed on a  
22 schedule; and  
23                   (2) maintain consistency with existing purchasing  
24 standards.

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



1 SECTION 1.16. Subchapter A, Chapter 2156, Government Code,  
2 is amended by adding Sections 2156.0011 and 2156.0012 to read as  
3 follows:

4 Sec. 2156.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
5 powers and duties of the commission under this chapter are  
6 transferred to the comptroller.

7 (b) In this chapter, a reference to the commission means the  
8 comptroller.

9 Sec. 2156.0012. AUTHORITY TO ADOPT RULES. The comptroller  
10 may adopt rules to efficiently and effectively administer this  
11 chapter.

12 SECTION 1.17. Subchapter A, Chapter 2157, Government Code,  
13 is amended by adding Sections 2157.0011 and 2157.0012 to read as  
14 follows:

15 Sec. 2157.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
16 powers and duties of the commission under this chapter are  
17 transferred to the comptroller.

18 (b) In this chapter, a reference to the commission means the  
19 comptroller.

20 Sec. 2157.0012. AUTHORITY TO ADOPT RULES. The comptroller  
21 may adopt rules to efficiently and effectively administer this  
22 chapter.

23 SECTION 1.18. Subchapter A, Chapter 2158, Government Code,  
24 is amended by adding Sections 2158.0011 and 2158.0012 to read as  
25 follows:

26 Sec. 2158.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
27 powers and duties of the commission under this chapter are

1 transferred to the comptroller.

2 (b) In this chapter, a reference to the commission means the  
3 comptroller.

4 Sec. 2158.0012. AUTHORITY TO ADOPT RULES. The comptroller  
5 may adopt rules to efficiently and effectively administer this  
6 chapter.

7 SECTION 1.19. Subchapter A, Chapter 2161, Government Code,  
8 is amended by adding Sections 2161.0011 and 2161.0012 to read as  
9 follows:

10 Sec. 2161.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
11 powers and duties of the commission under this chapter are  
12 transferred to the comptroller.

13 (b) In this chapter, a reference to the commission means the  
14 comptroller.

15 Sec. 2161.0012. AUTHORITY TO ADOPT RULES. (a) The  
16 comptroller may adopt rules to efficiently and effectively  
17 administer this chapter.

18 (b) The comptroller shall follow the procedures prescribed  
19 by Subchapter B, Chapter 2001, when adopting a new rule or a change  
20 to an existing rule that relates to historically underutilized  
21 businesses.

22 SECTION 1.20. Section 2161.061, Government Code, is amended  
23 by adding Subsection (e) to read as follows:

24 (e) A local government or a nonprofit organization that  
25 certifies historically underutilized businesses under Subsection  
26 (c) or that conducts a certification program described by and  
27 approved under Subsection (b) shall make available to the public an

1 online searchable database containing information about  
2 historically underutilized businesses, minority business  
3 enterprises, women's business enterprises, and disadvantaged  
4 business enterprises certified by the local government or nonprofit  
5 organization, including:

- 6           (1) the name of the business;  
7           (2) the contact person or owner of the business;  
8           (3) the address and telephone number of the business;  
9           (4) the type or category of business, including  
10 relevant capabilities of the business and the North American  
11 Industry Classification System codes for the business; and  
12           (5) the expiration date of the business's  
13 certification.

14           SECTION 1.21. Sections 2161.123(d) and (e), Government  
15 Code, are amended to read as follows:

16           (d) The commission and the state auditor shall cooperate to  
17 develop procedures providing for random periodic monitoring of  
18 state agency compliance with this section. The state auditor shall  
19 report to the commission a state agency that is not complying with  
20 this section. In determining whether a state agency is making a  
21 good faith effort to comply, the state auditor shall consider  
22 whether the agency:

- 23           (1) has adopted rules under Section 2161.003;  
24           (2) has used the commission's directory under Section  
25 2161.064 and other resources to identify historically  
26 underutilized businesses that are able and available to contract  
27 with the agency;

1 (3) made good faith, timely efforts to contact  
2 identified historically underutilized businesses regarding  
3 contracting opportunities; ~~and~~

4 (4) conducted its procurement program in accordance  
5 with the good faith effort methodology set out in commission rules;  
6 and

7 (5) established goals for contracting with  
8 historically underutilized businesses in each procurement category  
9 based on:

10 (A) scheduled fiscal year expenditures; and

11 (B) the availability of historically  
12 underutilized businesses in each category as determined by rules  
13 adopted under Section 2161.002.

14 (e) In conducting an audit of an agency's compliance with  
15 this section or an agency's making of a good faith effort to  
16 implement the plan adopted under this section, the state auditor  
17 shall ~~[not]~~ consider the success or failure of the agency to  
18 contract with historically underutilized businesses in accordance  
19 with the agency's goals described by Subsection (d)(5) [in any  
20 specific quantity. The state auditor's review shall be restricted  
21 to the agency's procedural compliance with Subsection (d)].

22 SECTION 1.22. Section 2161.125, Government Code, is amended  
23 to read as follows:

24 Sec. 2161.125. CATEGORIZATION BY SEX, RACE, AND ETHNICITY.  
25 The comptroller [commission], in cooperation with ~~[the comptroller~~  
26 ~~and]~~ each state agency reporting under this subchapter, shall  
27 categorize each historically underutilized business included in a

1 report under this subchapter by sex, race, and ethnicity.

2 SECTION 1.23. Section 2161.127, Government Code, is amended  
3 to read as follows:

4 Sec. 2161.127. LEGISLATIVE APPROPRIATIONS REQUESTS. (a)  
5 Each state agency must include as part of its legislative  
6 appropriations request a detailed report for consideration by the  
7 budget committees of the legislature that shows the extent to which  
8 the agency complied with this chapter and rules of the commission  
9 adopted under this chapter during the two calendar years preceding  
10 the calendar year in which the request is submitted. To the extent  
11 the state agency did not comply, the report must demonstrate the  
12 reasons for that fact. The extent to which a state agency complies  
13 with this chapter and rules of the commission adopted under this  
14 chapter is considered a performance measure for purposes of the  
15 appropriations process.

16 (b) The report under Subsection (a) must include:

17 (1) the agency's goals established under Section  
18 2161.123(d)(5) for contracting with historically underutilized  
19 businesses during the two calendar years preceding the calendar  
20 year in which the request is submitted;

21 (2) a statement regarding whether the goals  
22 established under Section 2161.123(d)(5) were met during the two  
23 calendar years preceding the calendar year in which the request is  
24 submitted; and

25 (3) if the goals established under Section  
26 2161.123(d)(5) were not met during the two calendar years preceding  
27 the calendar year in which the request is submitted:

1                   (A) a statement of the percentage by which the  
2 agency's actual use of historically underutilized businesses  
3 deviated from the agency's goals; and

4                   (B) an explanation of why the goals were not met.

5           SECTION 1.24. Section 2162.051(a), Government Code, is  
6 amended to read as follows:

7           (a) The State Council on Competitive Government consists of  
8 the following individuals or the individuals they designate:

9                   (1) the governor;

10                   (2) the lieutenant governor;

11                   (3) the comptroller;

12                   (4) the speaker of the house of representatives;

13                   (5) the ~~[commission's]~~ presiding officer of the Texas  
14 Facilities Commission; [and]

15                   (6) the commissioner of the Texas Workforce Commission  
16 representing labor; and

17                   (7) the land commissioner.

18           SECTION 1.25. Subchapter B, Chapter 2162, Government Code,  
19 is amended by adding Section 2162.053 to read as follows:

20           Sec. 2162.053. ADMINISTRATION BY COMPTROLLER. (a) The  
21 comptroller shall provide offices for the council and shall provide  
22 the council with legal, technical, administrative, and other  
23 support necessary to carry out its powers and duties.

24           (b) Any administrative powers or duties of the Texas  
25 Building and Procurement Commission with respect to the council are  
26 transferred to the comptroller.

27           SECTION 1.26. Section 2162.102(c), Government Code, is

1 amended to read as follows:

2 (c) In performing its duties under this chapter, the council  
3 may:

4 (1) require a state agency to conduct a hearing,  
5 study, review, or cost estimate, including an agency in-house cost  
6 estimate or a management study, concerning any aspect of a service  
7 identified under Subsection (a);

8 (2) develop and require state agencies to use methods  
9 to accurately and fairly estimate and account for the cost of  
10 providing a service identified under Subsection (a);

11 (3) require that a service identified under Subsection  
12 (a) be submitted to competitive bidding or another process that  
13 creates competition with private commercial sources;

14 (4) prescribe, after consulting affected state  
15 agencies, the specifications and conditions of purchase procedures  
16 that must be followed by the comptroller [~~commission~~] and a state  
17 agency or a private commercial source engaged in competitive  
18 bidding to provide a service identified under Subsection (a);

19 (5) award a contract to a state agency providing the  
20 service, another state agency, a private commercial source, or a  
21 combination of those entities, if the bidder presents the best and  
22 most reasonable bid, which is not necessarily the lowest bid; and

23 (6) determine the terms of a contract for service or  
24 interagency contract to provide a service identified under  
25 Subsection (a).

26 SECTION 1.27. Chapter 2163, Government Code, is amended by  
27 adding Sections 2163.0011 and 2163.0012 to read as follows:

1       Sec. 2163.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
2 powers and duties of the commission under this chapter are  
3 transferred to the comptroller.

4       (b) In this chapter, a reference to the commission means the  
5 comptroller.

6       Sec. 2163.0012. AUTHORITY TO ADOPT RULES. The comptroller  
7 may adopt rules to efficiently and effectively administer this  
8 chapter.

9       SECTION 1.28. Subchapter A, Chapter 2165, Government Code,  
10 is amended by adding Sections 2165.0011 and 2165.0012 to read as  
11 follows:

12       Sec. 2165.0011. DEFINITION. In this chapter, "commission"  
13 means the Texas Facilities Commission.

14       Sec. 2165.0012. AUTHORITY TO ADOPT RULES. The commission  
15 may adopt rules to efficiently and effectively administer this  
16 chapter.

17       SECTION 1.29. Section 2166.001, Government Code, is amended  
18 by amending Subdivision (1) and adding Subdivision (1-a) to read as  
19 follows:

20               (1) "Commission" means the Texas Facilities  
21 Commission.

22               (1-a) "Construction" includes acquisition and  
23 reconstruction.

24       SECTION 1.30. Subchapter A, Chapter 2167, Government Code,  
25 is amended by adding Section 2167.0011 to read as follows:

26       Sec. 2167.0011. DEFINITION. In this chapter, "commission"  
27 means the Texas Facilities Commission.



1 SECTION 1.31. Subchapter A, Chapter 2170, Government Code,  
2 is amended by adding Sections 2170.0011 and 2170.0012 to read as  
3 follows:

4 Sec. 2170.0011. TRANSFER OF DUTIES; REFERENCE. (a) Any  
5 remaining powers and duties of the commission under this chapter  
6 are transferred to the comptroller.

7 (b) Subject to Section 2151.004(b), in this chapter a  
8 reference to the commission means the comptroller.

9 Sec. 2170.0012. AUTHORITY TO ADOPT RULES. The comptroller  
10 may adopt rules to efficiently and effectively administer this  
11 chapter.

12 SECTION 1.32. Subchapter A, Chapter 2171, Government Code,  
13 is amended by adding Section 2171.0011 to read as follows:

14 Sec. 2171.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
15 powers and duties of the commission under this chapter are  
16 transferred to the comptroller.

17 (b) In this chapter, a reference to the commission means the  
18 comptroller.

19 SECTION 1.33. Section 2171.056(e), Government Code, is  
20 amended to read as follows:

21 (e) The comptroller [~~commission~~] shall adopt rules related  
22 to exemptions from the prohibition prescribed by Subsection (b).  
23 [~~To facilitate the audit of the travel vouchers, the commission~~  
24 ~~shall consult with the comptroller before the commission adopts~~  
25 ~~rules or procedures under Subsection (b).~~]

26 SECTION 1.34. Chapter 2172, Government Code, is amended by  
27 adding Sections 2172.0011 and 2172.0012 to read as follows:

1       Sec. 2172.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
2 powers and duties of the commission under this chapter are  
3 transferred to the comptroller.

4       (b) In this chapter, a reference to the commission means the  
5 comptroller.

6       Sec. 2172.0012. AUTHORITY TO ADOPT RULES. The comptroller  
7 may adopt rules to efficiently and effectively administer this  
8 chapter.

9       SECTION 1.35. Subchapter A, Chapter 2175, Government Code,  
10 is amended by adding Sections 2175.0011 and 2175.0012 to read as  
11 follows:

12       Sec. 2175.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
13 powers and duties of the commission under this chapter are  
14 transferred to the comptroller.

15       (b) In this chapter, a reference to the commission means the  
16 comptroller.

17       Sec. 2175.0012. AUTHORITY TO ADOPT RULES. The comptroller  
18 may adopt rules to efficiently and effectively administer this  
19 chapter.

20       SECTION 1.36. Section 2175.122, Government Code, is amended  
21 to read as follows:

22       Sec. 2175.122. STATE AGENCY NOTICE TO [~~COMMISSION AND~~]  
23 ~~COMPTROLLER~~. A state agency that determines it has surplus or  
24 salvage property shall inform the [~~commission and the~~] comptroller  
25 of the property's kind, number, location, condition, original cost  
26 or value, and date of acquisition.

27       SECTION 1.37. Section 2175.123(b), Government Code, is

1 amended to read as follows:

2 (b) The state agency shall inform the [~~commission and the~~  
3 comptroller of its determination.

4 SECTION 1.38. Section 2175.1825, Government Code, is  
5 amended to read as follows:

6 Sec. 2175.1825. ADVERTISING ON COMPTROLLER WEBSITE. The  
7 [~~Not later than the second day after the date the comptroller~~  
8 ~~receives notice from the commission under Section 2175.182(c), the~~  
9 comptroller shall advertise the property's kind, number, location,  
10 and condition on the comptroller's website.

11 SECTION 1.39. Section 2175.190(a), Government Code, is  
12 amended to read as follows:

13 (a) On the sale by the comptroller [~~commission~~] of surplus  
14 or salvage property, the comptroller [~~commission~~] shall report the  
15 property sold and the sale price to the state agency that owned the  
16 property [~~and to the comptroller~~].

17 SECTION 1.40. Subchapter A, Chapter 2176, Government Code,  
18 is amended by adding Section 2176.0011 to read as follows:

19 Sec. 2176.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
20 powers and duties of the commission under this chapter are  
21 transferred to the comptroller.

22 (b) In this chapter, a reference to the commission means the  
23 comptroller.

24 SECTION 1.41. Section 2176.053, Government Code, is amended  
25 to read as follows:

26 Sec. 2176.053. DELIVERY OF STATE WARRANTS. State warrants  
27 may be delivered in a manner agreed to by the comptroller[~~, the~~

1 ~~commission,~~] and the affected agency.

2 SECTION 1.42. Subchapter A, Chapter 2177, Government Code,  
3 is amended by adding Sections 2177.0011 and 2177.0012 to read as  
4 follows:

5 Sec. 2177.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
6 powers and duties of the commission under this chapter are  
7 transferred to the comptroller.

8 (b) In this chapter, a reference to the commission means the  
9 comptroller.

10 Sec. 2177.0012. AUTHORITY TO ADOPT RULES. The comptroller  
11 may adopt rules to efficiently and effectively administer this  
12 chapter.

13 SECTION 1.43. Section 22.008(d), Government Code, is  
14 amended to read as follows:

15 (d) The reporter shall return the record, with briefs and  
16 opinions, to the clerk when the report is completed and from time to  
17 time shall deliver the reports to the comptroller [~~State Purchasing~~  
18 ~~and General Services Commission~~] for publication. Each volume  
19 shall be copyrighted in the name of the reporter, who immediately on  
20 delivery of the edition shall transfer and assign it to the state.  
21 The edition shall be electrotyped. The state owns the plates, and  
22 the comptroller [~~State Purchasing and General Services Commission~~]  
23 shall preserve them.

24 SECTION 1.44. Section 325.017(e), Government Code, is  
25 amended to read as follows:

26 (e) Unless the governor designates an appropriate state  
27 agency as prescribed by Subsection (f), property and records in the

1 custody of an abolished state agency or advisory committee on  
2 September 1 of the even-numbered year after abolishment shall be  
3 transferred to the comptroller [~~State Purchasing and General~~  
4 ~~Services Commission~~]. If the governor designates an appropriate  
5 state agency, the property and records shall be transferred to the  
6 designated state agency.

7 SECTION 1.45. Section 403.251, Government Code, is amended  
8 to read as follows:

9 Sec. 403.251. ADDITIONAL DUTIES OF COMPTROLLER  
10 [~~COMMISSION~~]. The comptroller [~~commission~~] shall treat  
11 documentation submitted [~~to the commission~~] by a state agency as  
12 part of the procedure for replenishing a petty cash account as a  
13 proposed expenditure of appropriated funds. The comptroller  
14 [~~commission~~] shall follow its usual procedures for reviewing  
15 purchases. The comptroller [~~commission~~] shall give the agency a  
16 written approval or disapproval of each disbursement from the petty  
17 cash account.

18 SECTION 1.46. Section 441.106, Government Code, is amended  
19 to read as follows:

20 Sec. 441.106. PAYMENT FOR PRINTING OF STATE PUBLICATIONS.  
21 If a state agency's printing is done by contract, an account for the  
22 printing may not be approved and a warrant may not be issued unless  
23 the agency first furnishes to the comptroller [~~Texas Building and~~  
24 ~~Procurement Commission~~] a receipt from the state librarian for the  
25 publication or a written waiver from the state librarian exempting  
26 the publication from this subchapter.

27 SECTION 1.47. Sections 441.194(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) Unless otherwise provided by law, the comptroller  
3 [~~General Services Commission~~] shall take custody of the records of  
4 a state agency that is abolished by the legislature and whose duties  
5 and responsibilities are not transferred to another state agency.

6 (b) Unless the requirement is waived by the state records  
7 administrator, the records management officer of the comptroller  
8 [~~General Services Commission~~], or of another state agency that  
9 receives custody of the records pursuant to law, shall prepare and  
10 submit to the state archivist and the state records administrator a  
11 list of the records of the abolished state agency within 180 days of  
12 the effective date of the agency's abolition.

13 SECTION 1.48. Section 444.021(a), Government Code, is  
14 amended to read as follows:

15 (a) The commission shall:

16 (1) foster the development of a receptive climate for  
17 the arts that will culturally enrich and benefit state citizens in  
18 their daily lives;

19 (2) make visits and vacations to the state more  
20 appealing to the world;

21 (3) attract, through appropriate programs of  
22 publicity and education, additional outstanding artists to become  
23 state residents;

24 (4) direct activities such as the sponsorship of  
25 lectures and exhibitions and the central compilation and  
26 dissemination of information on the progress of the arts in the  
27 state;

1           (5) provide advice to the comptroller [~~General~~  
2 ~~Services commission~~], Texas Historical Commission, Texas State  
3 Library, Texas Tourist Development Agency, Texas Department of  
4 Transportation, and other state agencies to provide a concentrated  
5 state effort in encouraging and developing an appreciation for the  
6 arts in the state;

7           (6) provide advice relating to the creation,  
8 acquisition, construction, erection, or remodeling by the state of  
9 a work of art; and

10          (7) provide advice, on request of the governor,  
11 relating to the artistic character of buildings constructed,  
12 erected, or remodeled by the state.

13          SECTION 1.49. Section 465.0082, Government Code, is amended  
14 to read as follows:

15          Sec. 465.0082. PURCHASING RULES. The commission shall  
16 adopt rules to guide its purchases of supplies, materials,  
17 services, and equipment to carry out eligible undertakings as  
18 defined by Section 465.021. The commission shall use as a guide,  
19 whenever consistent with the commission's purposes, the rules of  
20 the comptroller [~~State Purchasing and General Services~~  
21 ~~Commission~~].

22          SECTION 1.50. Section 465.018(b), Government Code, is  
23 amended to read as follows:

24          (b) This section does not prohibit the commission from using  
25 the comptroller's purchasing [~~General Services Commission's~~  
26 services].

27          SECTION 1.51. Section 466.104, Government Code, is amended

1 to read as follows:

2           Sec. 466.104. ASSISTANCE OF COMPTROLLER [~~GENERAL SERVICES~~  
3 ~~COMMISSION~~]. (a) On request of the executive director, the  
4 comptroller [~~General Services Commission~~] shall assist the  
5 executive director in:

6           (1) acquiring facilities, supplies, materials,  
7 equipment, and services under Subtitle D, Title 10; or

8           (2) establishing procedures for the executive  
9 director's accelerated acquisition of facilities, supplies,  
10 materials, equipment, and services for the operation of the  
11 lottery.

12           (b) The comptroller may request assistance from the Texas  
13 Facilities Commission in performing its facilities-related duties  
14 under this section.

15           SECTION 1.52. Section 481.027(f), Government Code, is  
16 amended to read as follows:

17           (f) The comptroller [~~General Services Commission~~] may, at  
18 the request of a state agency, provide to the agency services  
19 exempted from the application of Subtitle D, Title 10 under  
20 Subsection (e). Chapter 771 does not apply to services provided  
21 under this subsection. The comptroller [~~commission~~] shall  
22 establish a system of charges and billings that ensures recovery of  
23 the cost of providing the services and shall submit a purchase  
24 voucher or a journal voucher, after the close of each month, to the  
25 agency for which services were performed.

26           SECTION 1.53. Section 496.0515(b), Government Code, is  
27 amended to read as follows:



1 (b) The department shall promulgate procedures for the  
2 purpose of purchasing under Subsection (a). The department shall  
3 file copies of the procedures promulgated under this subsection  
4 with the comptroller [~~General Services Commission~~].

5 SECTION 1.54. Section 497.024(b), Government Code, is  
6 amended to read as follows:

7 (b) If the comptroller [~~General Services Commission~~]  
8 determines that an article or product produced by the office under  
9 this subchapter does not meet the requirements of an agency of the  
10 state or a political subdivision, or that the office has determined  
11 that the office is unable to fill a requisition for an article or  
12 product, the agency or subdivision may purchase the article or  
13 product from another source.

14 SECTION 1.55. Sections 497.025(a) and (c), Government Code,  
15 are amended to read as follows:

16 (a) An agency of the state that purchases articles and  
17 products under this subchapter must requisition the purchase  
18 through the comptroller [~~General Services Commission~~] except for  
19 purchases of articles or products not included in an established  
20 contract. The purchase of articles or products not included in an  
21 established contract and that do not exceed the dollar limits  
22 established under Section 2155.132 may be acquired directly from  
23 the office on the agency's obtaining an informal or a formal  
24 quotation for the item and issuing a proper purchase order to the  
25 office. The comptroller [~~General Services Commission~~] and the  
26 department shall enter into an agreement to expedite the process by  
27 which agencies are required to requisition purchases of articles or

1 products through the comptroller [~~commission~~].

2 (c) If an agency or political subdivision purchasing goods  
3 under this subchapter desires to purchase goods or articles from  
4 the office, it may do so without complying with any other state law  
5 otherwise requiring the agency or political subdivision to request  
6 competitive bids for the article or product. Nothing herein shall  
7 be interpreted to require a political subdivision to purchase goods  
8 or articles from the office if the political subdivision determines  
9 that the goods or articles can be purchased elsewhere at a lower  
10 price. An agency may decline to purchase goods or articles from the  
11 office if the agency determines, after giving the office a final  
12 opportunity to negotiate on price, and the comptroller [~~General  
13 Services Commission~~] certifies, that the goods or articles can be  
14 purchased elsewhere at a lower price.

15 SECTION 1.56. Section 497.026, Government Code, is amended  
16 to read as follows:

17 Sec. 497.026. PRICES. The office and the comptroller  
18 [~~General Services Commission~~] shall determine the sales price of  
19 articles and products produced under this subchapter.

20 SECTION 1.57. Section 497.027, Government Code, is amended  
21 to read as follows:

22 Sec. 497.027. SPECIFICATIONS. (a) The comptroller  
23 [~~General Services Commission~~] shall establish specifications for  
24 articles and products produced under this subchapter. An article  
25 or product produced under this subchapter must meet specifications  
26 established under this subsection in effect when the article or  
27 product is produced.

1 (b) The office may manufacture articles and products to meet  
2 commercial specifications for the article or product if the  
3 comptroller [~~General Services Commission~~] has not established  
4 specifications for the article or product and the comptroller  
5 [~~commission~~] approves the commercial specifications.

6 SECTION 1.58. Section 497.029, Government Code, is amended  
7 to read as follows:

8 Sec. 497.029. NEW ARTICLES AND PRODUCTS. The comptroller  
9 [~~General Services Commission~~] may request the office to produce  
10 additional articles or products under this subchapter.

11 SECTION 1.59. Section 497.030, Government Code, is amended  
12 to read as follows:

13 Sec. 497.030. COMPTROLLER [~~GENERAL SERVICES COMMISSION~~]  
14 REPORTS. (a) Not later than the 31st day before the first day of  
15 each fiscal year, the comptroller [~~General Services Commission~~]  
16 shall submit to the office a report that summarizes the types and  
17 amounts of articles and products sold under this subchapter in the  
18 preceding nine months.

19 (b) Not later than the 100th day after the last day of each  
20 fiscal year, the comptroller [~~General Services Commission~~] shall  
21 submit to the office a report that states the types and amounts of  
22 articles and products sold under this subchapter in the preceding  
23 fiscal year.

24 (c) A report submitted by the comptroller [~~General Services~~  
25 ~~Commission~~] under this section must describe the articles and  
26 products to the extent possible in the manner those articles and  
27 products are described in catalogs prepared under Section 497.028.

1 SECTION 1.60. Section 531.0312(b), Government Code, is  
2 amended to read as follows:

3 (b) The commission shall cooperate with the Records  
4 Management Interagency Coordinating Council and the comptroller  
5 [~~General Services Commission~~] to establish a single method of  
6 categorizing information about health and human services to be used  
7 by the Records Management Interagency Coordinating Council and the  
8 Texas Information and Referral Network. The network, in  
9 cooperation with the council and the comptroller [~~General Services~~  
10 ~~Commission~~], shall ensure that:

11 (1) information relating to health and human services  
12 is included in each residential telephone directory published by a  
13 for-profit publisher and distributed to the public at minimal or no  
14 cost; and

15 (2) the single method of categorizing information  
16 about health and human services is used in a residential telephone  
17 directory described by Subdivision (1).

18 SECTION 1.61. Section 663.001(3), Government Code, is  
19 amended to read as follows:

20 (3) "Commission" means the Texas Facilities [~~General~~  
21 ~~Services~~] Commission.

22 SECTION 1.62. Sections 791.025(a) and (b), Government Code,  
23 are amended to read as follows:

24 (a) A local government, including a council of governments,  
25 may agree with another local government or with the state or a state  
26 agency, including the comptroller [~~General Services Commission~~],  
27 to purchase goods and services.

1 (b) A local government, including a council of governments,  
2 may agree with another local government, including a nonprofit  
3 corporation that is created and operated to provide one or more  
4 governmental functions and services, or with the state or a state  
5 agency, including the comptroller [~~General Services Commission~~],  
6 to purchase goods and any services reasonably required for the  
7 installation, operation, or maintenance of the goods. This  
8 subsection does not apply to services provided by firefighters,  
9 police officers, or emergency medical personnel.

10 SECTION 1.63. Section 825.103(d), Government Code, is  
11 amended to read as follows:

12 (d) Notwithstanding any other law, the retirement system  
13 has exclusive authority over the purchase of goods and services  
14 using money other than money appropriated from the general revenue  
15 fund, including specifically money from trusts under the  
16 administration of the retirement system, and Subtitle D, Title 10,  
17 does not apply to the retirement system with respect to that money.  
18 The retirement system shall acquire goods or services by  
19 procurement methods approved by the board of trustees or the  
20 board's designee. For purposes of this subsection, goods and  
21 services include all professional and consulting services and  
22 utilities as well as supplies, materials, equipment, skilled or  
23 unskilled labor, and insurance. The comptroller [~~Texas Building  
24 and Procurement Commission~~] shall procure goods or services for the  
25 retirement system at the request of the retirement system, and the  
26 retirement system may use the services of the comptroller [~~that  
27 commission~~] in procuring goods or services.

1 SECTION 1.64. Section 2051.052, Government Code, is amended  
2 to read as follows:

3 Sec. 2051.052. CANCELLATION OF PUBLISHING CONTRACT. The  
4 comptroller [~~General Services Commission~~] or a district or county  
5 official required to publish a notice may cancel a contract  
6 executed by the comptroller [~~commission~~] or official for the  
7 publication if the comptroller [~~commission~~] or official determines  
8 that the newspaper charges a rate higher than the legal rate.

9 SECTION 1.65. Section 2054.057(a), Government Code, is  
10 amended to read as follows:

11 (a) The department, with the cooperation of the  
12 comptroller [~~the General Services Commission,~~] and other  
13 appropriate state agencies, shall develop and implement a program  
14 to train state agency personnel in effectively negotiating  
15 contracts for the purchase of information resources technologies.

16 SECTION 1.66. Section 2101.038, Government Code, is amended  
17 to read as follows:

18 Sec. 2101.038. DUTIES OF STATE AUDITOR. The state auditor,  
19 when reviewing the operation of a state agency, shall audit for  
20 compliance with the uniform statewide accounting system, the  
21 comptroller's rules, and the Legislative Budget Board's performance  
22 and workload measures. The state auditor shall also audit state  
23 agencies that make purchases that are exempted from the purchasing  
24 authority of the comptroller [~~General Services Commission~~] or that  
25 make purchases under delegated purchasing authority for compliance  
26 with applicable provisions of Subtitle D, except that this section  
27 does not require the state auditor to audit purchases made under

1 Section 51.9335, Education Code, or made under Section 73.115,  
2 Education Code. The state auditor shall notify the comptroller,  
3 the governor, the lieutenant governor, the speaker of the house of  
4 representatives, and the Legislative Budget Board as soon as  
5 practicable when a state agency is not in compliance.

6 SECTION 1.67. Section 2103.032(a), Government Code, is  
7 amended to read as follows:

8 (a) The comptroller by rule may establish a system for state  
9 agencies to submit and approve electronically vouchers if the  
10 comptroller determines that the system will facilitate the  
11 operation and administration of the uniform statewide accounting  
12 system. The comptroller may establish an electronic method to  
13 approve a voucher submitted by a state agency [~~and may establish an~~  
14 ~~electronic system for the approval of vouchers by the General~~  
15 ~~Services Commission~~].

16 SECTION 1.68. Sections 2113.103(a), (c), and (d),  
17 Government Code, are amended to read as follows:

18 (a) A state agency should use the most cost-effective means  
19 of postal service available. A state agency may use appropriated  
20 money to purchase any form of mailing service available from the  
21 United States Postal Service that results in lower cost to the  
22 agency and affords service comparable in quality to other available  
23 postal services. The comptroller [~~General Services Commission~~]  
24 shall assist state agencies in determining the types and  
25 comparability of postal services available from the United States  
26 Postal Service.

27 (c) An agency other than an institution of higher education

1 as defined by Section 61.003, Education Code, that spends for  
2 postage in a fiscal year an amount that exceeds the dollar amount  
3 set by the General Appropriations Act as the maximum expenditure  
4 for postage shall purchase or rent a postage meter machine and  
5 record all purchases of postage on the machine except purchases of  
6 postage for employees in field offices and traveling employees.  
7 The rental of a postage meter machine by a state agency, including  
8 an institution of higher education, the legislature, or an agency  
9 in the legislative branch of state government, must be from a  
10 company approved by the comptroller [~~General Services Commission~~].  
11 The comptroller [~~General Services Commission~~] by rule shall adopt  
12 procedures for the renting entity to pay for postage.

13 (d) Subsection (b) does not apply to a reimbursement:

14 (1) to an authorized petty cash account;

15 (2) to a state employee for an emergency purchase of  
16 postage or emergency payment of post office box rent;

17 (3) that is received by a state agency for authorized  
18 services and is appropriated directly to the receiving agency; or

19 (4) under a contract for mailing services that may  
20 include postage, if the contract has been approved by the  
21 comptroller [~~General Services Commission~~].

22 SECTION 1.69. Section 2113.301(h), Government Code, is  
23 amended to read as follows:

24 (h) The comptroller [~~Texas Building and Procurement~~  
25 ~~Commission~~] shall appoint a task force to develop design  
26 recommendations that are to be used for state facilities and that  
27 encourage rain harvesting and water recycling by state agencies



1 using appropriated money to finance a capital expenditure for a  
2 state facility purpose.

3 SECTION 1.70. Section 2203.005(b), Government Code, is  
4 amended to read as follows:

5 (b) The state agency shall file with the comptroller  
6 [~~General Services Commission~~] a copy of all contracts between the  
7 state agency and the vendor related to the vending machine and a  
8 written description of the location of the vending machine.

9 SECTION 1.71. Sections 2205.004(a) and (c), Government  
10 Code, are amended to read as follows:

11 (a) The board is composed of:

- 12 (1) a member appointed by the governor;
- 13 (2) a member appointed by the lieutenant governor;
- 14 (3) a member appointed by the speaker of the house of  
15 representatives; and
- 16 (4) a representative of the comptroller [~~Texas~~  
17 ~~Building and Procurement Commission, designated from time to time~~  
18 ~~by the presiding officer of the commission~~].

19 (c) The representative of the comptroller [~~Texas Building~~  
20 ~~and Procurement Commission~~] is an ex officio, nonvoting member of  
21 the board and serves only in an advisory capacity.

22 SECTION 1.72. Section 2205.012(a), Government Code, is  
23 amended to read as follows:

24 (a) The board may employ and compensate staff as provided by  
25 legislative appropriation or may use staff provided by the  
26 comptroller [~~General Services Commission~~] or the state auditor's  
27 office.

1 SECTION 1.73. Section 2251.003, Government Code, is amended  
2 to read as follows:

3 Sec. 2251.003. RULES. The comptroller [~~General Services~~  
4 ~~Commission~~] shall establish procedures and adopt rules to  
5 administer this chapter[, ~~except that the commission may not~~  
6 ~~establish a procedure or adopt a rule that conflicts with a~~  
7 ~~procedure established or a rule adopted by the comptroller under~~  
8 ~~Section 2251.026(i)~~].

9 SECTION 1.74. Section 2252.003(a), Government Code, is  
10 amended to read as follows:

11 (a) The comptroller [~~General Services Commission~~] annually  
12 shall publish in the Texas Register:

13 (1) a list showing each state that regulates the award  
14 of a governmental contract to a bidder whose principal place of  
15 business is not located in that state; and

16 (2) the citation to and a summary of each state's most  
17 recent law or regulation relating to the evaluation of a bid from  
18 and award of a contract to a bidder whose principal place of  
19 business is not located in that state.

20 SECTION 1.75. Section 2254.040, Government Code, is amended  
21 to read as follows:

22 Sec. 2254.040. PROCUREMENT BY COMPTROLLER [~~GENERAL~~  
23 ~~SERVICES COMMISSION~~]. (a) The comptroller [~~General Services~~  
24 ~~Commission~~] may, on request of a state agency, procure for the  
25 agency consulting services that are covered by this subchapter.

26 (b) The comptroller [~~commission~~] may require reimbursement  
27 for the costs it incurs in procuring the services.

1 SECTION 1.76. Sections 2261.001(a) and (c), Government  
2 Code, are amended to read as follows:

3 (a) This chapter applies only to each procurement of goods  
4 or services made by a state agency that is neither made by the  
5 comptroller [~~General Services Commission~~] nor made under  
6 purchasing authority delegated to the agency by or under Section  
7 51.9335 or 73.115, Education Code, or Section 2155.131 or [~~7~~]  
8 2155.132 [~~7 or 2155.133~~].

9 (c) The comptroller [~~General Services Commission~~] on  
10 request shall determine whether a procurement or type of  
11 procurement:

12 (1) is made under purchasing authority delegated to an  
13 agency by or under Section 2155.131 or [~~7~~] 2155.132 [~~7 or 2155.133~~];  
14 or

15 (2) is made under some other source of purchasing  
16 authority.

17 SECTION 1.77. Subchapter A, Chapter 2262, Government Code,  
18 is amended by adding Section 2262.0011 to read as follows:

19 Sec. 2262.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
20 powers and duties of the commission under this chapter are  
21 transferred to the comptroller.

22 (b) In this chapter, a reference to the commission means the  
23 comptroller.

24 SECTION 1.78. Section 2302.002, Government Code, is amended  
25 to read as follows:

26 Sec. 2302.002. COMPOSITION OF COUNCIL. The council is  
27 composed of:

1           (1) one representative with knowledge of cogeneration  
2 from each of the following agencies, appointed by and serving at the  
3 pleasure of the agency's presiding officer:

4                   (A) the commission;

5                   (B) the Railroad Commission of Texas; and

6                   (C) [~~the General Services Commission; and~~

7                   [~~(D)~~] the Texas Natural Resource Conservation  
8 Commission;

9           (2) one representative of the office of the attorney  
10 general, appointed by the attorney general;

11           (3) one representative of the comptroller, appointed  
12 by the comptroller; and

13           (4) [~~(3)~~] one representative of higher education,  
14 appointed by the governor.

15           SECTION 1.79. Section 12.029(c), Agriculture Code, is  
16 amended to read as follows:

17           (c) The department shall file the policies established  
18 under this section with the comptroller [~~State Purchasing and~~  
19 ~~General Services Commission~~] and with the Texas Department of  
20 Commerce or its successor in function. The comptroller  
21 [~~commission~~] shall conduct an analysis of the department's policies  
22 and the policies' effectiveness and shall report the analysis to  
23 the governor, lieutenant governor, and speaker of the house of  
24 representatives not later than December 31 of each even-numbered  
25 year.

26           SECTION 1.80. Section 13.112, Agriculture Code, is amended  
27 to read as follows:

1           Sec. 13.112. TESTS FOR STATE INSTITUTIONS. As requested by  
2 the comptroller [~~State Purchasing and General Services Commission~~]  
3 or the governing body of a state institution, the department shall  
4 test each weight or measure used by a state institution for any  
5 purpose, including a weight or measure used in checking the receipt  
6 and distribution of supplies. The department shall report results  
7 of the test to the chairman of the governing body of the  
8 institution.

9           SECTION 1.81. Section 49.004(d), Agriculture Code, is  
10 amended to read as follows:

11           (d) Supplies, materials, services, and equipment purchased  
12 with funds obtained under this section are not subject to the  
13 purchasing [~~General Services Commission~~] authority of the  
14 comptroller.

15           SECTION 1.82. Section 201.105(c), Agriculture Code, is  
16 amended to read as follows:

17           (c) A conservation district may make any purchase of  
18 machinery or equipment through the comptroller [~~State Purchasing~~  
19 ~~and General Services Commission~~] under the terms and rules provided  
20 by law for purchases by the state or political subdivisions.

21           SECTION 1.83. Section 34.001, Education Code, is amended to  
22 read as follows:

23           Sec. 34.001. PURCHASE OF MOTOR VEHICLES. (a) A school  
24 district may purchase school motor vehicles through the comptroller  
25 [~~General Services Commission~~] or through competitive bidding under  
26 Subchapter B, Chapter 44.

27           (b) The comptroller [~~General Services Commission~~] may adopt

1 rules as necessary to implement Subsection (a).

2 SECTION 1.84. Section 34.006, Education Code, is amended to  
3 read as follows:

4 Sec. 34.006. SALE OF BUSES. (a) At the request of a school  
5 district, the comptroller [~~General Services Commission~~] shall  
6 dispose of a school bus.

7 (b) A school district is not required to dispose of a school  
8 bus through the comptroller [~~General Services Commission~~].

9 SECTION 1.85. Section 106.54, Education Code, is amended to  
10 read as follows:

11 Sec. 106.54. BIENNIAL REPORT. True and full accounts shall  
12 be kept by the board and by the employees of the university of all  
13 funds collected from all sources by the university, all the sums  
14 paid out by it, and the persons to whom and the purposes for which  
15 the sums are paid. The board shall print biennially a complete  
16 report of all sums collected, all expenditures, and the sums  
17 remaining on hand. The report shall be printed in even-numbered  
18 years between September 1 and January 1. It shall show the true  
19 condition of all funds as of the preceding August 1, and shall show  
20 all collections and expenditures for the preceding two years. The  
21 board shall furnish copies of the report to the governor,  
22 comptroller, state auditor, and attorney general[~~, and not less~~  
23 ~~than three copies to the General Services Commission~~]. The board  
24 shall furnish a copy to each member of the House Appropriations  
25 Committee, the Senate Finance Committee, and the House and Senate  
26 committees on education of each regular session of the legislature  
27 within one week after the committees are appointed.

1 SECTION 1.86. Section 107.66, Education Code, is amended to  
2 read as follows:

3 Sec. 107.66. REQUISITION OF FURNISHINGS, EQUIPMENT, ETC.  
4 The board may make requisition to the comptroller [~~General Services~~  
5 ~~Commission~~] for furniture, furnishings, equipment, and  
6 appointments required for the proper use and enjoyment of  
7 improvements erected by the board, and the comptroller [~~General~~  
8 ~~Services Commission~~] may purchase and pay for the furnishings,  
9 equipment, and appointments.

10 SECTION 1.87. Section 141.003(c), Education Code, is  
11 amended to read as follows:

12 (c) Supplies, materials, services, and equipment purchased  
13 with these funds shall not be subject to the purchasing [~~State~~  
14 ~~Purchasing and General Services Commission~~] authority of the  
15 comptroller.

16 SECTION 1.88. Section 142.004(e), Education Code, is  
17 amended to read as follows:

18 (e) Supplies, materials, services, and equipment purchased  
19 with these funds shall not be subject to the purchasing [~~State~~  
20 ~~Purchasing and General Services Commission~~] authority of the  
21 comptroller.

22 SECTION 1.89. Section 143.005(f), Education Code, is  
23 amended to read as follows:

24 (f) Supplies, materials, services, and equipment purchased  
25 with these funds shall not be subject to the purchasing [~~State~~  
26 ~~Purchasing and General Services Commission~~] authority of the  
27 comptroller.

1 SECTION 1.90. Section 152.004(e), Education Code, is  
2 amended to read as follows:

3 (e) Supplies, materials, services, or equipment purchased  
4 by a public junior college or public technical institute with money  
5 received under this chapter are not subject to the purchasing  
6 authority of the comptroller [~~General Services Commission~~].

7 SECTION 1.91. Section 361.423, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 361.423. RECYCLING MARKET DEVELOPMENT IMPLEMENTATION  
10 PROGRAM. (a) The commission, the comptroller [~~Texas Building and~~  
11 ~~Procurement Commission~~], and other consenting state agencies as  
12 appropriate shall regularly coordinate the recycling activities of  
13 state agencies and shall each pursue an economic development  
14 strategy that focuses on the state's waste management priorities  
15 established by Section 361.022 and that includes development of  
16 recycling industries and markets as an integrated component.

17 (b) The commission and the comptroller [~~Texas Building and~~  
18 ~~Procurement Commission~~], on an ongoing basis, shall jointly:

19 (1) identify existing economic and regulatory  
20 incentives and disincentives for creating an optimal market  
21 development strategy;

22 (2) analyze or take into consideration the market  
23 development implications of:

24 (A) the state's waste management policies and  
25 regulations;

26 (B) existing and potential markets for plastic,  
27 glass, paper, lead-acid batteries, tires, compost, scrap gypsum,



1 coal combustion by-products, and other recyclable materials; and

2 (C) the state's tax structure and overall  
3 economic base;

4 (3) examine and make policy recommendations regarding  
5 the need for changes in or the development of:

6 (A) economic policies that affect  
7 transportation, such as those embodied in freight rate schedules;

8 (B) tax incentives and disincentives;

9 (C) the availability of financial capital  
10 including grants, loans, and venture capital;

11 (D) enterprise zones;

12 (E) managerial and technical assistance;

13 (F) job-training programs;

14 (G) strategies for matching market supply and  
15 market demand for recyclable materials, including intrastate and  
16 interstate coordination;

17 (H) the state recycling goal;

18 (I) public-private partnerships;

19 (J) research and development;

20 (K) government procurement policies;

21 (L) educational programs for the public,  
22 corporate and regulated communities, and government entities; and

23 (M) public health and safety regulatory  
24 policies;

25 (4) establish a comprehensive statewide strategy to  
26 expand markets for recycled products in Texas;

27 (5) provide information and technical assistance to

1 small and disadvantaged businesses, business development centers,  
2 chambers of commerce, educational institutions, and nonprofit  
3 associations on market opportunities in the area of recycling; and

4 (6) with the cooperation of the Office of  
5 State-Federal Relations, assist communities and private entities  
6 in identifying state and federal grants pertaining to recycling and  
7 solid waste management.

8 (c) In carrying out this section, the commission and the  
9 comptroller [~~Texas Building and Procurement Commission~~] may obtain  
10 research and development and technical assistance from the  
11 Hazardous Waste Research Center at Lamar University at Beaumont or  
12 other similar institutions.

13 (d) In carrying out this section, the commission and the  
14 comptroller [~~Texas Building and Procurement Commission~~] shall  
15 utilize the pollution prevention advisory committee as set out in  
16 Section 361.0215 of the Health and Safety Code.

17 SECTION 1.92. Section 361.425(a), Health and Safety Code,  
18 is amended to read as follows:

19 (a) A state agency, state court or judicial agency, a  
20 university system or institution of higher education, a county,  
21 municipality, school district, or special district shall:

22 (1) in cooperation with the comptroller [~~General~~  
23 ~~Services Commission~~] or the commission establish a program for the  
24 separation and collection of all recyclable materials generated by  
25 the entity's operations, including, at a minimum, aluminum, steel  
26 containers, aseptic packaging and polycoated paperboard cartons,  
27 high-grade office paper, and corrugated cardboard;

1           (2) provide procedures for collecting and storing  
2 recyclable materials, containers for recyclable materials, and  
3 procedures for making contractual or other arrangements with buyers  
4 of recyclable materials;

5           (3) evaluate the amount of recyclable material  
6 recycled and modify the recycling program as necessary to ensure  
7 that all recyclable materials are effectively and practicably  
8 recycled; and

9           (4) establish educational and incentive programs to  
10 encourage maximum employee participation.

11           SECTION 1.93. Section 361.427(a), Health and Safety Code,  
12 is amended to read as follows:

13           (a) The commission, in consultation with the comptroller  
14 [~~General Services Commission~~], shall promulgate rules to establish  
15 guidelines which specify the percent of the total content of a  
16 product which must consist of recycled material for the product to  
17 be a "recycled product."

18           SECTION 1.94. Section 841.083(c-2), Health and Safety  
19 Code, is amended to read as follows:

20           (c-2) If the equipment necessary to implement the tracking  
21 service is available through a contract entered into by the  
22 comptroller [~~Texas Building and Procurement Commission~~], the  
23 Department of Public Safety or the council, as appropriate, shall  
24 acquire that equipment through that contract.

25           SECTION 1.95. Section 32.044(d), Human Resources Code, is  
26 amended to read as follows:

27           (d) The department with the assistance of the Health and

1 Human Services Commission and the comptroller [~~General Services~~  
2 ~~Commission~~] shall adopt rules under this section that allow the  
3 public or private hospital to make purchases through group  
4 purchasing programs except when the department has reason to  
5 believe that a better value is available through another  
6 procurement method.

7 SECTION 1.96. Section 111.0553(a), Human Resources Code, is  
8 amended to read as follows:

9 (a) The commission shall develop and, following review and  
10 approval by the board, implement agency-wide procurement  
11 procedures to:

12 (1) ensure compliance with the best-value purchasing  
13 requirements of Section 2155.144(c), Government Code;

14 (2) document that a best-value review of vendors has  
15 occurred;

16 (3) document the reasons for selecting a vendor;

17 (4) negotiate price discounts with high-volume  
18 vendors;

19 (5) consolidate purchases with other agencies,  
20 including the Texas Department of Health and the comptroller  
21 [~~General Services Commission~~], to achieve best value; and

22 (6) provide effective public notification to  
23 potential vendors of planned commission purchases.

24 SECTION 1.97. Chapter 122, Human Resources Code, is amended  
25 by adding Section 122.0011 to read as follows:

26 Sec. 122.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
27 powers and duties of the commission under this chapter are

1 transferred to the comptroller.

2 (b) In this chapter, a reference to the commission means the  
3 comptroller.

4 SECTION 1.98. Article 21A.0135(a), Insurance Code, is  
5 amended to read as follows:

6 (a) The receiver shall use a competitive bidding process in  
7 the selection of any special deputies appointed under Section  
8 21A.102 or 21A.154. The process must include procedures to promote  
9 the participation of historically underutilized businesses that  
10 have been certified by the comptroller [~~Texas Building and~~  
11 ~~Procurement Commission~~] under Section 2161.061, Government Code.

12 SECTION 1.99. Sections 201.007(b), (c), (f), and (g), Local  
13 Government Code, are amended to read as follows:

14 (b) After the settlement of the outstanding indebtedness of  
15 an abolished municipality and the satisfaction of the other  
16 applicable requirements of Chapter 62, Local Government Code, the  
17 municipality's governing body at the time the municipality is  
18 abolished, or the receiver or trustees if appointed by a court,  
19 shall transfer the records of the municipality to the custody of the  
20 comptroller [~~General Services Commission~~]. A record of an abolished  
21 municipality may not be sold to satisfy an outstanding  
22 indebtedness.

23 (c) After the settlement of the outstanding indebtedness of  
24 an abolished special-purpose district or authority, other than a  
25 school district, and the satisfaction of the other applicable  
26 requirements of state law establishing or permitting the  
27 establishment of the district or authority or governing its

1 abolition, the district's governing body at the time the district  
2 is abolished shall transfer the records of the district to the  
3 custody of the comptroller [~~General Services Commission~~]. A record  
4 of an abolished special-purpose district or authority may not be  
5 sold to satisfy an outstanding indebtedness.

6 (f) The cost of the transfer of records to the comptroller  
7 [~~General Services Commission~~] under this section shall be paid for  
8 out of the funds of the abolished local government. If funds of the  
9 local government are not available for this purpose, the cost of the  
10 transfer shall be paid out of the funds of the comptroller [~~General  
11 Services Commission~~].

12 (g) The records retention schedules issued by the  
13 commission shall be used, as far as practicable, as the basis for  
14 the retention and disposition of local government records  
15 transferred to the custody of the comptroller [~~General Services  
16 Commission~~] under this section.

17 SECTION 1.100. Section 252.0215, Local Government Code, is  
18 amended to read as follows:

19 Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO  
20 HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an  
21 expenditure of more than \$3,000 but less than \$25,000, shall  
22 contact at least two historically underutilized businesses on a  
23 rotating basis, based on information provided by the comptroller  
24 [~~General Services Commission~~] pursuant to Chapter 2161, Government  
25 Code. If the list fails to identify a historically underutilized  
26 business in the county in which the municipality is situated, the  
27 municipality is exempt from this section.

1 SECTION 1.101. The heading to Section 262.002, Local  
2 Government Code, is amended to read as follows:

3 Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND  
4 TIRES THROUGH COMPTROLLER [~~STATE PURCHASING AND GENERAL SERVICES~~  
5 ~~COMMISSION~~].

6 SECTION 1.102. Section 262.002(a), Local Government Code,  
7 is amended to read as follows:

8 (a) The commissioners court of a county may purchase through  
9 the comptroller [~~State Purchasing and General Services Commission~~]  
10 road machinery and equipment, tires, and tubes to be used by the  
11 county.

12 SECTION 1.103. Section 271.082, Local Government Code, is  
13 amended to read as follows:

14 Sec. 271.082. PURCHASING PROGRAM. (a) The comptroller  
15 [~~State Purchasing and General Services Commission~~] shall establish  
16 a program by which the comptroller [~~commission~~] performs purchasing  
17 services for local governments. The services must include:

18 (1) the extension of state contract prices to  
19 participating local governments when the comptroller [~~commission~~]  
20 considers it feasible;

21 (2) solicitation of bids on items desired by local  
22 governments if the solicitation is considered feasible by the  
23 comptroller [~~commission~~] and is desired by the local government;  
24 and

25 (3) provision of information and technical assistance  
26 to local governments about the purchasing program.

27 (b) The comptroller [~~commission~~] may charge a participating

1 local government an amount not to exceed the actual costs incurred  
2 by the comptroller [~~commission~~] in providing purchasing services to  
3 the local government under the program.

4 (c) The comptroller [~~commission~~] may adopt rules and  
5 procedures necessary to administer the purchasing program.

6 SECTION 1.104. Section 113.283(a), Natural Resources Code,  
7 is amended to read as follows:

8 (a) The council is composed of the following individuals:

9 (1) the commissioner of the General Land Office;

10 (2) the members of the Railroad Commission of Texas;

11 (3) the comptroller [~~chairman of the General Services~~  
12 ~~Commission~~]; and

13 (4) the chairman of the Texas Natural Resource  
14 Conservation Commission.

15 SECTION 1.105. Section 161.020, Natural Resources Code, is  
16 amended to read as follows:

17 Sec. 161.020. PURCHASE OF SUPPLIES. The board may purchase  
18 at state expense through the comptroller [~~board of control~~]  
19 supplies, including stationery, stamps, printing, record books,  
20 and other things that may be needed to carry on the board's  
21 functions as a state agency in performing the duties imposed by this  
22 chapter.

23 SECTION 1.106. Section 12.008(c), Parks and Wildlife Code,  
24 is amended to read as follows:

25 (c) The comptroller [~~State Purchasing and General Services~~  
26 ~~Commission~~] shall execute any sale of products under this section  
27 under the general law governing the sale of state property;



1 however, the department shall determine the quantity of products to  
2 be offered for sale and the consideration in lieu of money to be  
3 received under the sale. The department may lease grazing or  
4 farming rights under this section. In leasing the rights, the  
5 department must follow a competitive bidding procedure.

6 SECTION 1.107. Section 81.404(b), Parks and Wildlife Code,  
7 is amended to read as follows:

8 (b) Contracts for the removal of fur-bearing animals and  
9 reptiles shall be entered into under the direction of the  
10 comptroller [~~State Purchasing and General Services Commission~~] in  
11 the manner provided by general law for the sale of state property,  
12 except that the department shall determine the means, methods, and  
13 quantities of fur-bearing animals and reptiles to be taken, and the  
14 department may accept or reject any bid received by the comptroller  
15 [~~State Purchasing and General Services Commission~~].

16 SECTION 1.108. Section 111.0035(f), Tax Code, is amended to  
17 read as follows:

18 (f) Except as provided by Subsection (g), the comptroller  
19 shall award a contract made under this section through a  
20 competitive bidding process that complies with Section 2155.132,  
21 Government Code[, and the rules adopted by the General Services  
22 ~~Commission relating to delegated purchases~~]. If the comptroller  
23 receives not more than three bids through the competitive bidding  
24 process, the comptroller shall report the number of bidders to the  
25 Legislative Budget Board before awarding the contract.

26 SECTION 1.109. Section 111.0036(f), Tax Code, is amended to  
27 read as follows:

1 (f) Except as provided by Subsection (g), the comptroller  
2 shall award a contract made under this section through a  
3 competitive bidding process that complies with Section 2155.132,  
4 Government Code~~[, and the rules adopted by the General Services~~  
5 ~~Commission relating to delegated purchases]~~. If the comptroller  
6 receives not more than three bids through the competitive bidding  
7 process, the comptroller shall report the number of bidders to the  
8 Legislative Budget Board before awarding the contract.

9 SECTION 1.110. Section 201.706, Transportation Code, is  
10 amended to read as follows:

11 Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From  
12 appropriated funds, the department shall assist counties with  
13 materials to repair and maintain county roads. The department  
14 shall:

15 (1) provide that the total annual value of assistance  
16 under this section is:

17 (A) at least \$12 million per year for fiscal  
18 years 1998 and 1999; and

19 (B) at least \$6 million per year for a fiscal year  
20 other than 1998 or 1999;

21 (2) make maximum usage of surplus materials on hand;

22 (3) develop rules and procedures to implement this  
23 section and to provide for the distribution of the assistance with  
24 preference given to counties with an above average number of  
25 overweight trucks receiving weight tolerance permits based on the  
26 previous year's permit totals; and

27 (4) undertake cooperative and joint procurement of

1 road materials with counties under [~~General Services Commission~~]  
2 procedures of the comptroller.

3 SECTION 1.111. Section 202.082(b), Transportation Code, is  
4 amended to read as follows:

5 (b) Disposal of reclaimed asphalt pavement under this  
6 section is not subject to:

7 (1) Chapter 2175, Government Code; or

8 (2) the statutory or regulatory authority of the  
9 comptroller formerly exercised by the General Services Commission.

10 SECTION 1.112. Section 223.041(b), Transportation Code, is  
11 amended to read as follows:

12 (b) The department, in setting a minimum level of  
13 expenditures in these engineering-related activities that will be  
14 paid to the private sector providers, shall provide that the  
15 expenditure level for a state fiscal year in all strategies paid to  
16 private sector providers for all department engineering-related  
17 services for transportation projects is not less than 35 percent of  
18 the total funds appropriated in Strategy A.1.1. Plan/Design/Manage  
19 and Strategy A.1.2. of the General Appropriations Act for that  
20 state fiscal biennium. The department shall attempt to make  
21 expenditures for engineering-related services with private sector  
22 providers under this subsection with historically underutilized  
23 businesses, as defined by Section 2161.001, Government Code, in an  
24 amount consistent with the applicable provisions of the Government  
25 Code, any applicable state disparity study, and in accordance with  
26 the good-faith-effort procedures outlined in the rules adopted by  
27 the comptroller [~~Texas Building and Procurement Commission~~].

1 SECTION 1.113. Section 502.052(c), Transportation Code, is  
2 amended to read as follows:

3 (c) To promote highway safety, each license plate shall be  
4 made with a reflectorized material that provides effective and  
5 dependable brightness for the period for which the plate is issued.  
6 The purchase of reflectorized material shall be submitted to the  
7 comptroller [~~General Services Commission~~] for approval.

8 SECTION 1.114. Section 502.053(b), Transportation Code, is  
9 amended to read as follows:

10 (b) When manufacturing is started, the Texas Department of  
11 Criminal Justice, the Texas Department of Transportation, and the  
12 comptroller [~~Texas Building and Procurement Commission~~], after  
13 negotiation, shall set the price to be paid for each license plate  
14 or insignia. The price must be determined from:

- 15 (1) the cost of metal, paint, and other materials  
16 purchased;
- 17 (2) the inmate maintenance cost per day;
- 18 (3) overhead expenses;
- 19 (4) miscellaneous charges; and
- 20 (5) a previously approved amount of profit for the  
21 work.

22 SECTION 1.115. Section 14.058, Utilities Code, is amended  
23 to read as follows:

24 Sec. 14.058. FEES FOR ELECTRONIC ACCESS TO INFORMATION.  
25 The fees charged by the commission for electronic access to  
26 information that is stored in the system established by the  
27 commission using funds from the Texas Public Finance Authority and

1 approved by the Department of Information Resources shall be  
2 established:

3 (1) by the commission in consultation with the  
4 comptroller [~~General Services Commission~~]; and

5 (2) in an amount reasonable and necessary to retire  
6 the debt to the Texas Public Finance Authority associated with  
7 establishing the electronic access system.

8 SECTION 1.116. Section 222.004(v), Water Code, is amended  
9 to read as follows:

10 (v) The authority may enter into contracts with this state  
11 through the comptroller [~~Texas Building and Procurement~~  
12 ~~Commission~~] providing for direct sale by the authority of  
13 electrical power to this state for use in buildings or other  
14 facilities owned, leased, or rented by this state in Travis County.

15 SECTION 1.117. The following provisions of the Government  
16 Code are repealed:

- 17 (1) Section 403.241(1);
- 18 (2) Section 2103.063;
- 19 (3) Section 2152.003;
- 20 (4) Section 2152.104(c);
- 21 (5) Sections 2155.323(c) and (d);
- 22 (6) Section 2161.002(b); and
- 23 (7) Section 2175.182(c).

24 SECTION 1.118. Section 12.014(b), Agriculture Code, is  
25 repealed.

26 SECTION 1.119. On the effective date of this Act, the Texas  
27 Building and Procurement Commission is renamed the Texas Facilities

1 Commission.

2 SECTION 1.120. (a) The Texas Facilities Commission retains  
3 the powers and duties of the former Texas Building and Procurement  
4 Commission that relate to charge and control of state buildings,  
5 grounds, or property, to maintenance or repair of state buildings,  
6 grounds, or property, to child care services for state employees  
7 under Chapter 663, Government Code, to construction of a state  
8 building, or to the purchase or lease of buildings, grounds, or  
9 property by or for the state.

10 (a-1) Except as otherwise provided by this Act or other law,  
11 all other powers and duties of the Texas Building and Procurement  
12 Commission are transferred to the comptroller.

13 (b) All employees of the Texas Building and Procurement  
14 Commission who primarily perform duties related to an activity  
15 described by Subsection (a) of this section, including employees  
16 who provide administrative support for those services, remain  
17 employees of the Texas Facilities Commission.

18 (b-1) All other employees of the Texas Building and  
19 Procurement Commission are transferred to the office of the  
20 comptroller. A management employee of the Texas Building and  
21 Procurement Commission who is transferred to the office of the  
22 comptroller under this subsection does not automatically continue  
23 to hold the person's management position. To hold the management  
24 position on other than an interim basis the person must apply for  
25 the position with the comptroller.

26 (c) A rule, form, policy, procedure, or decision of the  
27 Texas Building and Procurement Commission that is related to an

1 activity described by Subsection (a) of this section continues in  
2 effect as a rule, form, policy, procedure, or decision of the Texas  
3 Facilities Commission.

4 (c-1) A rule, form, policy, procedure, or decision of the  
5 Texas Building and Procurement Commission that is related to an  
6 activity transferred by this Act to the comptroller continues in  
7 effect as a rule, form, policy, procedure, or decision of the  
8 comptroller until superseded by an act of the comptroller.

9 (d) A court case, administrative proceeding, contract  
10 negotiation, or other proceeding involving the Texas Building and  
11 Procurement Commission that is related to an activity described by  
12 Subsection (a) of this section is unaffected by the change in name  
13 of the agency.

14 (d-1) A court case, administrative proceeding, contract  
15 negotiation, or other proceeding involving the Texas Building and  
16 Procurement Commission that is related to an activity transferred  
17 by this Act to the comptroller is transferred without change in  
18 status to the comptroller, and the comptroller assumes, without a  
19 change in status, the position of the Texas Building and  
20 Procurement Commission in a negotiation or proceeding relating to  
21 an activity transferred by this Act to the comptroller to which the  
22 Texas Building and Procurement Commission is a party.

23 (e) All money, contracts, leases, rights, bonds, and  
24 obligations of the Texas Building and Procurement Commission  
25 related to an activity described by Subsection (a) of this section  
26 remain with the Texas Facilities Commission.

27 (e-1) All money, contracts, memoranda of understanding,

1 leases, rights, bonds, and obligations of the Texas Building and  
2 Procurement Commission related to an activity transferred by this  
3 Act to the comptroller are transferred to the comptroller.

4 (f) All personal property, including records, in the  
5 custody of the Texas Building and Procurement Commission related to  
6 an activity described by Subsection (a) of this section remains the  
7 property of the Texas Facilities Commission.

8 (f-1) All personal property, including records, in the  
9 custody of the Texas Building and Procurement Commission related to  
10 an activity transferred by this Act to the comptroller becomes the  
11 property of the comptroller.

12 (g) All funds appropriated by the legislature to the Texas  
13 Building and Procurement Commission for an activity described by  
14 Subsection (a) of this section, including funds for providing  
15 administrative support for those services, continue as  
16 appropriations to the Texas Facilities Commission.

17 (g-1) All funds appropriated by the legislature to the Texas  
18 Building and Procurement Commission for an activity transferred by  
19 this Act to the comptroller, including funds for providing  
20 administrative support for those services, are transferred to the  
21 comptroller.

22 SECTION 1.121. In accordance with Section 1.117 of this  
23 article, the comptroller and the Texas Facilities Commission shall  
24 adopt a memorandum of understanding that identifies and allocates  
25 between the office of the comptroller and the Texas Facilities  
26 Commission the powers, duties, property, employees,  
27 appropriations, and other items transferred under Section 1.117.



1 The memorandum of understanding must also:

2 (1) identify and allocate between the office of the  
3 comptroller and the Texas Facilities Commission the employees and  
4 real and personal property of the Texas Building and Procurement  
5 Commission, including space in the central administrative offices  
6 of the commission, used to generally support the activities of the  
7 Texas Building and Procurement Commission; and

8 (2) provide a timetable for any necessary or advisable  
9 movement of the physical location of employees and property.

10 ARTICLE 2. DEPARTMENT OF INFORMATION RESOURCES

11 SECTION 2.01. Section 35.102(c), Business & Commerce Code,  
12 is amended to read as follows:

13 (c) This section does not apply to the Department of  
14 Information Resources [~~General Services Commission~~], in its  
15 capacity as the telecommunications provider for the state, and an  
16 institution of higher education, as that term is defined by Section  
17 61.003, Education Code, that provides interactive computer  
18 service.

19 SECTION 2.02. Section 44.031(i), Education Code, is amended  
20 to read as follows:

21 (i) A school district may acquire computers and  
22 computer-related equipment, including computer software, through  
23 the Department of Information Resources [~~General Services~~  
24 ~~Commission~~] under contracts entered into in accordance with Chapter  
25 2054 or 2157, Government Code. Before issuing an invitation for  
26 bids, the department [~~commission~~] shall consult with the agency  
27 concerning the computer and computer-related equipment needs of

1 school districts. To the extent possible the resulting contract  
2 shall provide for such needs.

3 SECTION 2.03. Section 2054.123(a), Government Code, is  
4 amended to read as follows:

5 (a) The department, in consultation with the [~~Texas~~  
6 ~~Building and Procurement Commission, the~~] state auditor[~~7~~] and the  
7 comptroller, shall create an interagency panel of representatives  
8 appointed by those agencies and officers to coordinate and maintain  
9 a training program to assist state agencies in performing software  
10 audits, managing software, and purchasing software and software  
11 licenses. Each state agency shall cooperate with the panel in the  
12 evaluation of the agency's needs for software management and shall  
13 donate agency resources to the evaluation of the agency as the panel  
14 requires.

15 SECTION 2.04. Section 2054.201, Government Code, is amended  
16 to read as follows:

17 Sec. 2054.201. COMPOSITION; TERMS. (a) The  
18 telecommunications planning and oversight council is composed of:

19 (1) a representative of the comptroller's office,  
20 appointed by the comptroller;

21 (2) the executive director of the Telecommunications  
22 Infrastructure Fund Board;

23 (3) a representative of the department [~~Texas Building~~  
24 ~~and Procurement Commission~~], appointed by the executive director of  
25 the department [~~commission~~];

26 (4) a member representing the interests of state  
27 agencies with 1,000 employees or more, appointed by the lieutenant

1 governor;

2 (5) a member representing the interests of state  
3 agencies with fewer than 1,000 employees, appointed by the speaker  
4 of the house of representatives;

5 (6) a member representing the interests of  
6 institutions of higher education, appointed by the commissioner of  
7 higher education;

8 (7) a member representing the interests of The  
9 University of Texas System, appointed by the chancellor;

10 (8) a member representing the interests of The Texas  
11 A&M University System, appointed by the chancellor;

12 (9) a member representing the interests of public  
13 school districts that are customers of the consolidated  
14 telecommunications system, appointed by the governor;

15 (10) a member representing the interests of local  
16 governments that are customers of the consolidated  
17 telecommunications system, appointed by the governor;

18 (11) two public members with telecommunications  
19 expertise, appointed by the governor; and

20 (12) a representative of the Health and Human Services  
21 Commission, appointed by the commissioner of health and human  
22 services.

23 (b) Appointed members of the telecommunications planning  
24 and oversight council serve staggered two-year terms, with the  
25 terms of four or five members expiring August 31 each year, except  
26 that:

27 (1) the representative of the comptroller's office

1 serves at the discretion of the comptroller;

2 (2) the representative of the department [~~Texas~~  
3 ~~Building and Procurement Commission~~] serves at the discretion of  
4 the executive director of the department [~~commission~~]; and

5 (3) the representative of the Health and Human  
6 Services Commission serves at the discretion of the commissioner of  
7 health and human services.

8 SECTION 2.05. Sections 2054.304(b) and (c), Government  
9 Code, are amended to read as follows:

10 (b) Except as provided by Subsection (c), the state agency  
11 must file the project plan with the quality assurance team and the  
12 department [~~Texas Building and Procurement Commission~~] before the  
13 agency:

14 (1) spends more than 10 percent of allocated funds for  
15 the project; or

16 (2) first issues a vendor solicitation for the  
17 project.

18 (c) Unless the project plan has been filed under this  
19 section:

20 (1) [~~the Texas Building and Procurement Commission may~~  
21 ~~not issue~~] a vendor solicitation may not be issued for the project;  
22 and

23 (2) the agency may not post a vendor solicitation for  
24 the project in the state business daily under Section 2155.083.

25 SECTION 2.06. Section 771.031(b), Health and Safety Code,  
26 is amended to read as follows:

27 (b) The following individuals serve as nonvoting ex officio

1 members:

2 (1) the executive director of the Public Utility  
3 Commission of Texas, or an individual designated by the executive  
4 director;

5 (2) the executive director of the Department of  
6 Information Resources [~~General Services Commission~~], or an  
7 individual designated by the executive director; and

8 (3) the commissioner of public health, or an  
9 individual who has responsibility for the poison control network  
10 designated by the commissioner.

11 SECTION 2.07. Section 771.0711(e), Health and Safety Code,  
12 is amended to read as follows:

13 (e) A member of the commission, the governing body of a  
14 public agency, or the Department of Information Resources [~~General~~  
15 ~~Services Commission~~] is not liable for any claim, damage, or loss  
16 arising from the provision of wireless 9-1-1 service unless the act  
17 or omission causing the claim, damage, or loss violates a statute or  
18 ordinance applicable to the action.

19 SECTION 2.08. Section 55.203(f), Utilities Code, is amended  
20 to read as follows:

21 (f) The Department of Information Resources [~~General~~  
22 ~~Services Commission~~] shall cooperate with the commission and with  
23 publishers to ensure that the subject matter listing of programs  
24 and telephone numbers in the telephone directories are consistent  
25 with the categorization developed by the Records Management  
26 Interagency Coordinating Council under Section 441.203(j),  
27 Government Code.

ARTICLE 3. CONFORMING AMENDMENTS; MISCELLANEOUS

SECTION 3.01. Section 201.002(b), Transportation Code, is amended to read as follows:

(b) The comptroller [~~General Services Commission~~] shall contract for equipment and supplies, including seals and number plates, required by law in the administration of the registration of vehicles and in the operation of the department.

SECTION 3.02. Section 403.023(b), Government Code, is amended to read as follows:

(b) The comptroller may adopt rules relating to the use of credit or charge cards by state agencies to pay for purchases. The rules may:

(1) authorize a state agency to use credit or charge cards if the comptroller determines the best interests of the state would be promoted;

(2) authorize a state agency to use credit or charge cards to pay for purchases without providing the same authorization to other state agencies; and

(3) authorize a state agency to use credit or charge cards to pay for purchases that otherwise may be paid out of the agency's petty cash accounts under Subchapter K[, ~~and~~

~~[(4) authorize the General Services Commission to contract with one or more credit or charge card issuers on behalf of state agencies].~~

SECTION 3.03. Section 441.203(a), Government Code, is amended to read as follows:

(a) The Records Management Interagency Coordinating Council

1 is composed of:

2 (1) permanent members, consisting of the following  
3 officers or the officer's designee:

4 (A) the secretary of state;

5 (B) the state auditor, who serves as a nonvoting  
6 member;

7 (C) the comptroller of public accounts;

8 (D) the attorney general;

9 (E) the director and librarian; and

10 (F) [~~the executive director of the Texas Building~~  
11 ~~and Procurement Commission; and~~

12 [~~(G)~~] the executive director of the Department of  
13 Information Resources; and

14 (2) auxiliary voting members, consisting of:

15 (A) one faculty member of a public senior college  
16 or university, as defined by Section 61.003, Education Code, who  
17 has demonstrated knowledge of records and information management;  
18 and

19 (B) two individuals who serve as information  
20 resources managers, under Section 2054.071, for state agencies in  
21 the executive branch of government.

22 SECTION 3.04. Section 551.0726(a), Government Code, is  
23 amended to read as follows:

24 (a) The Texas Facilities [~~Building and Procurement~~]  
25 Commission may conduct a closed meeting to deliberate business and  
26 financial issues relating to a contract being negotiated if, before  
27 conducting the closed meeting:

1           (1) the commission votes unanimously that  
2 deliberation in an open meeting would have a detrimental effect on  
3 the position of the state in negotiations with a third person; and

4           (2) the attorney advising the commission issues a  
5 written determination finding that deliberation in an open meeting  
6 would have a detrimental effect on the position of the state in  
7 negotiations with a third person and setting forth that finding  
8 therein.

9           SECTION 3.05. Section 552.009(a), Government Code, as  
10 amended by Chapters 329 and 716, Acts of the 79th Legislature,  
11 Regular Session, 2005, is reenacted to read as follows:

12           (a) The open records steering committee is composed of two  
13 representatives of the attorney general's office and:

14           (1) a representative of each of the following,  
15 appointed by its governing entity:

16                   (A) the comptroller's office;

17                   (B) the Department of Public Safety;

18                   (C) the Department of Information Resources; and

19                   (D) the Texas State Library and Archives  
20 Commission;

21           (2) five public members, appointed by the attorney  
22 general; and

23           (3) a representative of each of the following types of  
24 local governments, appointed by the attorney general:

25                   (A) a municipality;

26                   (B) a county; and

27                   (C) a school district.



1 SECTION 3.06. Section 571.061(a), Government Code, is  
2 amended to read as follows:

3 (a) The commission shall administer and enforce:

4 (1) Chapters 302, 303, 305, 572, and 2004;

5 (2) Subchapter C, Chapter 159, Local Government Code,  
6 in connection with a county judicial officer, as defined by Section  
7 159.051, Local Government Code, who elects to file a financial  
8 statement with the commission; ~~and~~

9 (3) Title 15, Election Code; and

10 (4) Sections 2152.064 and 2155.003.

11 SECTION 3.07. Section 571.091(a), Government Code, is  
12 amended to read as follows:

13 (a) The commission shall prepare a written opinion  
14 answering the request of a person subject to any of the following  
15 laws for an opinion about the application of any of these laws to  
16 the person in regard to a specified existing or hypothetical  
17 factual situation:

18 (1) Chapter 302;

19 (2) Chapter 303;

20 (3) Chapter 305;

21 (4) Chapter 2004;

22 (5) Chapter 572;

23 (6) Subchapter C, Chapter 159, Local Government Code,  
24 as provided by Section 571.061(a)(2);

25 (7) Title 15, Election Code;

26 (8) Chapter 36, Penal Code; ~~or~~

27 (9) Chapter 39, Penal Code;

1           (10) Section 2152.064; or

2           (11) Section 2155.003.

3           SECTION 3.08. Section 572.003(c), Government Code, is  
4 amended to read as follows:

5           (c) The term means a member of:

6                 (1) the Public Utility Commission of Texas;

7                 (2) the Texas Department of Economic Development;

8                 (3) the Texas Commission on Environmental Quality;

9                 (4) the Texas Alcoholic Beverage Commission;

10                (5) The Finance Commission of Texas;

11                (6) the Texas Facilities [~~Building and Procurement~~]  
12 Commission;

13                (7) the Texas Board of Criminal Justice;

14                (8) the board of trustees of the Employees Retirement  
15 System of Texas;

16                (9) the Texas Transportation Commission;

17                (10) the Texas Workers' Compensation Commission;

18                (11) the Texas Department of Insurance;

19                (12) the Parks and Wildlife Commission;

20                (13) the Public Safety Commission;

21                (14) the Texas Ethics Commission;

22                (15) the State Securities Board;

23                (16) the Texas Water Development Board;

24                (17) the governing board of a public senior college or  
25 university as defined by Section 61.003, Education Code, or of The  
26 University of Texas Southwestern Medical Center at Dallas, The  
27 University of Texas Medical Branch at Galveston, The University of

1 Texas Health Science Center at Houston, The University of Texas  
2 Health Science Center at San Antonio, The University of Texas  
3 System Cancer Center, The University of Texas Health Science Center  
4 at Tyler, University of North Texas Health Science Center at Fort  
5 Worth, Texas Tech University Health Sciences Center, Texas State  
6 Technical College--Harlingen, Texas State Technical  
7 College--Marshall, Texas State Technical College--Sweetwater, or  
8 Texas State Technical College--Waco;

9 (18) the Texas Higher Education Coordinating Board;

10 (19) the Texas Workforce Commission;

11 (20) the State Banking Board;

12 (21) the board of trustees of the Teacher Retirement  
13 System of Texas;

14 (22) the Credit Union Commission;

15 (23) the School Land Board;

16 (24) the board of the Texas Department of Housing and  
17 Community Affairs;

18 (25) the Texas Racing Commission;

19 (26) the State Board of Dental Examiners;

20 (27) the Texas State Board of Medical Examiners;

21 (28) the Board of Pardons and Paroles;

22 (29) the Texas State Board of Pharmacy;

23 (30) the Department of Information Resources  
24 governing board;

25 (31) the Motor Vehicle Board;

26 (32) the Texas Real Estate Commission;

27 (33) the board of directors of the State Bar of Texas;

- 1           (34) the bond review board;
- 2           (35) the Texas Board of Health;
- 3           (36) the Texas Board of Mental Health and Mental
- 4 Retardation;
- 5           (37) the Texas Board on Aging;
- 6           (38) the Texas Board of Human Services;
- 7           (39) the Texas Funeral Service Commission;
- 8           (40) the board of directors of a river authority
- 9 created under the Texas Constitution or a statute of this state; or
- 10          (41) the Texas Lottery Commission.

11           SECTION 3.09. Subchapter B, Chapter 2152, Government Code,  
12 is amended by adding Section 2152.064 to read as follows:

13           Sec. 2152.064. CONFLICTS OF INTEREST IN CERTAIN  
14 TRANSACTIONS. (a) A commission member, employee, or appointee may  
15 not:

16           (1) have an interest in, or in any manner be connected  
17 with, a contract or bid for a purchase of goods or services,  
18 including professional or consulting services, by the commission or  
19 another agency of the state in connection with the commission's  
20 duties concerning:

21           (A) charge and control of state buildings,  
22 grounds, or property;

23           (B) maintenance or repair of state buildings,  
24 grounds, or property;

25           (C) construction of a state building; or

26           (D) purchase or lease of state buildings,  
27 grounds, or property by or for the state; or

1           (2) in any manner, including by rebate or gift, accept  
2 or receive, directly or indirectly, from a person to whom a contract  
3 described by Subdivision (1) may be awarded, anything of value or a  
4 promise, obligation, or contract for future reward or compensation.

5           (b) A commission member, employee, or appointee who  
6 violates Subsection (a)(2) is subject to dismissal.

7           (c) In consultation with the commission, the Texas Ethics  
8 Commission shall adopt rules to implement this section.

9           (d) The Texas Ethics Commission shall administer and  
10 enforce this section and may prepare written opinions regarding  
11 this section in accordance with Subchapter D, Chapter 571.

12           SECTION 3.10. Section 2203.001(b), Government Code, is  
13 amended to read as follows:

14           (b) The report must be made daily on a form prescribed by the  
15 comptroller [~~General Services Commission~~].

16           SECTION 3.11. Section 2254.024(b), Government Code, is  
17 amended to read as follows:

18           (b) If the governor and [7] comptroller[~~7~~, ~~and General~~  
19 ~~Services Commission~~] consider it more advantageous to the state to  
20 procure a particular consulting service under the procedures of  
21 Chapters 2155-2158, instead of under this subchapter, they may make  
22 a memorandum of understanding to that effect and each adopt the  
23 memorandum by rule. Procurement of a consulting service described  
24 in a memorandum of understanding under this subsection is subject  
25 only to Chapters 2155-2158.

26           SECTION 3.12. Section 2254.039(b), Government Code, is  
27 amended to read as follows:

1 (b) The comptroller shall give proposed rules to the  
2 governor [~~and the General Services Commission~~] for review and  
3 comment before adopting the rules.

4 ARTICLE 4. STUDY OF TEXAS FACILITIES COMMISSION FUNCTIONS

5 SECTION 4.01. Subchapter A, Chapter 2152, Government Code,  
6 is amended by adding Section 2152.004 to read as follows:

7 Sec. 2152.004. JOINT STUDY TO ASSESS THE FUNCTIONS OF THE  
8 TEXAS FACILITIES COMMISSION. (a) The executive director of the  
9 commission, the Legislative Budget Board, and the General Land  
10 Office shall conduct an in-depth study of the functions of the Texas  
11 Facilities Commission. The study must determine the best  
12 allocation of state resources for:

13 (1) the acquisition of state buildings through lease  
14 or purchase;

15 (2) the construction of buildings owned by the state;

16 (3) the control and maintenance of buildings owned or  
17 leased by the state; and

18 (4) all other related responsibilities performed by  
19 the commission.

20 (b) The joint study must consider financial and other  
21 benefits to the state of outsourcing any of the commission's  
22 functions to private entities or of allocating those functions to  
23 other state agencies.

24 (c) Not later than November 1, 2008, the executive director  
25 of the commission, the Legislative Budget Board, and the General  
26 Land Office shall submit a written report to the governor,  
27 lieutenant governor, and speaker of the house of representatives

1 that contains the findings of the joint study and any  
2 recommendations.

3 (d) This section expires January 1, 2009.

4 ARTICLE 5. EFFECTIVE DATE

5 SECTION 5.01. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

*Henry Dew*  
Secretary of the Senate

By: Janek

H.B. No. 3560

Substitute the following for H.B. No. 3560.

By: Fogus

C.S. H.B. No. 3560

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to transferring to the comptroller the duties of the Texas  
3 Building and Procurement Commission that do not primarily concern  
4 state facilities and renaming the commission the Texas Facilities  
5 Commission.

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

7 ARTICLE 1. TRANSFER OF DUTIES TO COMPTROLLER

8 SECTION 1.01. Sections 2151.002, 2151.003, and 2151.004,  
9 Government Code, are amended to read as follows:

10 Sec. 2151.002. DEFINITION [~~DEFINITIONS~~]. Except as  
11 otherwise provided by this subtitle, in this subtitle, "state  
12 agency" [+

13 [~~(1) "Commission" means the Texas Building and~~  
14 ~~Procurement Commission.~~

15 [~~(2) "State agency"~~] means:

16 (1) [~~(A)~~] a department, commission, board, office, or  
17 other agency in the executive branch of state government created by  
18 the state constitution or a state statute;

19 (2) [~~(B)~~] the supreme court, the court of criminal  
20 appeals, a court of appeals, or the Texas Judicial Council; or

21 (3) [~~(C)~~] a university system or an institution of  
22 higher education as defined by Section 61.003, Education Code,  
23 except a public junior college.

24 Sec. 2151.003. REFERENCE. A statutory reference to the



1 General Services Commission, the State Board of Control, [~~or~~] the  
2 State Purchasing and General Services Commission, or [~~means~~] the  
3 Texas Building and Procurement Commission means:

4 (1) the Texas Facilities Commission if the statutory  
5 reference concerns:

6 (A) charge and control of state buildings,  
7 grounds, or property;

8 (B) maintenance or repair of state buildings,  
9 grounds, or property;

10 (C) construction of a state building;

11 (D) purchase or lease of state buildings,  
12 grounds, or property by or for the state;

13 (E) child care services for state employees under  
14 Chapter 663; or

15 (F) surplus and salvage property; and

16 (2) the comptroller in all other circumstances, except  
17 as otherwise provided by law.

18 Sec. 2151.004. TRANSFER AND ALLOCATION OF POWERS AND DUTIES  
19 [~~TO DEPARTMENT OF INFORMATION RESOURCES~~]. (a) The powers and  
20 duties of the former General Services Commission under Chapter 2170  
21 or other law relating to providing telecommunications services for  
22 state government are transferred to the Department of Information  
23 Resources.

24 (b) A reference in law to the General Services Commission  
25 that relates to the powers and duties of the former General Services  
26 Commission under Chapter 2170 or other law relating to providing  
27 telecommunications services for state government is a reference to

1 the Department of Information Resources.

2 (c) The Texas Facilities Commission retains the powers and  
3 duties of the former Texas Building and Procurement Commission  
4 relating to charge and control of state buildings, grounds, or  
5 property, maintenance or repair of state buildings, grounds, or  
6 property, child care services for state employees under Chapter  
7 663, surplus and salvage property, construction of a state  
8 building, or purchase or lease of state buildings, grounds, or  
9 property by or for the state.

10 (d) Except as provided by Subsection (a) or (c) or other  
11 law, all other powers and duties of the Texas Building and  
12 Procurement Commission are transferred to the comptroller.

13 SECTION 1.02. Chapter 2151, Government Code, is amended by  
14 adding Section 2151.0041 to read as follows:

15 Sec. 2151.0041. SUNSET PROVISION. (a) The transfer of  
16 powers and duties to the comptroller under Section 2151.004(d) and  
17 under House Bill 3560, Acts of the 80th Legislature, Regular  
18 Session, 2007, is subject to Chapter 325 (Texas Sunset Act).

19 (b) The Sunset Advisory Commission shall evaluate the  
20 transfer of powers and duties to the comptroller under Section  
21 2151.004(d) and under House Bill 3560, Acts of the 80th  
22 Legislature, Regular Session, 2007, and present to the 82nd  
23 Legislature a report on its evaluation and recommendations in  
24 relation to the transfer. The comptroller shall perform all duties  
25 in relation to the evaluation that a state agency subject to review  
26 under Chapter 325 would perform in relation to a review.

27 (c) Unless otherwise provided by the legislature by law, on

1 September 1, 2011:

2 (1) the powers and duties transferred to the  
3 comptroller under Section 2151.004(d) and under House Bill 3560,  
4 Acts of the 80th Legislature, Regular Session, 2007, are  
5 transferred to the Texas Facilities Commission;

6 (2) a reference in law to the comptroller relating to a  
7 power or duty transferred under this subsection means the Texas  
8 Facilities Commission;

9 (3) a rule or form adopted by the comptroller relating  
10 to a power or duty transferred under this subsection is a rule or  
11 form of the Texas Facilities Commission and remains in effect until  
12 altered by the commission;

13 (4) all obligations, contracts, proceedings, cases,  
14 negotiations, funds, and employees of the comptroller relating to a  
15 power or duty transferred under this subsection are transferred to  
16 the Texas Facilities Commission;

17 (5) all property and records in the custody of the  
18 comptroller relating to a power or duty transferred under this  
19 subsection and all funds appropriated by the legislature for  
20 purposes related to a power or duty transferred under this  
21 subsection are transferred to the Texas Facilities Commission; and

22 (6) Section 122.0011, Human Resources Code, and the  
23 following provisions of the Government Code expire:

24 (A) Sections 2151.004(c) and (d);

25 (B) Section 2155.0011;

26 (C) Section 2155.086;

27 (D) Section 2155.087;



1 is amended by adding Sections 2155.0011 and 2155.0012 to read as  
2 follows:

3 Sec. 2155.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
4 powers and duties of the commission under this chapter are  
5 transferred to the comptroller.

6 (b) In this chapter, a reference to the commission means the  
7 comptroller.

8 Sec. 2155.0012. AUTHORITY TO ADOPT RULES. The comptroller  
9 may adopt rules to efficiently and effectively administer this  
10 chapter. Before adopting a rule under this section, the  
11 comptroller must conduct a public hearing regarding the proposed  
12 rule regardless of whether the requirements of Section 2001.029(b)  
13 are met.

14 SECTION 1.07. Section 2155.003, Government Code, is amended  
15 to read as follows:

16 Sec. 2155.003. CONFLICT OF INTEREST. (a) The chief clerk  
17 or any other [~~A commission member,~~] employee of the comptroller [~~r~~  
18 ~~or appointee~~] may not:

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

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

26 (b) The chief clerk or any other [~~A commission member,~~]  
27 employee of the comptroller [~~r~~ ~~or appointee~~] who violates

1 Subsection (a)(2) is subject to dismissal.

2 (c) In consultation with the comptroller, the Texas Ethics  
3 Commission shall adopt rules to implement this section.

4 (d) The Texas Ethics Commission shall administer and  
5 enforce this section and may prepare written opinions regarding  
6 this section in accordance with Subchapter D, Chapter 571.

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

10 SECTION 1.08. Subchapter B, Chapter 2155, Government Code,  
11 is amended by adding Sections 2155.086 and 2155.087 to read as  
12 follows:

13 Sec. 2155.086. PROCEDURES FOR AWARDING CERTAIN CONTRACTS.

14 (a) In this section and in Section 2155.087, "chief clerk" means the  
15 chief clerk of the comptroller or the chief clerk's designee.

16 (b) This section applies only to the award of a contract by  
17 the comptroller that:

18 (1) relates to the powers and duties transferred to  
19 the comptroller under Section 2151.004(d);

20 (2) is reasonably expected by the comptroller at the  
21 time of the award to have a value of \$100,000 or more over the life  
22 of the contract; and

23 (3) is evaluated based wholly or partly on best value  
24 factors other than cost.

25 (c) This section does not apply to:

26 (1) any part of the contracting process other than the  
27 award, including planning, budgeting, solicitation, pre-response

1 conference, respondent presentation, evaluation, development of  
2 staff or evaluation committee recommendations, negotiation, and  
3 signature;

4 (2) a renewal, extension, or amendment of a contract  
5 provided for in the written solicitation for the original contract;  
6 or

7 (3) an emergency purchase or other contract award for  
8 which delay would create a hazard to life, health, safety, welfare,  
9 or property or would cause undue additional cost to the state.

10 (d) A contract to which this section applies must be awarded  
11 in a public meeting chaired and conducted by the chief clerk. The  
12 chief clerk shall determine the time and location for the meeting.  
13 The meeting must comply with applicable provisions of Chapter 551,  
14 including requirements relating to posting notice of the meeting.  
15 The comptroller shall also post notice of the meeting on the  
16 comptroller's website and in the state business daily. The office  
17 of the attorney general shall advise the comptroller on the  
18 applicable provisions of Chapter 551.

19 (e) Before the meeting, the chief clerk may review any  
20 written recommendations for the proposed contract award submitted  
21 by the comptroller's staff or by an evaluation committee  
22 established by the comptroller for the proposed contract. The chief  
23 clerk shall make the staff's or committee's final written  
24 recommendations available to the public at the meeting.

25 (f) A contract awarded by the chief clerk under this section  
26 is not considered final and does not bind the state until all  
27 negotiations are completed, if applicable, and all parties to the

1 contract have signed the final contract.

2 (g) The comptroller shall post notice of a contract award  
3 made in an open meeting under this section on the comptroller's  
4 website and in the state business daily.

5 (h) The comptroller shall post the text of a contract  
6 awarded in an open meeting under this section on the comptroller's  
7 website and in the state business daily, except for information in a  
8 contract that is not subject to disclosure under Chapter 552.  
9 Information that is not subject to disclosure under Chapter 552  
10 must be referenced in an appendix that generally describes the  
11 information without disclosing the specific content of the  
12 information.

13 Sec. 2155.087. STATEWIDE PROCUREMENT ADVISORY COUNCIL. (a)  
14 In this section, "council" means the Statewide Procurement Advisory  
15 Council.

16 (b) The Statewide Procurement Advisory Council consists of  
17 the following four members or their designees:

18 (1) one member appointed by the governor;

19 (2) one member appointed by the Texas Facilities  
20 Commission;

21 (3) one member appointed by the Department of  
22 Information Resources; and

23 (4) one member appointed by the Legislative Budget  
24 Board.

25 (c) The comptroller shall adopt rules describing the  
26 purpose and tasks of the council as provided by Section 2110.005.  
27 Before adopting a rule under this subsection, the comptroller must



1 conduct a public hearing regarding the proposed rule regardless of  
2 whether the requirements of Section 2001.029(b) are met.

3 (d) A quorum of the council shall attend each meeting under  
4 Section 2155.086 in which the chief clerk awards a contract. In the  
5 meeting, the council shall make recommendations to and advise the  
6 chief clerk in a manner consistent with the established purpose and  
7 tasks of the council.

8 SECTION 1.09. Section 2155.144(k), Government Code, is  
9 amended to read as follows:

10 (k) Subject to Section 531.0055(c), the Health and Human  
11 Services Commission, in cooperation with the comptroller, shall  
12 establish a central contract management database that identifies  
13 each contract made with a health and human services agency. The  
14 comptroller [~~commission~~] may use the database to monitor health and  
15 human services agency contracts, and health and human services  
16 agencies may use the database in contracting. A state agency shall  
17 send to the comptroller [~~commission~~] in the manner prescribed by  
18 the comptroller [~~commission~~] the information the agency possesses  
19 that the comptroller [~~commission~~] requires for inclusion in the  
20 database.

21 SECTION 1.10. Section 2155.322(b), Government Code, is  
22 amended to read as follows:

23 (b) If state law requires that a payment for the goods or  
24 services be made on a warrant drawn or an electronic funds transfer  
25 initiated by the comptroller or a state agency with delegated  
26 authority under Section 403.060, promptly after the later of the  
27 receipt of the invoice or the receipt of the goods or services, the

1 agency shall send to the comptroller the certification, together  
2 with the financial information and purchase information provided by  
3 the invoice and purchase voucher, on a form or in the manner  
4 prescribed ~~[agreed to]~~ by the comptroller ~~[and the commission]~~.

5 SECTION 1.11. Section 2155.323(b), Government Code, is  
6 amended to read as follows:

7 (b) If the comptroller approves the financial information,  
8 the comptroller shall determine whether ~~[commission rules require~~  
9 ~~the commission to audit]~~ the purchase information should also be  
10 audited under Section 2155.324. ~~[If a commission audit is~~  
11 ~~required, the comptroller shall promptly send the certification and~~  
12 ~~purchase information to the commission using the method and format~~  
13 ~~agreed to by the comptroller and the commission.]~~

14 SECTION 1.12. Section 2155.324, Government Code, is amended  
15 to read as follows:

16 Sec. 2155.324. PURCHASE ~~[COMMISSION]~~ AUDIT. (a) When ~~[Not~~  
17 ~~later than the eighth day after the date the commission receives the~~  
18 ~~certification and purchase information required by this subchapter~~  
19 ~~from]~~ the comptroller considers a purchase audit to be advisable,  
20 the comptroller ~~[, the commission]~~ shall audit the purchase  
21 information for compliance with applicable purchasing statutes and  
22 ~~[commission]~~ rules.

23 (b) The comptroller ~~[commission]~~ may determine the auditing  
24 method used under this section, including stratified or statistical  
25 sampling techniques.

26 ~~[(c) The commission shall notify the comptroller of the~~  
27 ~~results of the commission's audit, using the method and format~~

1 ~~agreed to by the commission and the comptroller.]~~

2 SECTION 1.13. Section 2155.325, Government Code, is amended  
3 to read as follows:

4 Sec. 2155.325. PURCHASE [~~COMMISSION~~] AUDIT AFTER ISSUANCE  
5 OF WARRANT. (a) The comptroller [~~commission~~] may audit purchase  
6 information after a warrant has been issued if the audit will  
7 expedite the payment process.

8 (b) For audits under this section, the comptroller  
9 [~~commission~~] by rule shall:

10 (1) determine the types of purchases that will be  
11 audited after a warrant is issued; and

12 (2) specify the purchase information that a state  
13 agency must send to the comptroller [~~or the commission~~] before a  
14 warrant is issued.

15 [~~(c) For purchases audited after a warrant is issued, the~~  
16 ~~comptroller shall send the certification and purchase information~~  
17 ~~received by the comptroller under Section 2155.322(b) to the~~  
18 ~~commission under commission rules.]~~

19 SECTION 1.14. Section 2155.326, Government Code, is amended  
20 to read as follows:

21 Sec. 2155.326. AUDIT BY STATE AUDITOR [~~UPDATE OF COMMISSION~~  
22 ~~FILES AND RECORDS~~]. Transactions, processes, and the performance  
23 of functions under this chapter and Chapters 2156, 2157, and 2158  
24 are subject to audit by the state auditor under Chapter 321. [~~To~~  
25 ~~enable the commission to update periodically computer records and~~  
26 ~~close purchase order files, the comptroller shall, on request,~~  
27 ~~furnish the commission with information detailing all vouchers paid~~

1 ~~under this subchapter and Section 2155.132.]~~

2 SECTION 1.15. Section 2155.381, Government Code, is amended  
3 to read as follows:

4 Sec. 2155.381. INVOICE. (a) The contractor or seller of  
5 goods or services contracted for by the comptroller [~~commission~~]  
6 shall submit an invoice to the ordering agency at the address shown  
7 on the purchase order.

8 (b) The invoice shall be prepared and submitted as provided  
9 by [~~commission~~] rule of the comptroller.

10 SECTION 1.16. Section 2155.382(a), Government Code, is  
11 amended to read as follows:

12 (a) After the comptroller approves [~~and the commission have~~  
13 ~~approved~~] financial information and purchase information, when  
14 advance approval of that information is required by [~~commission~~]  
15 rule of the comptroller, the comptroller shall draw a warrant on the  
16 state treasury for:

17 (1) the amount due on the invoice; or

18 (2) the amount on the invoice that has been allowed.

19 SECTION 1.17. Section 2155.503, Government Code, is amended  
20 to read as follows:

21 Sec. 2155.503. RULES. (a) The comptroller [~~commission~~]  
22 and the department shall adopt rules to implement this subchapter.  
23 The rules must:

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

26 (2) maintain consistency with existing purchasing  
27 standards.

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

4           SECTION 1.18. Subchapter A, Chapter 2156, Government Code,  
5 is amended by adding Sections 2156.0011 and 2156.0012 to read as  
6 follows:

7           Sec. 2156.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
8 powers and duties of the commission under this chapter are  
9 transferred to the comptroller.

10           (b) In this chapter, a reference to the commission means the  
11 comptroller.

12           Sec. 2156.0012. AUTHORITY TO ADOPT RULES. The comptroller  
13 may adopt rules to efficiently and effectively administer this  
14 chapter. Before adopting a rule under this section, the  
15 comptroller must conduct a public hearing regarding the proposed  
16 rule regardless of whether the requirements of Section 2001.029(b)  
17 are met.

18           SECTION 1.19. Subchapter A, Chapter 2157, Government Code,  
19 is amended by adding Sections 2157.0011 and 2157.0012 to read as  
20 follows:

21           Sec. 2157.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
22 powers and duties of the commission under this chapter are  
23 transferred to the comptroller.

24           (b) In this chapter, a reference to the commission means the  
25 comptroller.

26           Sec. 2157.0012. AUTHORITY TO ADOPT RULES. The comptroller  
27 may adopt rules to efficiently and effectively administer this

1 chapter. Before adopting a rule under this section, the  
2 comptroller must conduct a public hearing regarding the proposed  
3 rule regardless of whether the requirements of Section 2001.029(b)  
4 are met.

5 SECTION 1.20. Subchapter A, Chapter 2158, Government Code,  
6 is amended by adding Sections 2158.0011 and 2158.0012 to read as  
7 follows:

8 Sec. 2158.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
9 powers and duties of the commission under this chapter are  
10 transferred to the comptroller.

11 (b) In this chapter, a reference to the commission means the  
12 comptroller.

13 Sec. 2158.0012. AUTHORITY TO ADOPT RULES. The comptroller  
14 may adopt rules to efficiently and effectively administer this  
15 chapter. Before adopting a rule under this section, the  
16 comptroller must conduct a public hearing regarding the proposed  
17 rule regardless of whether the requirements of Section 2001.029(b)  
18 are met.

19 SECTION 1.21. Subchapter A, Chapter 2161, Government Code,  
20 is amended by adding Sections 2161.0011 and 2161.0012 to read as  
21 follows:

22 Sec. 2161.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
23 powers and duties of the commission under this chapter are  
24 transferred to the comptroller.

25 (b) In this chapter, a reference to the commission means the  
26 comptroller.

27 Sec. 2161.0012. AUTHORITY TO ADOPT RULES. (a) The

1 comptroller may adopt rules to efficiently and effectively  
2 administer this chapter. Before adopting a rule under this  
3 section, the comptroller must conduct a public hearing regarding  
4 the proposed rule regardless of whether the requirements of Section  
5 2001.029(b) are met.

6 (b) The comptroller shall follow the procedures prescribed  
7 by Subchapter B, Chapter 2001, when adopting a new rule or a change  
8 to an existing rule that relates to historically underutilized  
9 businesses.

10 SECTION 1.22. Section 2161.061, Government Code, is amended  
11 by adding Subsection (e) to read as follows:

12 (e) A local government or a nonprofit organization that  
13 certifies historically underutilized businesses under Subsection  
14 (c) or that conducts a certification program described by and  
15 approved under Subsection (b) shall make available to the public an  
16 online searchable database containing information about  
17 historically underutilized businesses, minority business  
18 enterprises, women's business enterprises, and disadvantaged  
19 business enterprises certified by the local government or nonprofit  
20 organization, including:

21 (1) the name of the business;

22 (2) the contact person or owner of the business;

23 (3) the address and telephone number of the business;

24 (4) the type or category of business, including  
25 relevant capabilities of the business and the North American  
26 Industry Classification System codes for the business; and

27 (5) the expiration date of the business's

1 certification.

2 SECTION 1.23. Sections 2161.123(d) and (e), Government  
3 Code, are amended to read as follows:

4 (d) The commission and the state auditor shall cooperate to  
5 develop procedures providing for random periodic monitoring of  
6 state agency compliance with this section. The state auditor shall  
7 report to the commission a state agency that is not complying with  
8 this section. In determining whether a state agency is making a  
9 good faith effort to comply, the state auditor shall consider  
10 whether the agency:

11 (1) has adopted rules under Section 2161.003;

12 (2) has used the commission's directory under Section  
13 2161.064 and other resources to identify historically  
14 underutilized businesses that are able and available to contract  
15 with the agency;

16 (3) made good faith, timely efforts to contact  
17 identified historically underutilized businesses regarding  
18 contracting opportunities; ~~and~~

19 (4) conducted its procurement program in accordance  
20 with the good faith effort methodology set out in commission rules;  
21 and

22 (5) established goals for contracting with  
23 historically underutilized businesses in each procurement category  
24 based on:

25 (A) scheduled fiscal year expenditures; and

26 (B) the availability of historically  
27 underutilized businesses in each category as determined by rules



1 adopted under Section 2161.002.

2 (e) In conducting an audit of an agency's compliance with  
3 this section or an agency's making of a good faith effort to  
4 implement the plan adopted under this section, the state auditor  
5 shall [~~not~~] consider the success or failure of the agency to  
6 contract with historically underutilized businesses in accordance  
7 with the agency's goals described by Subsection (d)(5) [in any  
8 ~~specific quantity. The state auditor's review shall be restricted~~  
9 ~~to the agency's procedural compliance with Subsection (d)]~~.

10 SECTION 1.24. Section 2161.125, Government Code, is amended  
11 to read as follows:

12 Sec. 2161.125. CATEGORIZATION BY SEX, RACE, AND ETHNICITY.  
13 The comptroller [commission], in cooperation with [~~the comptroller~~  
14 ~~and~~] each state agency reporting under this subchapter, shall  
15 categorize each historically underutilized business included in a  
16 report under this subchapter by sex, race, and ethnicity.

17 SECTION 1.25. Section 2161.127, Government Code, is amended  
18 to read as follows:

19 Sec. 2161.127. LEGISLATIVE APPROPRIATIONS REQUESTS. (a)  
20 Each state agency must include as part of its legislative  
21 appropriations request a detailed report for consideration by the  
22 budget committees of the legislature that shows the extent to which  
23 the agency complied with this chapter and rules of the commission  
24 adopted under this chapter during the two calendar years preceding  
25 the calendar year in which the request is submitted. To the extent  
26 the state agency did not comply, the report must demonstrate the  
27 reasons for that fact. The extent to which a state agency complies

1 with this chapter and rules of the commission adopted under this  
2 chapter is considered a performance measure for purposes of the  
3 appropriations process.

4 (b) The report under Subsection (a) must include:

5 (1) the agency's goals established under Section  
6 2161.123(d)(5) for contracting with historically underutilized  
7 businesses during the two calendar years preceding the calendar  
8 year in which the request is submitted;

9 (2) a statement regarding whether the goals  
10 established under Section 2161.123(d)(5) were met during the two  
11 calendar years preceding the calendar year in which the request is  
12 submitted; and

13 (3) if the goals established under Section  
14 2161.123(d)(5) were not met during the two calendar years preceding  
15 the calendar year in which the request is submitted:

16 (A) a statement of the percentage by which the  
17 agency's actual use of historically underutilized businesses  
18 deviated from the agency's goals; and

19 (B) an explanation of why the goals were not met.

20 SECTION 1.26. Section 2162.051(a), Government Code, is  
21 amended to read as follows:

22 (a) The State Council on Competitive Government consists of  
23 the following individuals or the individuals they designate:

- 24 (1) the governor;  
25 (2) the lieutenant governor;  
26 (3) the comptroller;  
27 (4) the speaker of the house of representatives;

1 (5) the [~~commission's~~] presiding officer of the Texas  
2 Facilities Commission; [and]

3 (6) the commissioner of the Texas Workforce Commission  
4 representing labor; and

5 (7) the land commissioner.

6 SECTION 1.27. Subchapter B, Chapter 2162, Government Code,  
7 is amended by adding Section 2162.053 to read as follows:

8 Sec. 2162.053. ADMINISTRATION BY COMPTROLLER. (a) The  
9 comptroller shall provide offices for the council and shall provide  
10 the council with legal, technical, administrative, and other  
11 support necessary to carry out its powers and duties.

12 (b) Any administrative powers or duties of the Texas  
13 Building and Procurement Commission with respect to the council are  
14 transferred to the comptroller.

15 SECTION 1.28. Section 2162.102(c), Government Code, is  
16 amended to read as follows:

17 (c) In performing its duties under this chapter, the council  
18 may:

19 (1) require a state agency to conduct a hearing,  
20 study, review, or cost estimate, including an agency in-house cost  
21 estimate or a management study, concerning any aspect of a service  
22 identified under Subsection (a);

23 (2) develop and require state agencies to use methods  
24 to accurately and fairly estimate and account for the cost of  
25 providing a service identified under Subsection (a);

26 (3) require that a service identified under Subsection  
27 (a) be submitted to competitive bidding or another process that

1 creates competition with private commercial sources;

2 (4) prescribe, after consulting affected state  
3 agencies, the specifications and conditions of purchase procedures  
4 that must be followed by the comptroller [~~commission~~] and a state  
5 agency or a private commercial source engaged in competitive  
6 bidding to provide a service identified under Subsection (a);

7 (5) award a contract to a state agency providing the  
8 service, another state agency, a private commercial source, or a  
9 combination of those entities, if the bidder presents the best and  
10 most reasonable bid, which is not necessarily the lowest bid; and

11 (6) determine the terms of a contract for service or  
12 interagency contract to provide a service identified under  
13 Subsection (a).

14 SECTION 1.29. Chapter 2163, Government Code, is amended by  
15 adding Sections 2163.0011 and 2163.0012 to read as follows:

16 Sec. 2163.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
17 powers and duties of the commission under this chapter are  
18 transferred to the comptroller.

19 (b) In this chapter, a reference to the commission means the  
20 comptroller.

21 Sec. 2163.0012. AUTHORITY TO ADOPT RULES. The comptroller  
22 may adopt rules to efficiently and effectively administer this  
23 chapter. Before adopting a rule under this section, the  
24 comptroller must conduct a public hearing regarding the proposed  
25 rule regardless of whether the requirements of Section 2001.029(b)  
26 are met.

27 SECTION 1.30. Subchapter A, Chapter 2165, Government Code,

1 is amended by adding Sections 2165.0011 and 2165.0012 to read as  
2 follows:

3 Sec. 2165.0011. DEFINITION. In this chapter, "commission"  
4 means the Texas Facilities Commission.

5 Sec. 2165.0012. AUTHORITY TO ADOPT RULES. The commission  
6 may adopt rules to efficiently and effectively administer this  
7 chapter.

8 SECTION 1.31. Section 2166.001, Government Code, is amended  
9 by amending Subdivision (1) and adding Subdivision (1-a) to read as  
10 follows:

11 (1) "Commission" means the Texas Facilities  
12 Commission.

13 (1-a) "Construction" includes acquisition and  
14 reconstruction.

15 SECTION 1.32. Subchapter A, Chapter 2167, Government Code,  
16 is amended by adding Section 2167.0011 to read as follows:

17 Sec. 2167.0011. DEFINITION. In this chapter, "commission"  
18 means the Texas Facilities Commission.

19 SECTION 1.33. Subchapter A, Chapter 2170, Government Code,  
20 is amended by adding Sections 2170.0011 and 2170.0012 to read as  
21 follows:

22 Sec. 2170.0011. TRANSFER OF DUTIES; REFERENCE. (a) Any  
23 remaining powers and duties of the commission under this chapter  
24 are transferred to the comptroller.

25 (b) Subject to Section 2151.004(b), in this chapter a  
26 reference to the commission means the comptroller.

27 Sec. 2170.0012. AUTHORITY TO ADOPT RULES. The comptroller

1 may adopt rules to efficiently and effectively administer the  
2 comptroller's powers and duties under this chapter. Before  
3 adopting a rule under this section, the comptroller must conduct a  
4 public hearing regarding the proposed rule regardless of whether  
5 the requirements of Section 2001.029(b) are met.

6 SECTION 1.34. Subchapter A, Chapter 2171, Government Code,  
7 is amended by adding Section 2171.0011 to read as follows:

8 Sec. 2171.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
9 powers and duties of the commission under this chapter are  
10 transferred to the comptroller.

11 (b) In this chapter, a reference to the commission means the  
12 comptroller.

13 SECTION 1.35. Section 2171.002, Government Code, is amended  
14 to read as follows:

15 Sec. 2171.002. RULES. (a) The comptroller [~~commission~~]  
16 shall adopt rules to implement this chapter, including rules  
17 related to:

18 (1) the structure of the comptroller's [~~commission's~~]  
19 travel agency contracts;

20 (2) the procedures the comptroller [~~commission~~] uses  
21 in requesting and evaluating bids or proposals for travel agency  
22 contracts; and

23 (3) the use by state agencies of negotiated contract  
24 rates for travel services.

25 (b) Before adopting a rule under this section, the  
26 comptroller must conduct a public hearing regarding the proposed  
27 rule regardless of whether the requirements of Section 2001.029(b)

1 are met.

2 SECTION 1.36. Section 2171.056(e), Government Code, is  
3 amended to read as follows:

4 (e) The comptroller [~~commission~~] shall adopt rules related  
5 to exemptions from the prohibition prescribed by Subsection (b).  
6 [~~To facilitate the audit of the travel vouchers, the commission~~  
7 ~~shall consult with the comptroller before the commission adopts~~  
8 ~~rules or procedures under Subsection (b).~~]

9 SECTION 1.37. Chapter 2172, Government Code, is amended by  
10 adding Sections 2172.0011 and 2172.0012 to read as follows:

11 Sec. 2172.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
12 powers and duties of the commission under this chapter are  
13 transferred to the comptroller.

14 (b) In this chapter, a reference to the commission means the  
15 comptroller.

16 Sec. 2172.0012. AUTHORITY TO ADOPT RULES. The comptroller  
17 may adopt rules to efficiently and effectively administer this  
18 chapter. Before adopting a rule under this section, the  
19 comptroller must conduct a public hearing regarding the proposed  
20 rule regardless of whether the requirements of Section 2001.029(b)  
21 are met.

22 SECTION 1.38. Section 2175.001, Government Code, is amended  
23 by adding Subdivision (1-a) to read as follows:

24 (1-a) "Commission" means the Texas Facilities  
25 Commission.

26 SECTION 1.39. Subchapter A, Chapter 2176, Government Code,  
27 is amended by adding Section 2176.0011 to read as follows:

1           Sec. 2176.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
2 powers and duties of the commission under this chapter are  
3 transferred to the comptroller.

4           (b) In this chapter, a reference to the commission means the  
5 comptroller.

6           SECTION 1.40. Section 2176.053, Government Code, is amended  
7 to read as follows:

8           Sec. 2176.053. DELIVERY OF STATE WARRANTS. State warrants  
9 may be delivered in a manner agreed to by the comptroller[~~, the~~  
10 ~~commission,~~] and the affected agency.

11           SECTION 1.41. Section 2176.110, Government Code, is amended  
12 to read as follows:

13           Sec. 2176.110. RULES. The comptroller [~~commission~~] shall  
14 adopt rules for state agencies to implement this chapter  
15 [~~subchapter~~]. Before adopting a rule under this section, the  
16 comptroller must conduct a public hearing regarding the proposed  
17 rule regardless of whether the requirements of Section 2001.029(b)  
18 are met.

19           SECTION 1.42. Subchapter A, Chapter 2177, Government Code,  
20 is amended by adding Sections 2177.0011 and 2177.0012 to read as  
21 follows:

22           Sec. 2177.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
23 powers and duties of the commission under this chapter are  
24 transferred to the comptroller.

25           (b) In this chapter, a reference to the commission means the  
26 comptroller.

27           Sec. 2177.0012. AUTHORITY TO ADOPT RULES. The comptroller



1 may adopt rules to efficiently and effectively administer this  
2 chapter. Before adopting a rule under this section, the  
3 comptroller must conduct a public hearing regarding the proposed  
4 rule regardless of whether the requirements of Section 2001.029(b)  
5 are met.

6 SECTION 1.43. Section 22.008(d), Government Code, is  
7 amended to read as follows:

8 (d) The reporter shall return the record, with briefs and  
9 opinions, to the clerk when the report is completed and from time to  
10 time shall deliver the reports to the comptroller [~~State Purchasing~~  
11 ~~and General Services Commission~~] for publication. Each volume  
12 shall be copyrighted in the name of the reporter, who immediately on  
13 delivery of the edition shall transfer and assign it to the state.  
14 The edition shall be electrotyped. The state owns the plates, and  
15 the comptroller [~~State Purchasing and General Services Commission~~]  
16 shall preserve them.

17 SECTION 1.44. Section 325.017(e), Government Code, is  
18 amended to read as follows:

19 (e) Unless the governor designates an appropriate state  
20 agency as prescribed by Subsection (f), property and records in the  
21 custody of an abolished state agency or advisory committee on  
22 September 1 of the even-numbered year after abolishment shall be  
23 transferred to the comptroller [~~State Purchasing and General~~  
24 ~~Services Commission~~]. If the governor designates an appropriate  
25 state agency, the property and records shall be transferred to the  
26 designated state agency.

27 SECTION 1.45. Section 403.251, Government Code, is amended

1 to read as follows:

2           Sec. 403.251. ADDITIONAL           DUTIES           OF           COMPTROLLER  
3 [~~COMMISSION~~].       The comptroller [~~commission~~] shall treat  
4 documentation submitted [~~to the commission~~] by a state agency as  
5 part of the procedure for replenishing a petty cash account as a  
6 proposed expenditure of appropriated funds.   The comptroller  
7 [~~commission~~] shall follow its usual procedures for reviewing  
8 purchases.   The comptroller [~~commission~~] shall give the agency a  
9 written approval or disapproval of each disbursement from the petty  
10 cash account.

11           SECTION 1.46.   Section 441.106, Government Code, is amended  
12 to read as follows:

13           Sec. 441.106.   PAYMENT FOR PRINTING OF STATE PUBLICATIONS.  
14 If a state agency's printing is done by contract, an account for the  
15 printing may not be approved and a warrant may not be issued unless  
16 the agency first furnishes to the comptroller [~~Texas Building and~~  
17 ~~Procurement Commission~~] a receipt from the state librarian for the  
18 publication or a written waiver from the state librarian exempting  
19 the publication from this subchapter.

20           SECTION 1.47.   Sections 441.194(a) and (b), Government Code,  
21 are amended to read as follows:

22           (a) Unless otherwise provided by law, the comptroller  
23 [~~General Services Commission~~] shall take custody of the records of  
24 a state agency that is abolished by the legislature and whose duties  
25 and responsibilities are not transferred to another state agency.

26           (b) Unless the requirement is waived by the state records  
27 administrator, the records management officer of the comptroller

1 ~~[General Services Commission]~~, or of another state agency that  
2 receives custody of the records pursuant to law, shall prepare and  
3 submit to the state archivist and the state records administrator a  
4 list of the records of the abolished state agency within 180 days of  
5 the effective date of the agency's abolition.

6 SECTION 1.48. Section 444.021(a), Government Code, is  
7 amended to read as follows:

8 (a) The commission shall:

9 (1) foster the development of a receptive climate for  
10 the arts that will culturally enrich and benefit state citizens in  
11 their daily lives;

12 (2) make visits and vacations to the state more  
13 appealing to the world;

14 (3) attract, through appropriate programs of  
15 publicity and education, additional outstanding artists to become  
16 state residents;

17 (4) direct activities such as the sponsorship of  
18 lectures and exhibitions and the central compilation and  
19 dissemination of information on the progress of the arts in the  
20 state;

21 (5) provide advice to the comptroller ~~[General~~  
22 ~~Services Commission]~~, Texas Historical Commission, Texas State  
23 Library, Texas Tourist Development Agency, Texas Department of  
24 Transportation, and other state agencies to provide a concentrated  
25 state effort in encouraging and developing an appreciation for the  
26 arts in the state;

27 (6) provide advice relating to the creation,

1 acquisition, construction, erection, or remodeling by the state of  
2 a work of art; and

3 (7) provide advice, on request of the governor,  
4 relating to the artistic character of buildings constructed,  
5 erected, or remodeled by the state.

6 SECTION 1.49. Section 465.0082, Government Code, is amended  
7 to read as follows:

8 Sec. 465.0082. PURCHASING RULES. The commission shall  
9 adopt rules to guide its purchases of supplies, materials,  
10 services, and equipment to carry out eligible undertakings as  
11 defined by Section 465.021. The commission shall use as a guide,  
12 whenever consistent with the commission's purposes, the rules of  
13 the comptroller [~~State Purchasing and General Services~~  
14 ~~Commission~~].

15 SECTION 1.50. Section 465.018(b), Government Code, is  
16 amended to read as follows:

17 (b) This section does not prohibit the commission from using  
18 the comptroller's purchasing [~~General Services Commission's~~  
19 services].

20 SECTION 1.51. Section 466.104, Government Code, is amended  
21 to read as follows:

22 Sec. 466.104. ASSISTANCE OF COMPTROLLER [~~GENERAL SERVICES~~  
23 ~~COMMISSION~~]. (a) On request of the executive director, the  
24 comptroller [~~General Services Commission~~] shall assist the  
25 executive director in:

26 (1) acquiring facilities, supplies, materials,  
27 equipment, and services under Subtitle D, Title 10; or

1 (2) establishing procedures for the executive  
2 director's accelerated acquisition of facilities, supplies,  
3 materials, equipment, and services for the operation of the  
4 lottery.

5 (b) The comptroller may request assistance from the Texas  
6 Facilities Commission in performing its facilities-related duties  
7 under this section.

8 SECTION 1.52. Section 481.027(f), Government Code, is  
9 amended to read as follows:

10 (f) The comptroller [~~General Services Commission~~] may, at  
11 the request of a state agency, provide to the agency services  
12 exempted from the application of Subtitle D, Title 10 under  
13 Subsection (e). Chapter 771 does not apply to services provided  
14 under this subsection. The comptroller [~~commission~~] shall  
15 establish a system of charges and billings that ensures recovery of  
16 the cost of providing the services and shall submit a purchase  
17 voucher or a journal voucher, after the close of each month, to the  
18 agency for which services were performed.

19 SECTION 1.53. Section 496.0515(b), Government Code, is  
20 amended to read as follows:

21 (b) The department shall promulgate procedures for the  
22 purpose of purchasing under Subsection (a). The department shall  
23 file copies of the procedures promulgated under this subsection  
24 with the comptroller [~~General Services Commission~~].

25 SECTION 1.54. Section 497.024(b), Government Code, is  
26 amended to read as follows:

27 (b) If the comptroller [~~General Services Commission~~]

1 determines that an article or product produced by the office under  
2 this subchapter does not meet the requirements of an agency of the  
3 state or a political subdivision, or that the office has determined  
4 that the office is unable to fill a requisition for an article or  
5 product, the agency or subdivision may purchase the article or  
6 product from another source.

7 SECTION 1.55. Sections 497.025(a) and (c), Government Code,  
8 are amended to read as follows:

9 (a) An agency of the state that purchases articles and  
10 products under this subchapter must requisition the purchase  
11 through the comptroller [~~General Services Commission~~] except for  
12 purchases of articles or products not included in an established  
13 contract. The purchase of articles or products not included in an  
14 established contract and that do not exceed the dollar limits  
15 established under Section 2155.132 may be acquired directly from  
16 the office on the agency's obtaining an informal or a formal  
17 quotation for the item and issuing a proper purchase order to the  
18 office. The comptroller [~~General Services Commission~~] and the  
19 department shall enter into an agreement to expedite the process by  
20 which agencies are required to requisition purchases of articles or  
21 products through the comptroller [~~commission~~].

22 (c) If an agency or political subdivision purchasing goods  
23 under this subchapter desires to purchase goods or articles from  
24 the office, it may do so without complying with any other state law  
25 otherwise requiring the agency or political subdivision to request  
26 competitive bids for the article or product. Nothing herein shall  
27 be interpreted to require a political subdivision to purchase goods

1 or articles from the office if the political subdivision determines  
2 that the goods or articles can be purchased elsewhere at a lower  
3 price. An agency may decline to purchase goods or articles from the  
4 office if the agency determines, after giving the office a final  
5 opportunity to negotiate on price, and the comptroller [~~General~~  
6 ~~Services Commission~~] certifies, that the goods or articles can be  
7 purchased elsewhere at a lower price.

8 SECTION 1.56. Section 497.026, Government Code, is amended  
9 to read as follows:

10 Sec. 497.026. PRICES. The office and the comptroller  
11 [~~General Services Commission~~] shall determine the sales price of  
12 articles and products produced under this subchapter.

13 SECTION 1.57. Section 497.027, Government Code, is amended  
14 to read as follows:

15 Sec. 497.027. SPECIFICATIONS. (a) The comptroller  
16 [~~General Services Commission~~] shall establish specifications for  
17 articles and products produced under this subchapter. An article  
18 or product produced under this subchapter must meet specifications  
19 established under this subsection in effect when the article or  
20 product is produced.

21 (b) The office may manufacture articles and products to meet  
22 commercial specifications for the article or product if the  
23 comptroller [~~General Services Commission~~] has not established  
24 specifications for the article or product and the comptroller  
25 [~~commission~~] approves the commercial specifications.

26 SECTION 1.58. Section 497.029, Government Code, is amended  
27 to read as follows:

1           Sec. 497.029. NEW ARTICLES AND PRODUCTS. The comptroller  
2 [~~General Services Commission~~] may request the office to produce  
3 additional articles or products under this subchapter.

4           SECTION 1.59. Section 497.030, Government Code, is amended  
5 to read as follows:

6           Sec. 497.030. COMPTROLLER [~~GENERAL SERVICES COMMISSION~~]  
7 REPORTS. (a) Not later than the 31st day before the first day of  
8 each fiscal year, the comptroller [~~General Services Commission~~]  
9 shall submit to the office a report that summarizes the types and  
10 amounts of articles and products sold under this subchapter in the  
11 preceding nine months.

12           (b) Not later than the 100th day after the last day of each  
13 fiscal year, the comptroller [~~General Services Commission~~] shall  
14 submit to the office a report that states the types and amounts of  
15 articles and products sold under this subchapter in the preceding  
16 fiscal year.

17           (c) A report submitted by the comptroller [~~General Services~~  
18 ~~Commission~~] under this section must describe the articles and  
19 products to the extent possible in the manner those articles and  
20 products are described in catalogs prepared under Section 497.028.

21           SECTION 1.60. Section 531.0312(b), Government Code, is  
22 amended to read as follows:

23           (b) The commission shall cooperate with the Records  
24 Management Interagency Coordinating Council and the comptroller  
25 [~~General Services Commission~~] to establish a single method of  
26 categorizing information about health and human services to be used  
27 by the Records Management Interagency Coordinating Council and the



1 Texas Information and Referral Network. The network, in  
2 cooperation with the council and the comptroller [~~General Services~~  
3 ~~Commission~~], shall ensure that:

4 (1) information relating to health and human services  
5 is included in each residential telephone directory published by a  
6 for-profit publisher and distributed to the public at minimal or no  
7 cost; and

8 (2) the single method of categorizing information  
9 about health and human services is used in a residential telephone  
10 directory described by Subdivision (1).

11 SECTION 1.61. Section 663.001(3), Government Code, is  
12 amended to read as follows:

13 (3) "Commission" means the Texas Facilities [~~General~~  
14 ~~Services~~] Commission.

15 SECTION 1.62. Sections 791.025(a) and (b), Government Code,  
16 are amended to read as follows:

17 (a) A local government, including a council of governments,  
18 may agree with another local government or with the state or a state  
19 agency, including the comptroller [~~General Services Commission~~],  
20 to purchase goods and services.

21 (b) A local government, including a council of governments,  
22 may agree with another local government, including a nonprofit  
23 corporation that is created and operated to provide one or more  
24 governmental functions and services, or with the state or a state  
25 agency, including the comptroller [~~General Services Commission~~],  
26 to purchase goods and any services reasonably required for the  
27 installation, operation, or maintenance of the goods. This

1 subsection does not apply to services provided by firefighters,  
2 police officers, or emergency medical personnel.

3 SECTION 1.63. Section 825.103(d), Government Code, is  
4 amended to read as follows:

5 (d) Notwithstanding any other law, the retirement system  
6 has exclusive authority over the purchase of goods and services  
7 using money other than money appropriated from the general revenue  
8 fund, including specifically money from trusts under the  
9 administration of the retirement system, and Subtitle D, Title 10,  
10 does not apply to the retirement system with respect to that money.  
11 The retirement system shall acquire goods or services by  
12 procurement methods approved by the board of trustees or the  
13 board's designee. For purposes of this subsection, goods and  
14 services include all professional and consulting services and  
15 utilities as well as supplies, materials, equipment, skilled or  
16 unskilled labor, and insurance. The comptroller [~~Texas Building  
17 and Procurement Commission~~] shall procure goods or services for the  
18 retirement system at the request of the retirement system, and the  
19 retirement system may use the services of the comptroller [~~that  
20 commission~~] in procuring goods or services.

21 SECTION 1.64. Section 2051.052, Government Code, is amended  
22 to read as follows:

23 Sec. 2051.052. CANCELLATION OF PUBLISHING CONTRACT. The  
24 comptroller [~~General Services Commission~~] or a district or county  
25 official required to publish a notice may cancel a contract  
26 executed by the comptroller [~~commission~~] or official for the  
27 publication if the comptroller [~~commission~~] or official determines

1 that the newspaper charges a rate higher than the legal rate.

2 SECTION 1.65. Section 2054.057(a), Government Code, is  
3 amended to read as follows:

4 (a) The department, with the cooperation of the  
5 comptroller [~~the General Services Commission~~] and other  
6 appropriate state agencies, shall develop and implement a program  
7 to train state agency personnel in effectively negotiating  
8 contracts for the purchase of information resources technologies.

9 SECTION 1.66. Section 2101.038, Government Code, is amended  
10 to read as follows:

11 Sec. 2101.038. DUTIES OF STATE AUDITOR. The state auditor,  
12 when reviewing the operation of a state agency, shall audit for  
13 compliance with the uniform statewide accounting system, the  
14 comptroller's rules, and the Legislative Budget Board's performance  
15 and workload measures. The state auditor shall also audit state  
16 agencies that make purchases that are exempted from the purchasing  
17 authority of the comptroller [~~General Services Commission~~] or that  
18 make purchases under delegated purchasing authority for compliance  
19 with applicable provisions of Subtitle D, except that this section  
20 does not require the state auditor to audit purchases made under  
21 Section 51.9335, Education Code, or made under Section 73.115,  
22 Education Code. The state auditor shall notify the comptroller,  
23 the governor, the lieutenant governor, the speaker of the house of  
24 representatives, and the Legislative Budget Board as soon as  
25 practicable when a state agency is not in compliance.

26 SECTION 1.67. Section 2103.032(a), Government Code, is  
27 amended to read as follows:

1 (a) The comptroller by rule may establish a system for state  
2 agencies to submit and approve electronically vouchers if the  
3 comptroller determines that the system will facilitate the  
4 operation and administration of the uniform statewide accounting  
5 system. The comptroller may establish an electronic method to  
6 approve a voucher submitted by a state agency [~~and may establish an~~  
7 ~~electronic system for the approval of vouchers by the General~~  
8 ~~Services Commission~~].

9 SECTION 1.68. Sections 2113.103(a), (c), and (d),  
10 Government Code, are amended to read as follows:

11 (a) A state agency should use the most cost-effective means  
12 of postal service available. A state agency may use appropriated  
13 money to purchase any form of mailing service available from the  
14 United States Postal Service that results in lower cost to the  
15 agency and affords service comparable in quality to other available  
16 postal services. The comptroller [~~General Services Commission~~]  
17 shall assist state agencies in determining the types and  
18 comparability of postal services available from the United States  
19 Postal Service.

20 (c) An agency other than an institution of higher education  
21 as defined by Section 61.003, Education Code, that spends for  
22 postage in a fiscal year an amount that exceeds the dollar amount  
23 set by the General Appropriations Act as the maximum expenditure  
24 for postage shall purchase or rent a postage meter machine and  
25 record all purchases of postage on the machine except purchases of  
26 postage for employees in field offices and traveling employees.  
27 The rental of a postage meter machine by a state agency, including

1 an institution of higher education, the legislature, or an agency  
2 in the legislative branch of state government, must be from a  
3 company approved by the comptroller [~~General Services Commission~~].  
4 The comptroller [~~General Services Commission~~] by rule shall adopt  
5 procedures for the renting entity to pay for postage.

6 (d) Subsection (b) does not apply to a reimbursement:

7 (1) to an authorized petty cash account;

8 (2) to a state employee for an emergency purchase of  
9 postage or emergency payment of post office box rent;

10 (3) that is received by a state agency for authorized  
11 services and is appropriated directly to the receiving agency; or

12 (4) under a contract for mailing services that may  
13 include postage, if the contract has been approved by the  
14 comptroller [~~General Services Commission~~].

15 SECTION 1.69. Section 2113.301(h), Government Code, is  
16 amended to read as follows:

17 (h) The comptroller [~~Texas Building and Procurement~~  
18 ~~Commission~~] shall appoint a task force to develop design  
19 recommendations that are to be used for state facilities and that  
20 encourage rain harvesting and water recycling by state agencies  
21 using appropriated money to finance a capital expenditure for a  
22 state facility purpose.

23 SECTION 1.70. Section 2203.005(b), Government Code, is  
24 amended to read as follows:

25 (b) The state agency shall file with the comptroller  
26 [~~General Services Commission~~] a copy of all contracts between the  
27 state agency and the vendor related to the vending machine and a

1 written description of the location of the vending machine.

2 SECTION 1.71. Sections 2205.004(a) and (c), Government  
3 Code, are amended to read as follows:

4 (a) The board is composed of:

5 (1) a member appointed by the governor;

6 (2) a member appointed by the lieutenant governor;

7 (3) a member appointed by the speaker of the house of  
8 representatives; and

9 (4) a representative of the comptroller [~~Texas~~  
10 ~~Building and Procurement Commission, designated from time to time~~  
11 ~~by the presiding officer of the commission~~].

12 (c) The representative of the comptroller [~~Texas Building~~  
13 ~~and Procurement Commission~~] is an ex officio, nonvoting member of  
14 the board and serves only in an advisory capacity.

15 SECTION 1.72. Section 2205.012(a), Government Code, is  
16 amended to read as follows:

17 (a) The board may employ and compensate staff as provided by  
18 legislative appropriation or may use staff provided by the  
19 comptroller [~~General Services Commission~~] or the state auditor's  
20 office.

21 SECTION 1.73. Section 2251.003, Government Code, is amended  
22 to read as follows:

23 Sec. 2251.003. RULES. The comptroller [~~General Services~~  
24 ~~Commission~~] shall establish procedures and adopt rules to  
25 administer this chapter[, ~~except that the commission may not~~  
26 ~~establish a procedure or adopt a rule that conflicts with a~~  
27 ~~procedure established or a rule adopted by the comptroller under~~

1 ~~Section 2251.026(i)]~~. Before adopting a rule under this section,  
2 the comptroller must conduct a public hearing regarding the  
3 proposed rule regardless of whether the requirements of Section  
4 2001.029(b) are met.

5 SECTION 1.74. Section 2252.003(a), Government Code, is  
6 amended to read as follows:

7 (a) The comptroller [~~General Services Commission~~] annually  
8 shall publish in the Texas Register:

9 (1) a list showing each state that regulates the award  
10 of a governmental contract to a bidder whose principal place of  
11 business is not located in that state; and

12 (2) the citation to and a summary of each state's most  
13 recent law or regulation relating to the evaluation of a bid from  
14 and award of a contract to a bidder whose principal place of  
15 business is not located in that state.

16 SECTION 1.75. Section 2254.040, Government Code, is amended  
17 to read as follows:

18 Sec. 2254.040. PROCUREMENT BY COMPTROLLER [~~GENERAL~~  
19 ~~SERVICES COMMISSION~~]. (a) The comptroller [~~General Services~~  
20 ~~Commission~~] may, on request of a state agency, procure for the  
21 agency consulting services that are covered by this subchapter.

22 (b) The comptroller [~~commission~~] may require reimbursement  
23 for the costs it incurs in procuring the services.

24 SECTION 1.76. Sections 2261.001(a) and (c), Government  
25 Code, are amended to read as follows:

26 (a) This chapter applies only to each procurement of goods  
27 or services made by a state agency that is neither made by the

1 comptroller [~~General Services Commission~~] nor made under  
2 purchasing authority delegated to the agency by or under Section  
3 51.9335 or 73.115, Education Code, or Section 2155.131 or[~~7~~]  
4 2155.132[~~7~~,~~or 2155.133~~].

5 (c) The comptroller [~~General Services Commission~~] on  
6 request shall determine whether a procurement or type of  
7 procurement:

8 (1) is made under purchasing authority delegated to an  
9 agency by or under Section 2155.131 or[~~7~~] 2155.132[~~7~~,~~or 2155.133~~];  
10 or

11 (2) is made under some other source of purchasing  
12 authority.

13 SECTION 1.77. Subchapter A, Chapter 2262, Government Code,  
14 is amended by adding Section 2262.0011 to read as follows:

15 Sec. 2262.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
16 powers and duties of the commission under this chapter are  
17 transferred to the comptroller.

18 (b) In this chapter, a reference to the commission means the  
19 comptroller.

20 SECTION 1.78. Section 2302.002, Government Code, is amended  
21 to read as follows:

22 Sec. 2302.002. COMPOSITION OF COUNCIL. The council is  
23 composed of:

24 (1) one representative with knowledge of cogeneration  
25 from each of the following agencies, appointed by and serving at the  
26 pleasure of the agency's presiding officer:

27 (A) the commission;



1 (B) the Railroad Commission of Texas; and  
2 (C) [~~the General Services Commission; and~~  
3 [~~D~~] the Texas Natural Resource Conservation  
4 Commission;

5 (2) one representative of the office of the attorney  
6 general, appointed by the attorney general;

7 (3) one representative of the comptroller, appointed  
8 by the comptroller; and

9 (4) [~~3~~] one representative of higher education,  
10 appointed by the governor.

11 SECTION 1.79. Section 12.029(c), Agriculture Code, is  
12 amended to read as follows:

13 (c) The department shall file the policies established  
14 under this section with the comptroller [~~State Purchasing and~~  
15 ~~General Services Commission~~] and with the Texas Department of  
16 Commerce or its successor in function. The comptroller  
17 [~~commission~~] shall conduct an analysis of the department's policies  
18 and the policies' effectiveness and shall report the analysis to  
19 the governor, lieutenant governor, and speaker of the house of  
20 representatives not later than December 31 of each even-numbered  
21 year.

22 SECTION 1.80. Section 13.112, Agriculture Code, is amended  
23 to read as follows:

24 Sec. 13.112. TESTS FOR STATE INSTITUTIONS. As requested by  
25 the comptroller [~~State Purchasing and General Services Commission~~]  
26 or the governing body of a state institution, the department shall  
27 test each weight or measure used by a state institution for any

1 purpose, including a weight or measure used in checking the receipt  
2 and distribution of supplies. The department shall report results  
3 of the test to the chairman of the governing body of the  
4 institution.

5 SECTION 1.81. Section 49.004(d), Agriculture Code, is  
6 amended to read as follows:

7 (d) Supplies, materials, services, and equipment purchased  
8 with funds obtained under this section are not subject to the  
9 purchasing [~~General Services Commission~~] authority of the  
10 comptroller.

11 SECTION 1.82. Section 201.105(c), Agriculture Code, is  
12 amended to read as follows:

13 (c) A conservation district may make any purchase of  
14 machinery or equipment through the comptroller [~~State Purchasing~~  
15 ~~and General Services Commission~~] under the terms and rules provided  
16 by law for purchases by the state or political subdivisions.

17 SECTION 1.83. Section 34.001, Education Code, is amended to  
18 read as follows:

19 Sec. 34.001. PURCHASE OF MOTOR VEHICLES. (a) A school  
20 district may purchase school motor vehicles through the comptroller  
21 [~~General Services Commission~~] or through competitive bidding under  
22 Subchapter B, Chapter 44.

23 (b) The comptroller [~~General Services Commission~~] may adopt  
24 rules as necessary to implement Subsection (a). Before adopting a  
25 rule under this subsection, the comptroller must conduct a public  
26 hearing regarding the proposed rule regardless of whether the  
27 requirements of Section 2001.029(b), Government Code, are met.

1           SECTION 1.84. Section 34.006, Education Code, is amended to  
2 read as follows:

3           Sec. 34.006. SALE OF BUSES. (a) At the request of a school  
4 district, the comptroller [~~General Services Commission~~] shall  
5 dispose of a school bus.

6           (b) A school district is not required to dispose of a school  
7 bus through the comptroller [~~General Services Commission~~].

8           SECTION 1.85. Section 106.54, Education Code, is amended to  
9 read as follows:

10          Sec. 106.54. BIENNIAL REPORT. True and full accounts shall  
11 be kept by the board and by the employees of the university of all  
12 funds collected from all sources by the university, all the sums  
13 paid out by it, and the persons to whom and the purposes for which  
14 the sums are paid. The board shall print biennially a complete  
15 report of all sums collected, all expenditures, and the sums  
16 remaining on hand. The report shall be printed in even-numbered  
17 years between September 1 and January 1. It shall show the true  
18 condition of all funds as of the preceding August 1, and shall show  
19 all collections and expenditures for the preceding two years. The  
20 board shall furnish copies of the report to the governor,  
21 comptroller, state auditor, and attorney general[, ~~and not less~~  
22 ~~than three copies to the General Services Commission~~]. The board  
23 shall furnish a copy to each member of the House Appropriations  
24 Committee, the Senate Finance Committee, and the House and Senate  
25 committees on education of each regular session of the legislature  
26 within one week after the committees are appointed.

27          SECTION 1.86. Section 107.66, Education Code, is amended to

1 read as follows:

2       Sec. 107.66. REQUISITION OF FURNISHINGS, EQUIPMENT, ETC.  
3 The board may make requisition to the comptroller [~~General Services~~  
4 ~~Commission~~] for furniture, furnishings, equipment, and  
5 appointments required for the proper use and enjoyment of  
6 improvements erected by the board, and the comptroller [~~General~~  
7 ~~Services Commission~~] may purchase and pay for the furnishings,  
8 equipment, and appointments.

9       SECTION 1.87. Section 141.003(c), Education Code, is  
10 amended to read as follows:

11       (c) Supplies, materials, services, and equipment purchased  
12 with these funds shall not be subject to the purchasing [~~State~~  
13 ~~Purchasing and General Services Commission~~] authority of the  
14 comptroller.

15       SECTION 1.88. Section 142.004(e), Education Code, is  
16 amended to read as follows:

17       (e) Supplies, materials, services, and equipment purchased  
18 with these funds shall not be subject to the purchasing [~~State~~  
19 ~~Purchasing and General Services Commission~~] authority of the  
20 comptroller.

21       SECTION 1.89. Section 143.005(f), Education Code, is  
22 amended to read as follows:

23       (f) Supplies, materials, services, and equipment purchased  
24 with these funds shall not be subject to the purchasing [~~State~~  
25 ~~Purchasing and General Services Commission~~] authority of the  
26 comptroller.

27       SECTION 1.90. Section 152.004(e), Education Code, is

1 amended to read as follows:

2 (e) Supplies, materials, services, or equipment purchased  
3 by a public junior college or public technical institute with money  
4 received under this chapter are not subject to the purchasing  
5 authority of the comptroller [~~General Services Commission~~].

6 SECTION 1.91. Section 361.423, Health and Safety Code, is  
7 amended to read as follows:

8 Sec. 361.423. RECYCLING MARKET DEVELOPMENT IMPLEMENTATION  
9 PROGRAM. (a) The commission, the comptroller [~~Texas Building and~~  
10 ~~Procurement Commission~~], and other consenting state agencies as  
11 appropriate shall regularly coordinate the recycling activities of  
12 state agencies and shall each pursue an economic development  
13 strategy that focuses on the state's waste management priorities  
14 established by Section 361.022 and that includes development of  
15 recycling industries and markets as an integrated component.

16 (b) The commission and the comptroller [~~Texas Building and~~  
17 ~~Procurement Commission~~], on an ongoing basis, shall jointly:

18 (1) identify existing economic and regulatory  
19 incentives and disincentives for creating an optimal market  
20 development strategy;

21 (2) analyze or take into consideration the market  
22 development implications of:

23 (A) the state's waste management policies and  
24 regulations;

25 (B) existing and potential markets for plastic,  
26 glass, paper, lead-acid batteries, tires, compost, scrap gypsum,  
27 coal combustion by-products, and other recyclable materials; and

1 (C) the state's tax structure and overall  
2 economic base;

3 (3) examine and make policy recommendations regarding  
4 the need for changes in or the development of:

5 (A) economic policies that affect  
6 transportation, such as those embodied in freight rate schedules;

7 (B) tax incentives and disincentives;

8 (C) the availability of financial capital  
9 including grants, loans, and venture capital;

10 (D) enterprise zones;

11 (E) managerial and technical assistance;

12 (F) job-training programs;

13 (G) strategies for matching market supply and  
14 market demand for recyclable materials, including intrastate and  
15 interstate coordination;

16 (H) the state recycling goal;

17 (I) public-private partnerships;

18 (J) research and development;

19 (K) government procurement policies;

20 (L) educational programs for the public,  
21 corporate and regulated communities, and government entities; and

22 (M) public health and safety regulatory  
23 policies;

24 (4) establish a comprehensive statewide strategy to  
25 expand markets for recycled products in Texas;

26 (5) provide information and technical assistance to  
27 small and disadvantaged businesses, business development centers,

1 chambers of commerce, educational institutions, and nonprofit  
2 associations on market opportunities in the area of recycling; and

3 (6) with the cooperation of the Office of  
4 State-Federal Relations, assist communities and private entities  
5 in identifying state and federal grants pertaining to recycling and  
6 solid waste management.

7 (c) In carrying out this section, the commission and the  
8 comptroller [~~Texas Building and Procurement Commission~~] may obtain  
9 research and development and technical assistance from the  
10 Hazardous Waste Research Center at Lamar University at Beaumont or  
11 other similar institutions.

12 (d) In carrying out this section, the commission and the  
13 comptroller [~~Texas Building and Procurement Commission~~] shall  
14 utilize the pollution prevention advisory committee as set out in  
15 Section 361.0215 of the Health and Safety Code.

16 SECTION 1.92. Section 361.425(a), Health and Safety Code,  
17 is amended to read as follows:

18 (a) A state agency, state court or judicial agency, a  
19 university system or institution of higher education, a county,  
20 municipality, school district, or special district shall:

21 (1) in cooperation with the comptroller [~~General~~  
22 ~~Services Commission~~] or the commission establish a program for the  
23 separation and collection of all recyclable materials generated by  
24 the entity's operations, including, at a minimum, aluminum, steel  
25 containers, aseptic packaging and polycoated paperboard cartons,  
26 high-grade office paper, and corrugated cardboard;

27 (2) provide procedures for collecting and storing

1 recyclable materials, containers for recyclable materials, and  
2 procedures for making contractual or other arrangements with buyers  
3 of recyclable materials;

4 (3) evaluate the amount of recyclable material  
5 recycled and modify the recycling program as necessary to ensure  
6 that all recyclable materials are effectively and practicably  
7 recycled; and

8 (4) establish educational and incentive programs to  
9 encourage maximum employee participation.

10 SECTION 1.93. Section 361.427(a), Health and Safety Code,  
11 is amended to read as follows:

12 (a) The commission, in consultation with the comptroller  
13 [~~General Services Commission~~], shall promulgate rules to establish  
14 guidelines which specify the percent of the total content of a  
15 product which must consist of recycled material for the product to  
16 be a "recycled product."

17 SECTION 1.94. Section 841.083(c-2), Health and Safety  
18 Code, is amended to read as follows:

19 (c-2) If the equipment necessary to implement the tracking  
20 service is available through a contract entered into by the  
21 comptroller [~~Texas Building and Procurement Commission~~], the  
22 Department of Public Safety or the council, as appropriate, shall  
23 acquire that equipment through that contract.

24 SECTION 1.95. Section 32.044(d), Human Resources Code, is  
25 amended to read as follows:

26 (d) The department with the assistance of the Health and  
27 Human Services Commission and the comptroller [~~General Services~~



1 ~~Commission]~~ shall adopt rules under this section that allow the  
2 public or private hospital to make purchases through group  
3 purchasing programs except when the department has reason to  
4 believe that a better value is available through another  
5 procurement method.

6 SECTION 1.96. Section 111.0553(a), Human Resources Code, is  
7 amended to read as follows:

8 (a) The commission shall develop and, following review and  
9 approval by the board, implement agency-wide procurement  
10 procedures to:

11 (1) ensure compliance with the best-value purchasing  
12 requirements of Section 2155.144(c), Government Code;

13 (2) document that a best-value review of vendors has  
14 occurred;

15 (3) document the reasons for selecting a vendor;

16 (4) negotiate price discounts with high-volume  
17 vendors;

18 (5) consolidate purchases with other agencies,  
19 including the Texas Department of Health and the comptroller  
20 [~~General Services Commission~~], to achieve best value; and

21 (6) provide effective public notification to  
22 potential vendors of planned commission purchases.

23 SECTION 1.97. Chapter 122, Human Resources Code, is amended  
24 by adding Section 122.0011 to read as follows:

25 Sec. 122.0011. TRANSFER OF DUTIES; REFERENCE. (a) The  
26 powers and duties of the commission under this chapter are  
27 transferred to the comptroller.

1           **(b) In this chapter, a reference to the commission means the**  
2 **comptroller.**

3           SECTION 1.98. Article 21A.0135(a), Insurance Code, is  
4 amended to read as follows:

5           (a) The receiver shall use a competitive bidding process in  
6 the selection of any special deputies appointed under Section  
7 21A.102 or 21A.154. The process must include procedures to promote  
8 the participation of historically underutilized businesses that  
9 have been certified by the comptroller [~~Texas Building and~~  
10 ~~Procurement Commission~~] under Section 2161.061, Government Code.

11           SECTION 1.99. Sections 201.007(b), (c), (f), and (g), Local  
12 Government Code, are amended to read as follows:

13           (b) After the settlement of the outstanding indebtedness of  
14 an abolished municipality and the satisfaction of the other  
15 applicable requirements of Chapter 62, Local Government Code, the  
16 municipality's governing body at the time the municipality is  
17 abolished, or the receiver or trustees if appointed by a court,  
18 shall transfer the records of the municipality to the custody of the  
19 comptroller [~~General Services Commission~~]. A record of an abolished  
20 municipality may not be sold to satisfy an outstanding  
21 indebtedness.

22           (c) After the settlement of the outstanding indebtedness of  
23 an abolished special-purpose district or authority, other than a  
24 school district, and the satisfaction of the other applicable  
25 requirements of state law establishing or permitting the  
26 establishment of the district or authority or governing its  
27 abolition, the district's governing body at the time the district

1 is abolished shall transfer the records of the district to the  
2 custody of the comptroller [~~General Services Commission~~]. A record  
3 of an abolished special-purpose district or authority may not be  
4 sold to satisfy an outstanding indebtedness.

5 (f) The cost of the transfer of records to the comptroller  
6 [~~General Services Commission~~] under this section shall be paid for  
7 out of the funds of the abolished local government. If funds of the  
8 local government are not available for this purpose, the cost of the  
9 transfer shall be paid out of the funds of the comptroller [~~General~~  
10 ~~Services Commission~~].

11 (g) The records retention schedules issued by the  
12 commission shall be used, as far as practicable, as the basis for  
13 the retention and disposition of local government records  
14 transferred to the custody of the comptroller [~~General Services~~  
15 ~~Commission~~] under this section.

16 SECTION 1.100. Section 252.0215, Local Government Code, is  
17 amended to read as follows:

18 Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO  
19 HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an  
20 expenditure of more than \$3,000 but less than \$25,000, shall  
21 contact at least two historically underutilized businesses on a  
22 rotating basis, based on information provided by the comptroller  
23 [~~General Services Commission~~] pursuant to Chapter 2161, Government  
24 Code. If the list fails to identify a historically underutilized  
25 business in the county in which the municipality is situated, the  
26 municipality is exempt from this section.

27 SECTION 1.101. The heading to Section 262.002, Local

1 Government Code, is amended to read as follows:

2 Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND  
3 TIRES THROUGH COMPTROLLER [~~STATE PURCHASING AND GENERAL SERVICES~~  
4 ~~COMMISSION~~].

5 SECTION 1.102. Section 262.002(a), Local Government Code,  
6 is amended to read as follows:

7 (a) The commissioners court of a county may purchase through  
8 the comptroller [~~State Purchasing and General Services Commission~~]  
9 road machinery and equipment, tires, and tubes to be used by the  
10 county.

11 SECTION 1.103. Section 271.082, Local Government Code, is  
12 amended to read as follows:

13 Sec. 271.082. PURCHASING PROGRAM. (a) The comptroller  
14 [~~State Purchasing and General Services Commission~~] shall establish  
15 a program by which the comptroller [~~commission~~] performs purchasing  
16 services for local governments. The services must include:

17 (1) the extension of state contract prices to  
18 participating local governments when the comptroller [~~commission~~]  
19 considers it feasible;

20 (2) solicitation of bids on items desired by local  
21 governments if the solicitation is considered feasible by the  
22 comptroller [~~commission~~] and is desired by the local government;  
23 and

24 (3) provision of information and technical assistance  
25 to local governments about the purchasing program.

26 (b) The comptroller [~~commission~~] may charge a participating  
27 local government an amount not to exceed the actual costs incurred

1 by the comptroller [~~commission~~] in providing purchasing services to  
2 the local government under the program.

3 (c) The comptroller [~~commission~~] may adopt rules and  
4 procedures necessary to administer the purchasing program. Before  
5 adopting a rule under this subsection, the comptroller must conduct  
6 a public hearing regarding the proposed rule regardless of whether  
7 the requirements of Section 2001.029(b), Government Code, are met.

8 SECTION 1.104. Section 113.283(a), Natural Resources Code,  
9 is amended to read as follows:

10 (a) The council is composed of the following individuals:

11 (1) the commissioner of the General Land Office;

12 (2) the members of the Railroad Commission of Texas;

13 (3) the comptroller [~~chairman of the General Services~~  
14 ~~Commission~~]; and

15 (4) the chairman of the Texas Natural Resource  
16 Conservation Commission.

17 SECTION 1.105. Section 161.020, Natural Resources Code, is  
18 amended to read as follows:

19 Sec. 161.020. PURCHASE OF SUPPLIES. The board may purchase  
20 at state expense through the comptroller [~~board of control~~]  
21 supplies, including stationery, stamps, printing, record books,  
22 and other things that may be needed to carry on the board's  
23 functions as a state agency in performing the duties imposed by this  
24 chapter.

25 SECTION 1.106. Section 12.008(c), Parks and Wildlife Code,  
26 is amended to read as follows:

27 (c) The comptroller [~~State Purchasing and General Services~~

1 ~~Commission~~] shall execute any sale of products under this section  
2 under the general law governing the sale of state property;  
3 however, the department shall determine the quantity of products to  
4 be offered for sale and the consideration in lieu of money to be  
5 received under the sale. The department may lease grazing or  
6 farming rights under this section. In leasing the rights, the  
7 department must follow a competitive bidding procedure.

8 SECTION 1.107. Section 81.404(b), Parks and Wildlife Code,  
9 is amended to read as follows:

10 (b) Contracts for the removal of fur-bearing animals and  
11 reptiles shall be entered into under the direction of the  
12 comptroller [~~State Purchasing and General Services Commission~~] in  
13 the manner provided by general law for the sale of state property,  
14 except that the department shall determine the means, methods, and  
15 quantities of fur-bearing animals and reptiles to be taken, and the  
16 department may accept or reject any bid received by the comptroller  
17 [~~State Purchasing and General Services Commission~~].

18 SECTION 1.108. Section 111.0035(f), Tax Code, is amended to  
19 read as follows:

20 (f) Except as provided by Subsection (g), the comptroller  
21 shall award a contract made under this section through a  
22 competitive bidding process that complies with Section 2155.132,  
23 Government Code[, and the rules adopted by the General Services  
24 ~~Commission relating to delegated purchases~~]. If the comptroller  
25 receives not more than three bids through the competitive bidding  
26 process, the comptroller shall report the number of bidders to the  
27 Legislative Budget Board before awarding the contract.

1 SECTION 1.109. Section 111.0036(f), Tax Code, is amended to  
2 read as follows:

3 (f) Except as provided by Subsection (g), the comptroller  
4 shall award a contract made under this section through a  
5 competitive bidding process that complies with Section 2155.132,  
6 Government Code~~[, and the rules adopted by the General Services~~  
7 ~~Commission relating to delegated purchases]~~. If the comptroller  
8 receives not more than three bids through the competitive bidding  
9 process, the comptroller shall report the number of bidders to the  
10 Legislative Budget Board before awarding the contract.

11 SECTION 1.110. Section 201.706, Transportation Code, is  
12 amended to read as follows:

13 Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From  
14 appropriated funds, the department shall assist counties with  
15 materials to repair and maintain county roads. The department  
16 shall:

17 (1) provide that the total annual value of assistance  
18 under this section is:

19 (A) at least \$12 million per year for fiscal  
20 years 1998 and 1999; and

21 (B) at least \$6 million per year for a fiscal year  
22 other than 1998 or 1999;

23 (2) make maximum usage of surplus materials on hand;

24 (3) develop rules and procedures to implement this  
25 section and to provide for the distribution of the assistance with  
26 preference given to counties with an above average number of  
27 overweight trucks receiving weight tolerance permits based on the

1 previous year's permit totals; and

2 (4) undertake cooperative and joint procurement of  
3 road materials with counties under [~~General Services Commission~~]  
4 procedures of the comptroller.

5 SECTION 1.111. Section 202.082(b), Transportation Code, is  
6 amended to read as follows:

7 (b) Disposal of reclaimed asphalt pavement under this  
8 section is not subject to:

9 (1) Chapter 2175, Government Code; or

10 (2) the statutory or regulatory authority of the  
11 comptroller formerly exercised by the General Services Commission.

12 SECTION 1.112. Section 223.041(b), Transportation Code, is  
13 amended to read as follows:

14 (b) The department, in setting a minimum level of  
15 expenditures in these engineering-related activities that will be  
16 paid to the private sector providers, shall provide that the  
17 expenditure level for a state fiscal year in all strategies paid to  
18 private sector providers for all department engineering-related  
19 services for transportation projects is not less than 35 percent of  
20 the total funds appropriated in Strategy A.1.1. Plan/Design/Manage  
21 and Strategy A.1.2. of the General Appropriations Act for that  
22 state fiscal biennium. The department shall attempt to make  
23 expenditures for engineering-related services with private sector  
24 providers under this subsection with historically underutilized  
25 businesses, as defined by Section 2161.001, Government Code, in an  
26 amount consistent with the applicable provisions of the Government  
27 Code, any applicable state disparity study, and in accordance with



1 the good-faith-effort procedures outlined in the rules adopted by  
2 the comptroller [~~Texas Building and Procurement Commission~~].

3 SECTION 1.113. Section 502.052(c), Transportation Code, is  
4 amended to read as follows:

5 (c) To promote highway safety, each license plate shall be  
6 made with a reflectorized material that provides effective and  
7 dependable brightness for the period for which the plate is issued.  
8 The purchase of reflectorized material shall be submitted to the  
9 comptroller [~~General Services Commission~~] for approval.

10 SECTION 1.114. Section 502.053(b), Transportation Code, is  
11 amended to read as follows:

12 (b) When manufacturing is started, the Texas Department of  
13 Criminal Justice, the Texas Department of Transportation, and the  
14 comptroller [~~Texas Building and Procurement Commission~~], after  
15 negotiation, shall set the price to be paid for each license plate  
16 or insignia. The price must be determined from:

- 17 (1) the cost of metal, paint, and other materials  
18 purchased;
- 19 (2) the inmate maintenance cost per day;
- 20 (3) overhead expenses;
- 21 (4) miscellaneous charges; and
- 22 (5) a previously approved amount of profit for the  
23 work.

24 SECTION 1.115. Section 14.058, Utilities Code, is amended  
25 to read as follows:

26 Sec. 14.058. FEES FOR ELECTRONIC ACCESS TO INFORMATION.  
27 The fees charged by the commission for electronic access to

1 information that is stored in the system established by the  
2 commission using funds from the Texas Public Finance Authority and  
3 approved by the Department of Information Resources shall be  
4 established:

5 (1) by the commission in consultation with the  
6 comptroller [~~General Services Commission~~]; and

7 (2) in an amount reasonable and necessary to retire  
8 the debt to the Texas Public Finance Authority associated with  
9 establishing the electronic access system.

10 SECTION 1.116. Section 222.004(v), Water Code, is amended  
11 to read as follows:

12 (v) The authority may enter into contracts with this state  
13 through the comptroller [~~Texas Building and Procurement~~  
14 ~~Commission~~] providing for direct sale by the authority of  
15 electrical power to this state for use in buildings or other  
16 facilities owned, leased, or rented by this state in Travis County.

17 SECTION 1.117. The following provisions of the Government  
18 Code are repealed:

- 19 (1) Section 403.241(1);  
20 (2) Section 2103.063;  
21 (3) Section 2152.003;  
22 (4) Section 2152.104(c);  
23 (5) Sections 2155.323(c) and (d); and  
24 (6) Section 2161.002(b).

25 SECTION 1.118. Section 12.014(b), Agriculture Code, is  
26 repealed.

27 SECTION 1.119. On the effective date of this Act, the Texas

1 Building and Procurement Commission is renamed the Texas Facilities  
2 Commission.

3 SECTION 1.120. (a) The Texas Facilities Commission retains  
4 the powers and duties of the former Texas Building and Procurement  
5 Commission that relate to charge and control of state buildings,  
6 grounds, or property, to maintenance or repair of state buildings,  
7 grounds, or property, to child care services for state employees  
8 under Chapter 663, Government Code, to surplus and salvage  
9 property, to construction of a state building, or to the purchase or  
10 lease of buildings, grounds, or property by or for the state.

11 (a-1) Except as otherwise provided by this Act or other law,  
12 all other powers and duties of the Texas Building and Procurement  
13 Commission are transferred to the comptroller.

14 (b) All employees of the Texas Building and Procurement  
15 Commission who primarily perform duties related to an activity  
16 described by Subsection (a) of this section, including employees  
17 who provide administrative support for those services, remain  
18 employees of the Texas Facilities Commission.

19 (b-1) All other employees of the Texas Building and  
20 Procurement Commission are transferred to the office of the  
21 comptroller. A management employee of the Texas Building and  
22 Procurement Commission who is transferred to the office of the  
23 comptroller under this subsection does not automatically continue  
24 to hold the person's management position. To hold the management  
25 position on other than an interim basis, the person must apply for  
26 the position with the comptroller.

27 (c) A rule, form, policy, procedure, or decision of the

1 Texas Building and Procurement Commission that is related to an  
2 activity described by Subsection (a) of this section continues in  
3 effect as a rule, form, policy, procedure, or decision of the Texas  
4 Facilities Commission.

5 (c-1) A rule, form, policy, procedure, or decision of the  
6 Texas Building and Procurement Commission that is related to an  
7 activity transferred by this Act to the comptroller continues in  
8 effect as a rule, form, policy, procedure, or decision of the  
9 comptroller until superseded by an act of the comptroller.

10 (d) A court case, administrative proceeding, contract  
11 negotiation, or other proceeding involving the Texas Building and  
12 Procurement Commission that is related to an activity described by  
13 Subsection (a) of this section is unaffected by the change in name  
14 of the agency.

15 (d-1) A court case, administrative proceeding, contract  
16 negotiation, or other proceeding involving the Texas Building and  
17 Procurement Commission that is related to an activity transferred  
18 by this Act to the comptroller is transferred without change in  
19 status to the comptroller, and the comptroller assumes, without a  
20 change in status, the position of the Texas Building and  
21 Procurement Commission in a negotiation or proceeding relating to  
22 an activity transferred by this Act to the comptroller to which the  
23 Texas Building and Procurement Commission is a party.

24 (e) All money, contracts, leases, rights, bonds, and  
25 obligations of the Texas Building and Procurement Commission  
26 related to an activity described by Subsection (a) of this section  
27 remain with the Texas Facilities Commission.

1 (e-1) All money, contracts, memoranda of understanding,  
2 leases, rights, bonds, and obligations of the Texas Building and  
3 Procurement Commission related to an activity transferred by this  
4 Act to the comptroller are transferred to the comptroller.

5 (f) All personal property, including records, in the  
6 custody of the Texas Building and Procurement Commission related to  
7 an activity described by Subsection (a) of this section remains the  
8 property of the Texas Facilities Commission.

9 (f-1) All personal property, including records, in the  
10 custody of the Texas Building and Procurement Commission related to  
11 an activity transferred by this Act to the comptroller becomes the  
12 property of the comptroller.

13 (g) All funds appropriated by the legislature to the Texas  
14 Building and Procurement Commission for an activity described by  
15 Subsection (a) of this section, including funds for providing  
16 administrative support for those services, continue as  
17 appropriations to the Texas Facilities Commission.

18 (g-1) All funds appropriated by the legislature to the Texas  
19 Building and Procurement Commission for an activity transferred by  
20 this Act to the comptroller, including funds for providing  
21 administrative support for those services, are transferred to the  
22 comptroller.

23 SECTION 1.121. In accordance with Section 1.120 of this  
24 article, the comptroller and the Texas Facilities Commission shall  
25 adopt a memorandum of understanding that identifies and allocates  
26 between the office of the comptroller and the Texas Facilities  
27 Commission the powers, duties, property, employees,

1 appropriations, and other items transferred under Section 1.120.  
2 The memorandum of understanding must also:

3 (1) identify and allocate between the office of the  
4 comptroller and the Texas Facilities Commission the employees and  
5 real and personal property of the Texas Building and Procurement  
6 Commission, including space in the central administrative offices  
7 of the commission, used to generally support the activities of the  
8 Texas Building and Procurement Commission; and

9 (2) provide a timetable for any necessary or advisable  
10 movement of the physical location of employees and property.

11 SECTION 1.122. Sections 2155.086 and 2155.087, Government  
12 Code, as added by this Act, apply only to a contract for which the  
13 solicitation of bids or proposals or similar expressions of  
14 interest is published on or after September 1, 2007. A contract for  
15 which the solicitation of bids or proposals or similar expressions  
16 of interest is published before September 1, 2007, is governed by  
17 the law in effect on the date the solicitation of bids or proposals  
18 or similar expressions of interest is published, and the former law  
19 is continued in effect for that purpose.

20 ARTICLE 2. DEPARTMENT OF INFORMATION RESOURCES

21 SECTION 2.01. Section 35.102(c), Business & Commerce Code,  
22 is amended to read as follows:

23 (c) This section does not apply to the Department of  
24 Information Resources [~~General Services Commission~~], in its  
25 capacity as the telecommunications provider for the state, and an  
26 institution of higher education, as that term is defined by Section  
27 61.003, Education Code, that provides interactive computer

1 service.

2 SECTION 2.02. Section 44.031(i), Education Code, is amended  
3 to read as follows:

4 (i) A school district may acquire computers and  
5 computer-related equipment, including computer software, through  
6 the Department of Information Resources [~~General Services~~  
7 ~~Commission~~] under contracts entered into in accordance with Chapter  
8 2054 or 2157, Government Code. Before issuing an invitation for  
9 bids, the department [~~commission~~] shall consult with the agency  
10 concerning the computer and computer-related equipment needs of  
11 school districts. To the extent possible the resulting contract  
12 shall provide for such needs.

13 SECTION 2.03. Section 2054.123(a), Government Code, is  
14 amended to read as follows:

15 (a) The department, in consultation with the [~~Texas~~  
16 ~~Building and Procurement Commission, the~~] state auditor[~~7~~] and the  
17 comptroller, shall create an interagency panel of representatives  
18 appointed by those agencies and officers to coordinate and maintain  
19 a training program to assist state agencies in performing software  
20 audits, managing software, and purchasing software and software  
21 licenses. Each state agency shall cooperate with the panel in the  
22 evaluation of the agency's needs for software management and shall  
23 donate agency resources to the evaluation of the agency as the panel  
24 requires.

25 SECTION 2.04. Section 2054.201, Government Code, is amended  
26 to read as follows:

27 Sec. 2054.201. COMPOSITION; TERMS. (a) The

1 telecommunications planning and oversight council is composed of:

2 (1) a representative of the comptroller's office,  
3 appointed by the comptroller;

4 (2) the executive director of the Telecommunications  
5 Infrastructure Fund Board;

6 (3) a representative of the department [~~Texas Building~~  
7 ~~and Procurement Commission~~], appointed by the executive director of  
8 the department [~~commission~~];

9 (4) a member representing the interests of state  
10 agencies with 1,000 employees or more, appointed by the lieutenant  
11 governor;

12 (5) a member representing the interests of state  
13 agencies with fewer than 1,000 employees, appointed by the speaker  
14 of the house of representatives;

15 (6) a member representing the interests of  
16 institutions of higher education, appointed by the commissioner of  
17 higher education;

18 (7) a member representing the interests of The  
19 University of Texas System, appointed by the chancellor;

20 (8) a member representing the interests of The Texas  
21 A&M University System, appointed by the chancellor;

22 (9) a member representing the interests of public  
23 school districts that are customers of the consolidated  
24 telecommunications system, appointed by the governor;

25 (10) a member representing the interests of local  
26 governments that are customers of the consolidated  
27 telecommunications system, appointed by the governor;



1           (11) two public members with telecommunications  
2 expertise, appointed by the governor; and

3           (12) a representative of the Health and Human Services  
4 Commission, appointed by the commissioner of health and human  
5 services.

6           (b) Appointed members of the telecommunications planning  
7 and oversight council serve staggered two-year terms, with the  
8 terms of four or five members expiring August 31 each year, except  
9 that:

10           (1) the representative of the comptroller's office  
11 serves at the discretion of the comptroller;

12           (2) the representative of the department [~~Texas~~  
13 ~~Building and Procurement Commission~~] serves at the discretion of  
14 the executive director of the department [~~commission~~]; and

15           (3) the representative of the Health and Human  
16 Services Commission serves at the discretion of the commissioner of  
17 health and human services.

18           SECTION 2.05. Sections 2054.304(b) and (c), Government  
19 Code, are amended to read as follows:

20           (b) Except as provided by Subsection (c), the state agency  
21 must file the project plan with the quality assurance team and the  
22 department [~~Texas Building and Procurement Commission~~] before the  
23 agency:

24           (1) spends more than 10 percent of allocated funds for  
25 the project; or

26           (2) first issues a vendor solicitation for the  
27 project.

1 (c) Unless the project plan has been filed under this  
2 section:

3 (1) [~~the Texas Building and Procurement Commission may~~  
4 ~~not issue~~] a vendor solicitation may not be issued for the project;  
5 and

6 (2) the agency may not post a vendor solicitation for  
7 the project in the state business daily under Section 2155.083.

8 SECTION 2.06. Section 771.031(b), Health and Safety Code,  
9 is amended to read as follows:

10 (b) The following individuals serve as nonvoting ex officio  
11 members:

12 (1) the executive director of the Public Utility  
13 Commission of Texas, or an individual designated by the executive  
14 director;

15 (2) the executive director of the Department of  
16 Information Resources [~~General Services Commission~~], or an  
17 individual designated by the executive director; and

18 (3) the commissioner of public health, or an  
19 individual who has responsibility for the poison control network  
20 designated by the commissioner.

21 SECTION 2.07. Section 771.0711(e), Health and Safety Code,  
22 is amended to read as follows:

23 (e) A member of the commission, the governing body of a  
24 public agency, or the Department of Information Resources [~~General~~  
25 ~~Services Commission~~] is not liable for any claim, damage, or loss  
26 arising from the provision of wireless 9-1-1 service unless the act  
27 or omission causing the claim, damage, or loss violates a statute or

1 ordinance applicable to the action.

2 SECTION 2.08. Section 55.203(f), Utilities Code, is amended  
3 to read as follows:

4 (f) The Department of Information Resources [~~General~~  
5 ~~Services Commission~~] shall cooperate with the commission and with  
6 publishers to ensure that the subject matter listing of programs  
7 and telephone numbers in the telephone directories are consistent  
8 with the categorization developed by the Records Management  
9 Interagency Coordinating Council under Section 441.203(j),  
10 Government Code.

11 ARTICLE 3. CONFORMING AMENDMENTS; MISCELLANEOUS

12 SECTION 3.01. Section 201.002(b), Transportation Code, is  
13 amended to read as follows:

14 (b) The comptroller [~~General Services Commission~~] shall  
15 contract for equipment and supplies, including seals and number  
16 plates, required by law in the administration of the registration  
17 of vehicles and in the operation of the department.

18 SECTION 3.02. Section 403.023(b), Government Code, is  
19 amended to read as follows:

20 (b) The comptroller may adopt rules relating to the use of  
21 credit or charge cards by state agencies to pay for purchases. The  
22 rules may:

23 (1) authorize a state agency to use credit or charge  
24 cards if the comptroller determines the best interests of the state  
25 would be promoted;

26 (2) authorize a state agency to use credit or charge  
27 cards to pay for purchases without providing the same authorization

1 to other state agencies; and

2 (3) authorize a state agency to use credit or charge  
3 cards to pay for purchases that otherwise may be paid out of the  
4 agency's petty cash accounts under Subchapter K[, ~~and~~

5 [~~(4) authorize the General Services Commission to~~  
6 ~~contract with one or more credit or charge card issuers on behalf of~~  
7 ~~state agencies]~~.

8 SECTION 3.03. Section 441.203(a), Government Code, is  
9 amended to read as follows:

10 (a) The Records Management Interagency Coordinating Council  
11 is composed of:

12 (1) permanent members, consisting of the following  
13 officers or the officer's designee:

14 (A) the secretary of state;

15 (B) the state auditor, who serves as a nonvoting  
16 member;

17 (C) the comptroller of public accounts;

18 (D) the attorney general;

19 (E) the director and librarian; and

20 (F) [~~the executive director of the Texas Building~~  
21 ~~and Procurement Commission, and~~

22 [~~(G)~~] the executive director of the Department of  
23 Information Resources; and

24 (2) auxiliary voting members, consisting of:

25 (A) one faculty member of a public senior college  
26 or university, as defined by Section 61.003, Education Code, who  
27 has demonstrated knowledge of records and information management;

1 and

2 (B) two individuals who serve as information  
3 resources managers, under Section 2054.071, for state agencies in  
4 the executive branch of government.

5 SECTION 3.04. Section 551.0726(a), Government Code, is  
6 amended to read as follows:

7 (a) The Texas Facilities [~~Building and Procurement~~]  
8 Commission may conduct a closed meeting to deliberate business and  
9 financial issues relating to a contract being negotiated if, before  
10 conducting the closed meeting:

11 (1) the commission votes unanimously that  
12 deliberation in an open meeting would have a detrimental effect on  
13 the position of the state in negotiations with a third person; and

14 (2) the attorney advising the commission issues a  
15 written determination finding that deliberation in an open meeting  
16 would have a detrimental effect on the position of the state in  
17 negotiations with a third person and setting forth that finding  
18 therein.

19 SECTION 3.05. Section 552.009(a), Government Code, as  
20 amended by Chapters 329 and 716, Acts of the 79th Legislature,  
21 Regular Session, 2005, is reenacted to read as follows:

22 (a) The open records steering committee is composed of two  
23 representatives of the attorney general's office and:

24 (1) a representative of each of the following,  
25 appointed by its governing entity:

26 (A) the comptroller's office;

27 (B) the Department of Public Safety;

1 (C) the Department of Information Resources; and  
2 (D) the Texas State Library and Archives  
3 Commission;

4 (2) five public members, appointed by the attorney  
5 general; and

6 (3) a representative of each of the following types of  
7 local governments, appointed by the attorney general:

8 (A) a municipality;

9 (B) a county; and

10 (C) a school district.

11 SECTION 3.06. Section 571.061(a), Government Code, is  
12 amended to read as follows:

13 (a) The commission shall administer and enforce:

14 (1) Chapters 302, 303, 305, 572, and 2004;

15 (2) Subchapter C, Chapter 159, Local Government Code,  
16 in connection with a county judicial officer, as defined by Section  
17 159.051, Local Government Code, who elects to file a financial  
18 statement with the commission; ~~and~~

19 (3) Title 15, Election Code; and

20 (4) Sections 2152.064 and 2155.003.

21 SECTION 3.07. Section 571.091(a), Government Code, is  
22 amended to read as follows:

23 (a) The commission shall prepare a written opinion  
24 answering the request of a person subject to any of the following  
25 laws for an opinion about the application of any of these laws to  
26 the person in regard to a specified existing or hypothetical  
27 factual situation:

- 1 (1) Chapter 302;
- 2 (2) Chapter 303;
- 3 (3) Chapter 305;
- 4 (4) Chapter 2004;
- 5 (5) Chapter 572;
- 6 (6) Subchapter C, Chapter 159, Local Government Code,
- 7 as provided by Section 571.061(a)(2);
- 8 (7) Title 15, Election Code;
- 9 (8) Chapter 36, Penal Code; [~~ex~~]
- 10 (9) Chapter 39, Penal Code;
- 11 (10) Section 2152.064; or
- 12 (11) Section 2155.003.

13 SECTION 3.08. Section 572.003(c), Government Code, is  
14 amended to read as follows:

- 15 (c) The term means a member of:
- 16 (1) the Public Utility Commission of Texas;
  - 17 (2) the Texas Department of Economic Development;
  - 18 (3) the Texas Commission on Environmental Quality;
  - 19 (4) the Texas Alcoholic Beverage Commission;
  - 20 (5) The Finance Commission of Texas;
  - 21 (6) the Texas Facilities [~~Building and Procurement~~]  
22 Commission;
  - 23 (7) the Texas Board of Criminal Justice;
  - 24 (8) the board of trustees of the Employees Retirement  
25 System of Texas;
  - 26 (9) the Texas Transportation Commission;
  - 27 (10) the Texas Workers' Compensation Commission;

- 1 (11) the Texas Department of Insurance;
- 2 (12) the Parks and Wildlife Commission;
- 3 (13) the Public Safety Commission;
- 4 (14) the Texas Ethics Commission;
- 5 (15) the State Securities Board;
- 6 (16) the Texas Water Development Board;
- 7 (17) the governing board of a public senior college or
- 8 university as defined by Section 61.003, Education Code, or of The
- 9 University of Texas Southwestern Medical Center at Dallas, The
- 10 University of Texas Medical Branch at Galveston, The University of
- 11 Texas Health Science Center at Houston, The University of Texas
- 12 Health Science Center at San Antonio, The University of Texas
- 13 System Cancer Center, The University of Texas Health Science Center
- 14 at Tyler, University of North Texas Health Science Center at Fort
- 15 Worth, Texas Tech University Health Sciences Center, Texas State
- 16 Technical College--Harlingen, Texas State Technical
- 17 College--Marshall, Texas State Technical College--Sweetwater, or
- 18 Texas State Technical College--Waco;
- 19 (18) the Texas Higher Education Coordinating Board;
- 20 (19) the Texas Workforce Commission;
- 21 (20) the State Banking Board;
- 22 (21) the board of trustees of the Teacher Retirement
- 23 System of Texas;
- 24 (22) the Credit Union Commission;
- 25 (23) the School Land Board;
- 26 (24) the board of the Texas Department of Housing and
- 27 Community Affairs;



- 1 (25) the Texas Racing Commission;  
2 (26) the State Board of Dental Examiners;  
3 (27) the Texas State Board of Medical Examiners;  
4 (28) the Board of Pardons and Paroles;  
5 (29) the Texas State Board of Pharmacy;  
6 (30) the Department of Information Resources  
7 governing board;  
8 (31) the Motor Vehicle Board;  
9 (32) the Texas Real Estate Commission;  
10 (33) the board of directors of the State Bar of Texas;  
11 (34) the bond review board;  
12 (35) the Texas Board of Health;  
13 (36) the Texas Board of Mental Health and Mental  
14 Retardation;  
15 (37) the Texas Board on Aging;  
16 (38) the Texas Board of Human Services;  
17 (39) the Texas Funeral Service Commission;  
18 (40) the board of directors of a river authority  
19 created under the Texas Constitution or a statute of this state; or  
20 (41) the Texas Lottery Commission.

21 SECTION 3.09. Subchapter B, Chapter 2152, Government Code,  
22 is amended by adding Section 2152.064 to read as follows:

23 Sec. 2152.064. CONFLICTS OF INTEREST IN CERTAIN  
24 TRANSACTIONS. (a) A commission member, employee, or appointee may  
25 not:

26 (1) have an interest in, or in any manner be connected  
27 with:

1                   (A) a contract or bid for a purchase of goods or  
2 services, including professional or consulting services, by the  
3 commission or another agency of the state in connection with the  
4 commission's duties concerning:

5                   (i) charge and control of state buildings,  
6 grounds, or property;

7                   (ii) maintenance or repair of state  
8 buildings, grounds, or property;

9                   (iii) construction of a state building; or

10                   (iv) purchase or lease of state buildings,  
11 grounds, or property by or for the state; or

12                   (B) a recipient of state surplus or salvage  
13 property under the control of the commission; or

14                   (2) in any manner, including by rebate or gift, accept  
15 or receive, directly or indirectly, from a recipient of state  
16 surplus or salvage property or a person to whom a contract  
17 described by Subdivision (1) may be awarded, anything of value or a  
18 promise, obligation, or contract for future reward or compensation.

19                   (b) A commission member, employee, or appointee who  
20 violates Subsection (a)(2) is subject to dismissal.

21                   (c) In consultation with the commission, the Texas Ethics  
22 Commission shall adopt rules to implement this section.

23                   (d) The Texas Ethics Commission shall administer and  
24 enforce this section and may prepare written opinions regarding  
25 this section in accordance with Subchapter D, Chapter 571.

26                   SECTION 3.10. Section 2203.001(b), Government Code, is  
27 amended to read as follows:

1 (b) The report must be made daily on a form prescribed by the  
2 comptroller [~~General Services Commission~~].

3 SECTION 3.11. Section 2254.024(b), Government Code, is  
4 amended to read as follows:

5 (b) If the governor and [~~]~~ comptroller [~~, and General~~  
6 ~~Services Commission~~] consider it more advantageous to the state to  
7 procure a particular consulting service under the procedures of  
8 Chapters 2155-2158, instead of under this subchapter, they may make  
9 a memorandum of understanding to that effect and each adopt the  
10 memorandum by rule. Procurement of a consulting service described  
11 in a memorandum of understanding under this subsection is subject  
12 only to Chapters 2155-2158.

13 SECTION 3.12. Section 2254.039(b), Government Code, is  
14 amended to read as follows:

15 (b) The comptroller shall give proposed rules to the  
16 governor [~~and the General Services Commission~~] for review and  
17 comment before adopting the rules.

18 ARTICLE 4. STUDY OF TEXAS FACILITIES COMMISSION FUNCTIONS

19 SECTION 4.01. Subchapter A, Chapter 2152, Government Code,  
20 is amended by adding Section 2152.004 to read as follows:

21 Sec. 2152.004. STUDY TO ASSESS FUNCTIONS OF TEXAS  
22 FACILITIES COMMISSION. (a) The Sunset Advisory Commission shall  
23 conduct a study of the functions of the Texas Facilities  
24 Commission. The study must assess the best allocation of state  
25 resources for:

26 (1) the acquisition of state buildings through lease  
27 or purchase;

1           (2) the construction of buildings owned by the state;  
2           (3) the control and maintenance of buildings owned or  
3 leased by the state; and  
4           (4) all other related responsibilities performed by  
5 the commission.

6           (b) The study must consider the benefits to the state of  
7 outsourcing any of the commission's functions to private entities  
8 or of allocating those functions to other state agencies.

9           (c) The commission shall take into consideration the  
10 findings and conclusions of the study in its report to the 81st  
11 Legislature and shall include any recommendations it considers  
12 appropriate resulting from its consideration of the study.

13           (d) The Texas Facilities Commission, the General Land  
14 Office, and the state auditor shall provide support to the Sunset  
15 Advisory Commission in conducting the study.

16           (e) This section expires January 1, 2009.

17                           ARTICLE 5. EFFECTIVE DATE

18           SECTION 5.01. This Act takes effect September 1, 2007.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 20 2003

*Lataj Spivey*  
Secretary of the Senate

BY:

*Roger W. N.*

1 Amend C.S.H.B. No. 3560 (senate committee report), in  
2 SECTION 1.25 of the bill, in amended Subsection (a), Section  
3 2161.127, Government Code (page 8, line 16), between "a" and  
4 "performance", by inserting "key".

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# ADOPTED

FLOOR AMENDMENT NO. 2

MAY 23 2007

*Leta Spaw*  
Secretary of the Senate

BY:

*Watson*  
(Watson)

1 Amend C.S.H.B. 3560 by adding the following SECTIONS, numbered  
2 appropriately, and by renumbering any subsequent SECTIONS  
3 accordingly:

4 SECTION \_\_\_\_ Subtitle D, Title 4, Government Code, is  
5 amended by adding Chapter 446 to read as follows:

6 CHAPTER 446. TEXAS STATE MUSIC HISTORY MUSEUM

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 446.001. DEFINITIONS. In this chapter:

9 (1) "Museum operator" means the person selected by  
10 the music office to operate the museum.

11 (2) "Music office" means the Music, Film, Television,  
12 and Multimedia Office established in Chapter 485.

13 Sec. 446.002. CREATION; PURPOSE. (a) The Texas State  
14 Music History Museum is created to educate visitors on the  
15 musical heritage of Texas, display objects and information  
16 relating to the musical history of Texas, and recognize great  
17 musical artists that have contributed to the musical fabric of  
18 Texas.

19 (b) Section 2165.005 does not apply to the museum.

20 [Sections 446.003-446.020 reserved for expansion]

21 SUBCHAPTER A-1. REQUESTS FOR PROPOSALS

22 FOR MUSEUM

23 Sec. 446.021. DEFINITION. In this subchapter, "proposal  
24 advisory council" means the proposal advisory council created by  
25 Section 446.024.

26 Sec. 446.022. REQUEST FOR PROPOSAL PROCESS. The music  
27 office shall establish a request for proposal process to select  
28 contractors for the operation and, if applicable, construction  
29 of the museum.

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1       Sec. 446.023. CRITERIA. (a) The music office, with the  
2 assistance of the proposal advisory council, shall develop  
3 criteria to evaluate proposals for selecting a contractor for  
4 the initial operation and, if applicable, construction of the  
5 museum.

6       (b) The criteria must:

7           (1) require proposals that do not require money  
8 appropriated by the state;

9           (2) specify information that must be provided in a  
10 proposal, including:

11                   (A) information on the construction cost, if  
12 applicable;

13                   (B) the proposed location of the museum;

14                   (C) sources of funding for the construction, if  
15 applicable;

16                   (D) estimated revenue from and annual usage of  
17 the museum; and

18                   (E) the proposed museum operator; and

19           (3) allow the music office to change the museum  
20 operator after a period of time specified by the music office.

21       Sec. 446.024. PROPOSAL ADVISORY COUNCIL. (a) A proposal  
22 advisory council is created to advise the music office on the  
23 request for proposal process.

24       (b) The proposal advisory council is made up of six  
25 members appointed by the governor as follows:

26           (1) one representative from the Texas Commission on  
27 the Arts;

28           (2) one representative from the State Preservation  
29 Board;

30           (3) one representative from the Texas Historical  
31 Commission;

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1           (4) one representative from the Texas Economic  
2 Development and Tourism Office;

3           (5) one representative involved in tourism-related  
4 activities at the Texas Department of Transportation; and

5           (6) one representative from the music office.

6           (c) The music office representative serves as the  
7 presiding officer of the proposal advisory council.

8           (d) The proposal advisory council shall meet at the call  
9 of the presiding officer.

10          (e) Chapter 2110 does not apply to the council.

11          Sec. 446.025. DUTIES OF PROPOSAL ADVISORY COUNCIL. The  
12 proposal advisory council shall advise the music office  
13 regarding:

14           (1) criteria used to select a proposal for operation  
15 and, if applicable, construction of the museum under this  
16 subchapter; and

17           (2) the selection process after proposals have been  
18 submitted for the operation and, if applicable, construction of  
19 the museum.

20          Sec. 446.026. EXPIRATION. On September 1, 2013, the  
21 proposal advisory council is abolished and this subchapter  
22 expires.

23          [Sections 446.027-446.050 reserved for expansion]

24           SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

25          Sec. 446.051. ADMINISTRATION. The music office shall  
26 administer this chapter.

27          Sec. 446.052. ADVISORY BOARD. (a) The music history  
28 advisory board is created to advise the music office and the  
29 museum operator on the content and additions to the content of  
30 the Texas State Music History Museum, including the addition of  
31 specific Texan artists for recognition of their contributions to



1 music.

2 (b) The advisory board is appointed by the governor and  
3 must include at least one representative from the Texas  
4 Commission on the Arts.

5 Sec. 446.053. MUSEUM OPERATOR. The music office shall  
6 hire a museum operator to manage the operation of the museum.

7 Sec. 446.054. PERSONNEL. The museum operator may hire  
8 personnel necessary for the museum.

9 [Sections 446.055-446.100 reserved for expansion]

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 446.101. GENERAL POWERS. (a) The museum shall  
12 provide exhibits, programs, and activities that promote the  
13 purposes described by Section 446.002 and support the education  
14 of the public, including students, in the knowledge and  
15 appreciation of the various musical trailblazers and pioneers of  
16 Texas and the varied musical styles of Texas that have evolved  
17 and cross-pollinated the face of modern popular music, including  
18 country, blues, jazz, gospel, rock, pop, and TexMex or Tejano  
19 music.

20 (b) The music office and museum operator may exercise any  
21 power appropriate to implement or promote a museum purpose.

22 Sec. 446.102. SALE OF MUSIC. (a) The museum operator may  
23 license and sell music from the museum's website.

24 (b) In addition to music connected with Texas music  
25 history, the museum operator may sell commercially produced  
26 music from the museum's website.

27 Sec. 446.103. LIVE MUSIC. The museum operator may host  
28 live musical performances.

29 Sec. 446.104. FILMS, RECORDINGS, AND OTHER PRODUCTS. The  
30 museum operator may develop and produce films, musical  
31 recordings or compilations, and other products and may retain

1 royalties or otherwise receive revenue from the production,  
2 distribution, exhibition, or sale of those films, recordings, or  
3 products.

4 Sec. 446.105. MEMBERSHIP PROGRAM. The museum operator may  
5 establish a museum membership program.

6 Sec. 446.106. MARKETING AND PUBLIC RELATIONS. (a) The  
7 museum operator may market and publicize the museum's exhibits,  
8 programs, and activities.

9 (b) The museum operator may:

10 (1) employ public relations personnel;

11 (2) publish brochures, books, and periodicals  
12 intended for the general public that are promotional,  
13 informational, or educational; and

14 (3) advertise the museum in any available media.

15 Sec. 446.107. VENDING FACILITIES. (a) In addition to  
16 exhibits and theaters, the museum operator may operate:

17 (1) a gift shop;

18 (2) food services, including one or more restaurants,  
19 cafeterias, and vending machines;

20 (3) pay station telephones;

21 (4) automated teller machines; and

22 (5) other services and facilities convenient or  
23 necessary for visitors to the museum.

24 (b) Chapter 94, Human Resources Code, does not apply to  
25 vending facilities operated by or approved for operation in the  
26 museum.

27 Sec. 446.108. TOURS; PARKING AND TRANSPORTATION. The  
28 museum operator may provide parking for visitors and, in  
29 cooperation with other public and private authorities, may  
30 participate in providing for tour transportation of visitors  
31 between other historical and cultural sites.

1       Sec. 446.109. PRIVATE EVENTS. (a) The museum operator  
2 may rent all or part of the museum facility at various times for  
3 private events. The museum operator may restrict public access  
4 to that part of the facility rented for a private event.

5       (b) The museum operator may provide for the sale, gift,  
6 possession, and consumption of alcoholic beverages at a private  
7 event held in the facility.

8       Sec. 446.110. SUPPORT ORGANIZATIONS. The museum operator  
9 may establish and maintain one or more organizations of persons  
10 interested in supporting the programs and activities of the  
11 museum. Such an organization may be incorporated as a Texas  
12 nonprofit corporation.

13       Sec. 446.111. CONTRACTS. The museum operator may enter  
14 into contracts with any person to the extent necessary or  
15 convenient to construct or operate the museum, including  
16 contracts for exhibits, programs, activities, and facilities,  
17 and contracts to acquire, by purchase or loan, items for  
18 exhibition.

19       Sec. 446.112. PROGRAM AND FACILITY ACCESSIBILITY. The  
20 museum operator shall comply with federal and state laws related  
21 to program and facility accessibility. The museum operator  
22 shall prepare and maintain a written plan that describes how a  
23 person who does not speak English can be provided reasonable  
24 access to the museum's programs and services.

25 [Sections 446.113-446.150 reserved for expansion]

26               SUBCHAPTER D. FINANCIAL PROVISIONS

27       Sec. 446.151. GENERAL FUNDING AND SPENDING AUTHORITY. (a)  
28 To the extent possible, the costs of operating the museum shall  
29 be paid from revenues generated by the museum. Money from the  
30 general revenue fund, other than gifts, grants, and donations  
31 that may be used for operating the museum and are deposited in

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1 the general revenue fund, may not be appropriated for the  
2 purpose of operating the museum.

3 (b) The museum operator may spend money received by the  
4 museum for any purpose connected with the museum.

5 Sec. 446.152. GIFTS, GRANTS, AND DONATIONS. (a) The  
6 museum operator shall solicit and may accept donations of money  
7 or items from individuals and from public or private foundations  
8 and organizations.

9 (b) The music office may accept donations and grants for  
10 the museum.

11 Sec. 446.153. FEES. (a) The museum operator may set and  
12 collect fees in amounts necessary to operate the museum,  
13 including fees for:

14 (1) admission to exhibits, theaters, programs, and  
15 activities;

16 (2) parking and transportation; and

17 (3) facility rental.

18 (b) The museum operator may sell at prices set by the  
19 museum operator items manufactured or publications printed under  
20 contract with the museum.

21 Sec. 446.154. AUDIT. The transactions, funds, and  
22 programs of the museum are subject to audit by the state auditor  
23 in accordance with Chapter 321.

24 Sec. 446.155. STATE EMPLOYEE CHARITABLE CONTRIBUTIONS.  
25 For purposes of Subchapter I, Chapter 659:

26 (1) the museum is considered an eligible charitable  
27 organization entitled to participate in a state employee  
28 charitable campaign under Subchapter I, Chapter 659; and

29 (2) a state employee is entitled to authorize a  
30 deduction for contributions to the museum, including  
31 contributions for museum membership, as a charitable

1 contribution under Section 659.132, and the museum may use the  
2 contributions for museum purposes.

3 Sec. 446.156. MUSEUM FUND. (a) All money and securities  
4 received by the museum, including the net revenue from vending  
5 facilities under Section 446.107, shall be credited to and held  
6 in trust outside the treasury by the comptroller in a special  
7 fund to be known as the Texas State Music History Museum fund.

8 (b) The comptroller shall manage and invest the fund on  
9 behalf of the museum as directed or agreed to by the museum  
10 operator. Interest, dividends, and other income of the fund  
11 shall be credited to the fund.

12 (c) The museum operator shall prepare a detailed annual  
13 report on the fund. That report must describe the status of the  
14 fund, list all donations to the fund, including the name of each  
15 donor, and list all disbursements from the fund, including the  
16 purpose of each disbursement.

17 (d) The state auditor, based on a risk assessment and  
18 subject to the legislative audit committee's approval of  
19 including the review in the audit plan under Section 321.013,  
20 may review the annual report on the fund, and any information  
21 used in preparing the report as the auditor determines  
22 necessary, and shall report any findings or recommendations to  
23 the museum and the legislative audit committee.

24 (e) The fund is not subject to Subchapter F, Chapter 404.  
25 A provision of this chapter or other law that provides for the  
26 deposit of money or another thing of value into the fund  
27 prevails over Subchapter F, Chapter 404.

28 (f) Subtitle D, Title 10, does not apply to a purchase or  
29 lease made with money from the fund.

30 Sec. 446.157. INSURANCE. The museum operator may purchase  
31 insurance policies to insure the museum buildings and contents

1 and other personal property against any insurable risk,  
2 including insurance covering historical artifacts, art,  
3 recordings, or other items, including items on loan to the  
4 museum.

5 SECTION \_\_\_\_ . This Act takes effect September 1, 2007.

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ADOPTED

FLOOR AMENDMENT NO. 3

MAY 23 2007

BY:

*Atay Spew*  
Secretary of the Senate

1 Amend C.S.H.B. No. 3560 by adding the following  
2 appropriately numbered SECTION to the bill and renumbering  
3 subsequent SECTIONS of the bill as appropriate:

4 SECTION \_\_. Subsections (a), (c), and (e), Section  
5 2155.444, Government Code, are amended to read as follows:

6 (a) The commission and all state agencies making purchases  
7 of goods, including agricultural products, shall give preference  
8 to those produced or grown in this state or offered by Texas  
9 bidders as follows:

10 (1) goods produced or offered by a Texas bidder that  
11 is owned by a service-disabled veteran who is a Texas resident  
12 shall be given a first preference and goods produced in this  
13 state or offered by other Texas bidders shall [equally] be given  
14 second preference, if the cost to the state and quality are  
15 equal; and

16 (2) agricultural products grown in this state shall  
17 be given first preference and agricultural products offered by  
18 Texas bidders shall be given second preference, if the cost to  
19 the state and quality are equal.

20 (c) In this section:

21 (1) "Agricultural products" includes textiles and  
22 other similar products.

23 (1-a) "Service-disabled veteran" means a person who is  
24 a veteran as defined by 38 U.S.C. Section 101(2) and who has a  
25 service-connected disability as defined by 38 U.S.C. Section  
26 101(16).

27 (2) "Texas bidder" means a business:

28 (A) incorporated in this state;

~~1~~ 159

1 (B) that has its principal place of business in  
2 this state; or

3 (C) that has an established physical presence in  
4 this state.

5 (e) The commission and all state agencies procuring  
6 services shall give first preference to services offered by a  
7 Texas bidder that is owned by a service-disabled veteran who is  
8 a Texas resident and shall give second preference to services  
9 offered by other Texas bidders if:

10 (1) the services meet state requirements regarding  
11 the service to be performed and expected quality; and

12 (2) the cost of the service does not exceed the cost  
13 of other similar services of similar expected quality that are  
14 [~~not~~] offered by a [~~Texas~~] bidder that is not entitled to a  
15 preference under this subsection.

2/60



4

ADOPTED

BY:

Nelson

MAY 23 2007

Leta Spaw  
Secretary of the Senate

1 Amend H.B. 3560 (Senate Committee Printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Subchapter H, Chapter 2155, Government Code, is  
5 amended by adding Section 2155.452 to read as follows:

6 Sec. 2155.452. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF  
7 HIGHER NUTRITIONAL VALUE. (a) The commission and state agencies  
8 making purchases of food for consumption in a public cafeteria may  
9 give preference to contractors who provide foods of higher  
10 nutritional value and who do not provide foods containing trans  
11 fatty acids for consumption in the cafeteria.

12 (b) In complying with this section, the commission and state  
13 agencies shall review the Department of Agriculture's nutrition  
14 standards.

# ADOPTED

FLOOR AMENDMENT NO. 5

MAY 23 2007

BY:

Miller

Lotay Spaw  
Secretary of the Senate

1 Amend C.S.H.B. 3560 by adding the following SECTIONS,  
2 numbered appropriately, and by renumbering any subsequent  
3 SECTIONS accordingly:

4 SECTION \_\_\_\_ . Section 2155.003, Government Code, is amended  
5 to read as follows:

6 Sec. 2155.003. CONFLICT OF INTEREST. (a) The chief clerk  
7 or any other [A-commission member,] employee of the comptroller  
8 [, or appointee] may not:

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

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

16 (b) The chief clerk or any other [A-commission member,]  
17 employee of the comptroller [ , or appointee] who violates  
18 Subsection (a)(2) is subject to dismissal.

19 (c) In consultation with the comptroller, the Texas Ethics  
20 Commission shall adopt rules to implement this section.

21 (d) The Texas Ethics Commission shall administer and  
22 enforce this section and may prepare written opinions regarding  
23 this section in accordance with Subchapter D, Chapter 571.

24 (e) The comptroller must report to the Texas Ethics  
25 Commission a campaign contribution from a vendor that bids on or  
26 receives a contract under the comptroller's purchasing  
27 authority.

28 SECTION \_\_\_\_ . Subchapter B, Chapter 403, Government Code,  
29 is amended by adding Section 403.031 to read as follows:

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1           Sec. 403.031. APPROVAL BY COMPTROLLER. A public  
2 agency as defined under Section 30.003(3), Water Code may not  
3 enter into a contract as provided by Subchapter C, Chapter 2254,  
4 Government Code, without review and approval by the comptroller.

5           SECTION \_\_\_\_ . Subchapter B, Chapter 2155, Government Code,  
6 is amended by adding Sections 2155.086 and 2155.087 to read as  
7 follows:

8           Sec. 2155.086. PROCEDURES FOR AWARDING CERTAIN CONTRACTS.

9           (a) In this section and in Section 2155.087, "chief clerk" means  
10 the chief clerk of the comptroller or the chief clerk's  
11 designee.

12           (b) This section applies only to the award of a contract  
13 by the comptroller that:

14           (1) relates to the powers and duties transferred to  
15 the comptroller under Section 2151.004(d);

16           (2) is reasonably expected by the comptroller at the  
17 time of the award to have a value of \$100,000 or more over the  
18 life of the contract; and

19           (3) is evaluated based wholly or partly on best value  
20 factors other than cost.

21           (c) This section does not apply to:

22           (1) any part of the contracting process other than  
23 the award, including planning, budgeting, solicitation, pre-  
24 response conference, respondent presentation, evaluation,  
25 development of staff or evaluation committee recommendations,  
26 negotiation, and signature;

27           (2) a renewal, extension, or amendment of a contract  
28 provided for in the written solicitation for the original  
29 contract; or

30           (3) an emergency purchase or other contract award for  
31 which delay would create a hazard to life, health, safety,

1 welfare, or property or would cause undue additional cost to the  
2 state.

3 (d) A contract to which this section applies must be  
4 awarded in a public meeting chaired and conducted by the chief  
5 clerk. The chief clerk shall determine the time and location for  
6 the meeting. The meeting must comply with applicable provisions  
7 of Chapter 551, including requirements relating to posting  
8 notice of the meeting. The comptroller shall also post notice  
9 of the meeting on the comptroller's website and in the state  
10 business daily. The office of the attorney general shall advise  
11 the comptroller on the applicable provisions of Chapter 551.

12 (e) Before the meeting, the chief clerk may review any  
13 written recommendations for the proposed contract award  
14 submitted by the comptroller's staff or by an evaluation  
15 committee established by the comptroller for the proposed  
16 contract. The chief clerk shall make the staff's or committee's  
17 final written recommendations available to the public at the  
18 meeting.

19 (f) A contract awarded by the chief clerk under this  
20 section is not considered final and does not bind the state  
21 until all negotiations are completed, if applicable, and all  
22 parties to the contract have signed the final contract.

23 (g) The comptroller shall post notice of a contract award  
24 made in an open meeting under this section on the comptroller's  
25 website and in the state business daily.

26 (h) The comptroller shall post the text of a contract  
27 awarded in an open meeting under this section on the  
28 comptroller's website and in the state business daily, except  
29 for information in a contract that is not subject to disclosure  
30 under Chapter 552. Information that is not subject to disclosure  
31 under Chapter 552 must be referenced in an appendix that

- 1 generally describes the information without disclosing the
- 2 specific content of the information.

# ADOPTED

FLOOR AMENDMENT NO. 6 BY: Zaffini

MAY 23 2007

*Leta Spaw*  
Secretary of the Senate

1 Amend C.S.H.B. No. 3560 by adding the following appropriately  
2 number SECTIONS to read as follows:

3 SECTION \_\_\_\_ Subsection (a), Section 2113.102, Government  
4 Code, is amended to read as follows:

5 (a) A state agency may not use appropriated money to contract  
6 with a person to audit [~~the financial records or accounts of~~] the  
7 agency except:

8 (1) as provided by[+]

9 [~~(1)~~] Subsections (b), (c), and (d); and

10 (2) in accordance with Section 321.020 [~~Chapter 466,~~  
11 ~~pertaining to the state lottery,~~

12 [~~(3) Chapter 2306, pertaining to the Texas Department of~~  
13 ~~Housing and Community Affairs, and~~

14 [~~(4) Chapter 361, Transportation Code, pertaining to the~~  
15 ~~Texas Turnpike Authority division of the Texas Department of~~  
16 ~~Transportation]~~.

17 SECTION \_\_\_\_ Subsection (a), Section 2162.103, Government  
18 Code, is amended to read as follows:

19 (a) In comparing the cost of providing a service, the council  
20 shall consider the:

21 (1) cost of supervising the work of a private  
22 contractor; [and]

23 (2) cost of a state agency's performance of the service,  
24 including:

25 (A) the costs of the comptroller, attorney general,  
26 and other support agencies; and

27 (B) other indirect costs related to the agency's  
28 performance of the service;

29 (3) installation costs and any other initial costs  
30 associated with a contract with a private contractor;

31 (4) other costs associated with the transition to using

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1 a private contractor's goods or services; and

2 (5) cost savings to the state if a private contractor  
3 were awarded the contract.

4 SECTION \_\_\_\_ . Section 2177.052, Government Code, is amended by  
5 amending Subsections (b), (c), and (f) and adding Subsection (g) to  
6 read as follows:

7 (b) Each state agency shall provide the commission:

8 (1) copies of the following documents:

9 (A) [~~1~~] each major contract entered into by the  
10 agency; and

11 (B) [~~2~~] each request for proposal, invitation to  
12 bid, or comparable solicitation related to the major contract; and

13 (2) information regarding each major contract entered  
14 into by the agency, including:

15 (A) the name of the contractor;

16 (B) the contract value;

17 (C) the beginning date and end date of the  
18 contract;

19 (D) a description of any amendments made to the  
20 contract;

21 (E) cumulative payments and encumbrances under the  
22 contract;

23 (F) key contract terms that are out of compliance  
24 in terms of timeliness standards; and

25 (G) any other information that the commission

1 considers necessary.

2 (c) The commission shall include in the information posted on  
3 the electronic procurement marketplace:

4 (1) each major contract of a state agency, including the  
5 commission; ~~and~~

6 (2) each request for proposal, invitation to bid, or  
7 comparable solicitation related to the major contract; and

8 (3) information provided to the commission under  
9 Subsection (b) (2) regarding a major contract.

10 (f) The commission shall make the information searchable by  
11 contract value, state agency, ~~and~~ vendor, and date, including  
12 both the beginning date and the end date of the contract. The  
13 commission may make the information searchable by other subjects as  
14 appropriate.

15 (g) The commission shall set appropriate criteria to  
16 determine when and what information should be updated.

17 SECTION \_\_\_\_ . Section 2262.001, Government Code, is amended by  
18 amending Subdivisions (3) and (4) and adding Subdivision (3-a) to  
19 read as follows:

20 (3) "Contract manager" means a person who:

21 (A) is employed by a state agency; and

22 (B) has significant contract management duties for  
23 the state agency [~~as determined by the agency in consultation with~~  
24 ~~the state auditor~~].

25 (3-a) "Executive director" means the administrative head



1 of a state agency.

2 (4) "Major contract" means a contract, including a  
3 renewal of a contract, that has a value of at least \$1 million.

4 SECTION \_\_\_\_\_. Subchapter A, Chapter 2262, Government Code, is  
5 amended by adding Section 2262.0015 to read as follows:

6 Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The  
7 commission by rule shall establish threshold requirements that  
8 exclude small or routine contracts, including purchase orders, from  
9 the application of this chapter.

10 (b) This chapter does not apply to an enrollment contract  
11 described by 1 T.A.C. Section 391.183 as that section existed on  
12 May 1, 2007.

13 SECTION \_\_\_\_\_. The heading to Section 2262.053, Government Code,  
14 is amended to read as follows:

15 Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

16 SECTION \_\_\_\_\_. Section 2262.053, Government Code, is amended by  
17 amending Subsections (a) and (d) and adding Subsections (e), (f),  
18 and (g) to read as follows:

19 (a) In coordination with the comptroller, Department of  
20 Information Resources, ~~and~~ state auditor, and Health and Human  
21 Services Commission, the commission or a private vendor selected by  
22 the commission shall develop ~~or administer~~ a training program for  
23 contract managers.

24 (d) The commission [~~Texas Building and Procurement~~  
25 ~~Commission~~] shall administer the training program under this

1 section.

2 (e) The commission shall certify contract managers who have  
3 completed the contract management training required under this  
4 section and keep a list of those contract managers.

5 (f) The program developed under this section must include a  
6 separate class on ethics and contracting.

7 (g) A state agency or educational entity may develop  
8 qualified contract manager training to supplement the training  
9 required under this section. The commission may incorporate the  
10 training developed by the agency or entity into the training  
11 program under this section.

12 SECTION \_\_\_\_ . Subchapter B, Chapter 2262, Government Code, is  
13 amended by adding Section 2262.0535 and Sections 2262.055 through  
14 2262.066 to read as follows:

15 Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The  
16 commission or a private vendor selected by the commission shall  
17 adapt the program developed under Section 2262.053 to develop an  
18 abbreviated program for training the members of the governing  
19 bodies of state agencies. The training may be provided together  
20 with other required training for members of state agency governing  
21 bodies.

22 (b) All members of the governing body of a state agency shall  
23 complete at least one course of the training developed under this  
24 section. This subsection does not apply to a state agency that  
25 does not enter into any contracts.

1       Sec. 2262.055. FEES FOR TRAINING. The commission shall set  
2 and collect a fee from state agencies that receive training under  
3 this subchapter in an amount that recovers the commission's costs  
4 for the training.

5       Sec. 2262.056. STATE AGENCY REPOSITORY. Each state agency  
6 shall maintain in a central location all contracts for that agency.

7       Sec. 2262.057. REPORTING CONTRACTOR PERFORMANCE. (a) After  
8 a contract is completed or otherwise terminated, each state agency  
9 shall review the contractor's performance under the contract.

10       (b) Using the forms developed by the team under Sections  
11 2262.104 and 2262.105, the state agency shall report to the  
12 commission on the results of the review regarding the contractor's  
13 performance under the contract.

14       Sec. 2262.058. CONTRACTOR PERFORMANCE DATABASE. (a) The  
15 commission shall store in a database contractor performance reviews  
16 as provided by this section.

17       (b) The commission shall evaluate the contractor's  
18 performance based on the information reported under Section  
19 2262.057 and criteria established by the commission.

20       (c) The commission shall establish an evaluation process that  
21 allows vendors who receive an unfavorable performance review to  
22 protest any classification given by the commission.

23       (d) The commission shall develop a database that incorporates  
24 the performance reviews and aggregates the reviews for each  
25 contractor.

1       (e) A state agency may use the performance review database to  
2 determine whether to award a contract to a contractor reviewed in  
3 the database.

4       Sec. 2262.059. EXCLUDING CONTRACTOR FROM SOLICITATION  
5 PROCESS. Based on its own contractor performance reviews and on  
6 information in the database developed under Section 2262.058, a  
7 state agency may exclude a contractor from the solicitation process  
8 for a contract if the agency determines the contractor has  
9 performed poorly on a previous state contract without regard to  
10 whether the contractor has been barred under Section 2155.077.

11       Sec. 2262.060. PERFORMANCE MEASURES; REPORTS. (a) Each  
12 state agency shall develop a plan for incorporating performance  
13 measures into all contracts entered into by the agency. This  
14 includes ensuring that performance measures are written into each  
15 contract prior to execution.

16       (b) Not later than March 1 of each year, each state agency  
17 shall report to the team, governor, lieutenant governor, and  
18 speaker of the house of representatives regarding performance  
19 measures in the agency's contracts. The report must describe the  
20 agency's efforts to include performance-based provisions in the  
21 agency's contracts.

22       (c) The state agency shall make the report accessible to the  
23 public on the agency's website.

24       Sec. 2262.061. CONTRACT MANAGERS. (a) Each state agency  
25 that enters into contracts other than interagency contracts shall

1 establish a career ladder program for contract management in the  
2 agency.

3 (b) An employee hired as a contract manager may engage in  
4 procurement planning, contract solicitation, contract formation,  
5 price establishment, and other contract activities..

6 (c) Each state agency shall determine, in consultation with  
7 the state auditor, the amount and significance of contract  
8 management duties sufficient for an employee to be considered a  
9 contract manager under this chapter.

10 Sec. 2262.062. APPROVAL OF CONTRACTS. (a) Each state agency  
11 shall establish formal guidelines regarding who may approve a  
12 contract for the agency.

13 (b) Each state agency shall adopt administrative rules to  
14 establish a monetary threshold above which agency contracts and  
15 amendments to or extensions of agency contracts require written  
16 authorization by the agency executive director.

17 (c) For state agency contracts valued in excess of \$1 million  
18 the agency executive director must authorize a contract amendment  
19 in writing.

20 (d) Each state agency shall annually report to the commission  
21 a list of each person authorized to approve contracts at the  
22 agency. The list must include the person's name, position, and  
23 supervisory responsibility, if any.

24 Sec. 2262.063. NEGOTIATION OF CONTRACT BY SINGLE EMPLOYEE  
25 PROHIBITED. A state agency may not negotiate a contract with only

1 one employee engaging in the negotiation.

2 Sec. 2262.064. DEVELOPMENT OF OPTIMIZED MODEL FOR CERTAIN  
3 CONTRACTS. (a) If a state agency determines that a proposed  
4 contract or proposed contract extension or amendment would  
5 outsource existing services or functions performed by the agency  
6 that have a value of \$10 million or more, or that would lead to the  
7 loss of 100 or more existing state employee positions, the agency  
8 shall create an optimized model for the identified functions or  
9 services to determine how and at what cost the agency could most  
10 efficiently provide the functions or services.

11 (b) The model must show consideration of all relevant  
12 factors, including:

- 13 (1) best practices in Texas and other states;  
14 (2) available technology;  
15 (3) access to benefits and services for clients;  
16 (4) program integrity; and  
17 (5) assessment of state agency skills available  
18 throughout the life of the project.

19 (c) An agency that develops an optimized model under this  
20 section shall use it as the basis for cost comparison when deciding  
21 whether to outsource the identified functions or services.

22 (d) A model developed under this section is confidential and  
23 is not subject to disclosure under Chapter 552 until a final  
24 determination has been made to award the contract for which the  
25 model was developed.

1        Sec. 2262.065. ANALYSIS OF SERVICES AND FUNCTIONS. (a) In  
2 this section, "inherently governmental in nature" means a function  
3 or service that involves the exercise or use of governmental  
4 authority or discretion.

5        (b) If a state agency determines that a proposed contract or  
6 proposed contract extension or amendment would outsource existing  
7 services or functions performed by the agency that have a value of  
8 \$10 million or more, or would lead to the loss of 100 or more  
9 existing state employee positions, then before the agency may issue  
10 a competitive solicitation for the contract or amend or extend the  
11 contract the agency shall contract with the State Council on  
12 Competitive Government for its staff to perform an analysis to  
13 determine if any of the services or functions to be performed under  
14 the contract or contract extension or amendment are inherently  
15 governmental in nature.

16        (c) Except as provided by Subsection (e), if the State  
17 Council on Competitive Government determines that a service or  
18 function to be performed under the contract or contract extension  
19 or amendment is inherently governmental in nature, the state agency  
20 may not:

21            (1) contract with a private entity to perform the  
22 service or function; or

23            (2) amend or extend the contract, if a private entity is  
24 to perform the service or function under the contract extension or  
25 amendment.

1        (d) The analysis required under this section must use the  
2 standards and policies contained in the Office of Federal  
3 Procurement Policy, Policy Letter 92-1, or comparable guidelines  
4 developed by the State Council on Competitive Government.

5        (e) A state agency may contract with a private entity to  
6 perform a service or function or amend or extend an existing  
7 contract to allow a private entity to perform a service or function  
8 that the State Council on Competitive Government determines to be  
9 inherently governmental in nature if the chief administrative  
10 officer of the agency issues a report stating that there is a  
11 compelling state interest in outsourcing the service or function.

12        Sec. 2262.066. FULL AND FAIR COST COMPARISON. (a) If a  
13 state agency determines that a proposed contract or proposed  
14 contract extension or amendment would outsource existing services  
15 or functions performed by the agency that have a value of \$10  
16 million or more, or that would lead to the loss of 100 or more  
17 existing state employee positions, the agency shall:

18            (1) conduct a full and fair cost comparison to determine  
19 whether a private entity could perform the service or function with  
20 a comparable or better level of quality at a cost savings to the  
21 state; and

22            (2) prepare a business case providing the initial  
23 justification for the proposed contract or proposed contract  
24 extension or amendment that includes:

25            (A) the results of the comparison required under



1 Subdivision (1); and

2 (B) the anticipated return on investment in terms  
3 of cost savings and efficiency for the proposed contract or  
4 proposed contract extension or amendment.

5 (b) To perform the comparison required by Subsection (a)(1),  
6 a state agency may:

7 (1) contract with the State Council on Competitive  
8 Government to have its staff perform the comparison; or

9 (2) use the methodology provided in Section 2162.103.

10 (c) A state agency shall submit the business case required  
11 under Subsection (a)(2) to the governor, lieutenant governor,  
12 speaker of the house of representatives, Legislative Budget Board,  
13 and standing committees of the legislature that have primary  
14 jurisdiction over the agency, over state appropriations, and over  
15 state purchasing.

16 SECTION \_\_\_\_ . Section 2262.101, Government Code, is amended to  
17 read as follows:

18 Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory  
19 Team is created to assist state agencies in improving contract  
20 management practices by:

21 (1) ~~[reviewing the solicitation of major contracts by~~  
22 ~~state agencies,~~

23 [+2] reviewing any findings or recommendations made by  
24 the state auditor, including those made under Section 2262.052(b),  
25 regarding a state agency's compliance with the contract management

1 guide; ~~and~~

2           (2) ~~(3)~~ providing recommendations to the commission  
3 regarding:

4           (A) the development of the contract management  
5 guide; and

6           (B) the training under Section 2262.053; and

7           (3) certifying that state agencies have complied with  
8 Sections 2262.064 and 2262.066.

9           (b) The team shall consult with state agencies in developing  
10 forms, contract terms, guidelines, and criteria required under this  
11 chapter.

12           SECTION \_\_\_\_ . Subsection (a), Section 2262.102, Government  
13 Code, is amended to read as follows:

14           (a) The team consists of the following six ~~[five]~~ members:

15           (1) one member from the attorney general's office;

16           (2) one member from the comptroller's office;

17           (3) one member from the Department of Information  
18 Resources;

19           (4) one member from the Texas Building and Procurement  
20 Commission; ~~and~~

21           (5) one member from the governor's office; and

22           (6) one member from the State Council on Competitive  
23 Government.

24           SECTION \_\_\_\_ . Subchapter C, Chapter 2262, Government Code, is  
25 amended by adding Sections 2262.104 and 2262.105 to read as

1 follows:

2 Sec. 2262.104. UNIFORM DEFINITIONS AND FORMS. (a) The team  
3 shall develop and publish a uniform set of definitions for use as  
4 applicable in state contracts.

5 (b) The team shall develop and publish a uniform and  
6 automated set of forms that a state agency may use in the different  
7 stages of the contracting process.

8 Sec. 2262.105. FORMS FOR REPORTING CONTRACTOR PERFORMANCE.

9 As part of the uniform forms published under Section 2262.104, the  
10 team shall develop forms for use by state agencies in reporting a  
11 contractor's performance under Section 2262.057.

12 SECTION \_\_\_\_ Chapter 2262, Government Code, is amended by  
13 adding Subchapters D, E, F, and G to read as follows:

14 SUBCHAPTER D. CONTRACT PROVISIONS

15 Sec. 2262.151. USE OF UNIFORM FORMS. A state agency may use  
16 the forms developed under Section 2262.104 as templates, guides, or  
17 samples for contracts entered into by the agency.

18 Sec. 2262.152. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

19 (a) The team shall develop recommendations for contract terms  
20 regarding penalties for contractors who do not comply with a  
21 contract, including penalties for contractors who do not disclose  
22 conflicts of interest under Section 2262.201. The team may develop  
23 recommended contract terms that are generally applicable to state  
24 contracts and terms that are applicable to important types of state  
25 contracts.

1        (b) A state agency may include applicable recommended terms  
2 in a contract entered into by the agency.

3        Sec. 2262.153. REQUIRED PROVISION RELATING TO SUBCONTRACTOR  
4 COMPLIANCE. Each state agency contract must require that each  
5 contractor provide a list of all subcontractors for the contract  
6 and include a provision that:

7            (1) holds the contractor responsible for the conduct of  
8 all subcontractors in complying with the contractor's contract with  
9 the state agency; and

10           (2) requires each subcontractor to disclose all  
11 potential conflicts of interest to the state agency, according to  
12 guidelines developed under Section 2262.201(b), when the  
13 subcontractor contracts with or is otherwise hired by the  
14 contractor.

15        Sec. 2262.154. REQUIRED CONTRACTOR DISCLOSURE STATEMENT;  
16 STATE AGENCY EMPLOYEES. Before entering into a contract with the  
17 state, a contractor and subcontractor shall disclose each employee:

18           (1) who was employed by:

19                (A) the state at any time during the two years  
20 before the date of the disclosure and is now employed by the  
21 contractor or subcontractor; or

22                (B) the contractor or subcontractor at any time  
23 during the year before the date of the disclosure and is now  
24 employed by the state; and

25           (2) who is materially involved in the development of the

1 contract terms or the management of the contract.

2 Sec. 2262.155. REQUIRED CONTRACTOR DISCLOSURE STATEMENT;  
3 OUTSOURCING. (a) Each contract entered into by a state agency  
4 must include a provision requiring disclosure of any services  
5 materially necessary to fulfill the contract, including services  
6 performed by a subcontractor, that will be or are performed in a  
7 country other than the United States. This section does not apply  
8 to services that are occasional, minor, or incidental to fulfilling  
9 the contract.

10 (b) The contract must include a provision allowing the state  
11 agency to terminate the contract and solicit a new contract, except  
12 as provided by Subsection (d), if:

13 (1) the contractor or a subcontractor of the contractor  
14 performs a service materially necessary to fulfill the contract in  
15 a country other than the United States; and

16 (2) the contractor does not disclose in the contract  
17 that the service will be performed in a country other than the  
18 United States.

19 (c) A state agency that decides not to solicit a new contract  
20 under circumstances in which the agency is authorized to do so  
21 under a contract provision required by Subsection (b) shall report  
22 this decision to:

23 (1) the governor;

24 (2) the lieutenant governor;

25 (3) the speaker of the house of representatives; and

1           (4) the team.

2           (d) A contractor may replace a subcontractor without  
3 termination of a contract under this section if the contractor  
4 determines that the subcontractor is performing a service  
5 materially necessary to fulfill the contract in a country other  
6 than the United States and did not disclose that fact to the  
7 contractor.

8           Sec. 2262.156. HIRING PREFERENCE PROVISION FOR CERTAIN LARGE  
9 CONTRACTS. If a state agency determines that a proposed contract  
10 or proposed contract extension or amendment would outsource  
11 existing services or functions performed by the agency that have a  
12 value of \$10 million or more, or that would lead to the loss of 100  
13 or more existing state employee positions, the contract or contract  
14 amendment must contain a provision that requires the contractor to  
15 give preference in hiring to former employees of a state agency:

16           (1) whose employment is terminated because of the  
17 contract or contract extension or amendment;

18           (2) who satisfy the contractor's hiring criteria for that  
19 position; and

20           (3) whose salary requirements are competitive with  
21 market rates for positions with equivalent skills and experience.

22           SUBCHAPTER E. ETHICS; CONFLICT OF INTEREST

23           Sec. 2262.201. CONTRACTOR CONFLICTS OF INTEREST. (a) Each  
24 contractor who responds to a state agency's contract solicitation  
25 shall disclose in its response all potential conflicts of interest

1 to the agency.

2 (b) The team shall develop guidelines to aid contractors and  
3 state agencies in identifying potential conflicts of interest.

4 Sec. 2262.202. EXECUTIVE DIRECTORS; ETHICS IN CONTRACTING  
5 CLASS. Each executive director of a state agency shall annually  
6 complete the ethics and contracting class developed under Section  
7 2262.053(f). This section does not apply to a state agency that  
8 does not enter into any contracts.

9 SUBCHAPTER F. CHANGES TO CONTRACTS

10 Sec. 2262.251. CONTRACT AMENDMENTS, EXTENSIONS, AND CHANGE  
11 ORDERS. (a) An extension of or amendment to a contract, including  
12 a change order, is subject to the same approval processes as the  
13 original contract.

14 (b) A state agency may not extend or amend a contract unless:

15 (1) the agency complies with the same approval processes  
16 for the extension or amendment as required for the original  
17 contract; and

18 (2) a contract manager for the agency states in writing  
19 why the extension or amendment is necessary.

20 (c) This section does not affect whether a state agency is  
21 required to undertake a new solicitation process in the manner  
22 required for a new contract in order to extend or amend a contract.

23 Sec. 2262.252. LARGE CHANGE IN CONTRACT VALUE. (a) If a  
24 proposed contract amendment or extension changes the monetary value  
25 of a contract by \$1 million or more, the state agency must obtain

1 review and approval from the team and the agency's executive  
2 director before the agency amends or extends the contract.

3 (b) This section does not apply to a proposed contract  
4 amendment required by a state or federal statute.

5 Sec. 2262.253. CERTAIN CONTRACT EXTENSIONS. This subchapter  
6 does not apply to contract extensions that are specifically  
7 established as a component of the original procurement.

8 SUBCHAPTER G. STATE OFFICE OF CONTRACT MANAGEMENT

9 Sec. 2262.301. DEFINITIONS. In this subchapter:

10 (1) "High-risk contract" means a state agency contract  
11 that:

12 (A) has a value of at least \$10 million; or

13 (B) has a value of less than \$10 million, but has  
14 high-risk factors as identified by the office.

15 (2) "Major information resources project" has the  
16 meaning assigned by Section 2054.003(10).

17 (3) "Office" means the state office of contract  
18 management.

19 (4) "Quality assurance team" means the quality assurance  
20 team established under Section 2054.158.

21 (5) "Solicitation" means a solicitation for bids,  
22 offers, qualifications, proposals, or similar expressions of  
23 interest for a high-risk contract.

24 Sec. 2262.302. ESTABLISHMENT; GENERAL DUTIES. The commission  
25 shall establish a state office of contract management to:



1           (1) develop criteria for identifying high-risk factors  
2 in contracts;

3           (2) review and approve an action related to a high-risk  
4 contract as provided by Section 2262.303;

5           (3) provide recommendations and assistance to state  
6 agency personnel throughout the contract management process; and

7           (4) coordinate and consult with the quality assurance  
8 team on all high-risk contracts relating to a major information  
9 resources project.

10           Sec. 2262.303. REVIEW AND APPROVAL; WAIVER. (a) Each state  
11 agency must receive approval from the office before taking the  
12 following actions in relation to a high-risk contract:

13           (1) publicly releasing solicitation documents;

14           (2) executing a final contract; and

15           (3) making a payment or a series of payments that equal  
16 half of the contract value.

17           (b) In determining whether to approve an action described by  
18 Subsection (a), the office shall review related documentation to  
19 ensure that potential risks related to the high-risk contract have  
20 been identified and mitigated.

21           (c) The commission by rule may adopt criteria for waiving the  
22 review and approval requirements under Subsections (a) and (b).

23           Sec. 2262.304. SOLICITATION AND CONTRACT CANCELLATION. After  
24 review of and comment on the matter by the Legislative Budget Board  
25 and the governor, the office may recommend the cancellation of a

1 solicitation or a contract during the review process under Section  
2 2262.303 if:

3 (1) a proposed solicitation is not in the best interest  
4 of the state;

5 (2) a proposed contract would place the state at an  
6 unacceptable risk if executed; or

7 (3) an executed contract is experiencing performance  
8 failure or payment irregularities.

9 SECTION \_\_\_\_ . Section 2262.003, Government Code, is transferred  
10 to Subchapter D, Chapter 2262, Government Code, as added by this  
11 Act, is redesignated as Section 2262.157, Government Code, and is  
12 amended to read as follows:

13 Sec. 2262.157 [~~2262.003~~]. REQUIRED [~~CONTRACT~~] PROVISION  
14 RELATING TO AUDITING. (a) Each state agency shall include in each  
15 of its contracts a term that provides that:

16 (1) the state auditor may conduct an audit or  
17 investigation of any entity receiving funds from the state directly  
18 under the contract or indirectly through a subcontract under the  
19 contract;

20 (2) acceptance of funds directly under the contract or  
21 indirectly through a subcontract under the contract acts as  
22 acceptance of the authority of the state auditor, under the  
23 direction of the legislative audit committee, to conduct an audit  
24 or investigation in connection with those funds; and

25 (3) under the direction of the legislative audit

1 committee, an entity that is the subject of an audit or  
2 investigation by the state auditor must provide the state auditor  
3 with access to any information the state auditor considers relevant  
4 to the investigation or audit.

5 (b) The state auditor shall provide assistance to a state  
6 agency in developing the contract provisions.

7 SECTION \_\_\_\_ . Section 51.923, Education Code, is amended to  
8 read as follows:

9 Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO  
10 ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION.

11 (a) In this section:

12 (1) "Business entity [~~Corporation~~]" means any entity  
13 recognized by law through which business for profit is conducted,  
14 including a sole proprietorship, partnership, firm, corporation,  
15 limited liability company, holding company, joint stock company,  
16 receivership, or trust [~~a corporation for profit organized under~~  
17 ~~the laws of this state or under laws other than the laws of this~~  
18 ~~state]~~.

19 (2) "Governing board" has the meaning assigned by  
20 Section 61.003 of this code.

21 (3) "Institution of higher education" has the meaning  
22 assigned by Section 61.003 of this code.

23 (4) "Nonprofit corporation" means any organization  
24 exempt from federal income tax under Section 501 of the Internal  
25 Revenue Code of 1986 that does not distribute any part of its

1 income to any member, director, or officer.

2 (b) A nonprofit corporation is not disqualified from entering  
3 into a contract or other transaction with an institution of higher  
4 education even though one or more members of the governing board of  
5 the institution of higher education also serves as a member, ~~or~~  
6 director, or officer of the nonprofit corporation.

7 (c) A business entity ~~[corporation]~~ is not disqualified from  
8 entering into a contract or other transaction with an institution  
9 of higher education even though one or more members of the  
10 governing board of the institution of higher education has a  
11 substantial interest in the business entity ~~[also serves as a~~  
12 ~~stockholder or director of the corporation provided that no member~~  
13 ~~of the governing board owns or has a beneficial interest in more~~  
14 ~~than five percent of the corporation's outstanding capital stock~~  
15 ~~and further provided that the contract or transaction is:~~

16 ~~[(1) an affiliation, licensing, or sponsored research~~  
17 ~~agreement; or~~

18 ~~[(2) awarded by competitive bidding or competitive~~  
19 ~~sealed proposals].~~

20 (d) An institution of higher education is not prohibited from  
21 entering into a contract or other transaction with a business  
22 entity in which a member of the governing board of the institution  
23 of higher education has a substantial interest ~~[described in this~~  
24 ~~section] if the [any] board member ~~[having an interest described in~~  
25 ~~this section in the contract or transaction] discloses that~~~~

1 interest in a meeting held in compliance with Chapter 551,  
2 Government Code, and refrains from voting on the contract or  
3 transaction. Any such contract or transaction requiring board  
4 approval must be approved by an affirmative majority of the board  
5 members voting on the contract or transaction.

6 (e) For purposes of this section, a member of a governing  
7 board has a substantial interest in a business entity if:

8 (1) the member owns 10 percent or more of the voting  
9 stock or shares of the business entity or owns either 10 percent or  
10 more or \$15,000 or more of the fair market value of the business  
11 entity;

12 (2) funds received by the member from the business  
13 entity exceed 10 percent of the member's gross income for the  
14 previous year; or

15 (3) an individual related to the member in the first  
16 degree by consanguinity or affinity, as determined under Chapter  
17 573, Government Code, has an interest in the business entity as  
18 described by Subdivision (1) or (2).

19 (f) A violation of this section does not render an action of  
20 the governing board voidable unless the contract or transaction  
21 that was the subject of the action would not have passed the  
22 governing board without the vote of the member who violated this  
23 section.

24 (g) This section preempts the common law of conflict of  
25 interests as applied to members of a governing board of an

1 institution of higher education.

2 SECTION \_\_\_\_\_. Subsection (f), Section 2262.051, Government  
3 Code, is repealed.

4 SECTION \_\_\_\_\_. (a) Sections 2262.063 through 2262.066 and  
5 2262.154, Government Code, and Subchapter G, Chapter 2262,  
6 Government Code, as added by this Act, apply only to a contract for  
7 which a state agency first advertises or otherwise solicits bids,  
8 proposals, offers, or qualifications on or after the effective date  
9 of this Act.

10 (b) Subsection (a), Section 2262.201, Government Code, as  
11 added by this Act, applies only in relation to a contract for which  
12 a state agency first solicits bids, proposals, offers, or  
13 qualifications on or after the date that the Contract Advisory  
14 Team's guidelines regarding potential conflicts of interest take  
15 effect.

16 SECTION \_\_\_\_\_. Not later than May 1, 2008, the Texas Building  
17 and Procurement Commission shall develop the training program,  
18 including the ethics and contracting class, required by Section  
19 2262.053, Government Code, as amended by this Act, and Section  
20 2262.0535, Government Code, as added by this Act.

21 SECTION \_\_\_\_\_. A member of a governing body of a state agency is  
22 not required to complete the training developed under Section  
23 2262.0535, Government Code, as added by this Act, until September  
24 1, 2009.

25 SECTION \_\_\_\_\_. An executive director of a state agency is not

1 required to comply with Section 2262.202, Government Code, as added  
2 by this Act, until September 1, 2009.

3 SECTION \_\_\_\_\_. A contract manager is not required to be  
4 certified under Chapter 2262, Government Code, as amended by this  
5 Act, until September 1, 2009.

6 SECTION \_\_\_\_\_. (a) As soon as practicable, and not later than  
7 May 1, 2008, the Contract Advisory Team shall develop the forms,  
8 criteria, recommendations, and provisions required by this Act,  
9 including Sections 2262.104, 2262.105, and 2262.152 and Subsection  
10 (b), 2262.201, Government Code, as added by this Act.

11 (b) A state agency is not required to comply with Sections  
12 2262.056 through 2262.062 and Sections 2262.153, 2262.155, and  
13 2262.156, Government Code, as added by this Act, until September 1,  
14 2009. A state agency may comply earlier if the forms, electronic  
15 requirements, database, or other items are available before that  
16 date.

# ADOPTED

FLOOR AMENDMENT NO. 7

MAY 24 2007 BY: [Signature]

[Signature]  
Secretary of the Senate

1 Amend CSH .B. No. 3560 by adding the following  
2 appropriately numbered SECTIONS to the bill and renumbering  
3 subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_. Subtitle B, Title 8, Health and Safety Code,  
5 is amended by adding Chapter 692A to read as follows:

6 CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

7 Sec. 692A.001. SHORT TITLE. This chapter may be cited as  
8 the Revised Uniform Anatomical Gift Act.

9 Sec. 692A.002. DEFINITIONS. In this chapter:

10 (1) "Adult" means an individual who is at least 18  
11 years of age.

12 (2) "Agent" means an individual:

13 (A) authorized to make health care decisions on  
14 the principal's behalf by a medical power of attorney; or

15 (B) expressly authorized to make an anatomical  
16 gift on the principal's behalf by any other record signed by the  
17 principal.

18 (3) "Anatomical gift" means a donation of all or part  
19 of a human body to take effect after the donor's death for the  
20 purpose of transplantation, therapy, research, or education.

21 (4) "Commissioner" means the commissioner of state  
22 health services.

23 (5) "Decedent" means a deceased individual whose body  
24 or part is or may be the source of an anatomical gift. The term  
25 includes a stillborn infant and, subject to restrictions imposed  
26 by law other than this chapter, a fetus.

27 (6) "Department" means the Department of State Health  
28 Services.

[Signature]



1           (7) "Disinterested witness" means a witness other  
2 than the spouse, child, parent, sibling, grandchild,  
3 grandparent, or guardian of the individual who makes, amends,  
4 revokes, or refuses to make an anatomical gift, or another adult  
5 who exhibited special care and concern for the individual. The  
6 term does not include a person to which an anatomical gift could  
7 pass under Section 692A.011.

8           (8) "Document of gift" means a donor card or other  
9 record used to make an anatomical gift. The term includes a  
10 statement or symbol on a driver's license, identification card,  
11 or donor registry.

12           (9) "Donor" means an individual whose body or part is  
13 the subject of an anatomical gift.

14           (10) "Donor registry" means a database that contains  
15 records of anatomical gifts and amendments to or revocations of  
16 anatomical gifts.

17           (11) "Driver's license" means a license or permit  
18 issued by the Department of Public Safety to operate a vehicle,  
19 whether or not conditions are attached to the license or permit.

20           (12) "Eye bank" means a person that is licensed,  
21 accredited, or regulated under federal or state law to engage in  
22 the recovery, screening, testing, processing, storage, or  
23 distribution of human eyes or portions of human eyes.

24           (13) "Guardian" means a person appointed by a court  
25 to make decisions regarding the support, care, education,  
26 health, or welfare of an individual. The term does not include  
27 a guardian ad litem.

28           (14) "Hospital" means a facility licensed as a  
29 hospital under the law of any state or a facility operated as a  
30 hospital by the United States, a state, or a subdivision of a  
31 state.

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1           (15) "Identification card" means an identification  
2 card issued by the Department of Public Safety.

3           (16) "Imminent death" means a patient who requires  
4 mechanical ventilation, has a severe neurologic injury, and  
5 meets certain clinical criteria indicating that neurologic death  
6 is near or a patient for whom withdrawal of ventilatory support  
7 is being considered.

8           (17) "Know" means to have actual knowledge.

9           (18) "Minor" means an individual who is under 18  
10 years of age.

11           (19) "Organ procurement organization" means a person  
12 designated by the secretary of the United States Department of  
13 Health and Human Services as an organ procurement organization.

14           (20) "Parent" means a parent whose parental rights  
15 have not been terminated.

16           (21) "Part" means an organ, an eye, or tissue of a  
17 human being. The term does not include the whole body.

18           (22) "Person" means an individual, corporation,  
19 business trust, estate, trust, partnership, limited liability  
20 company, association, joint venture, public corporation,  
21 government or governmental subdivision, agency, or  
22 instrumentality, or any other legal or commercial entity.

23           (23) "Physician" means an individual authorized to  
24 practice medicine or osteopathy under the law of any state.

25           (24) "Procurement organization" means an eye bank,  
26 organ procurement organization, or tissue bank.

27           (25) "Prospective donor" means an individual who is  
28 dead or near death and has been determined by a procurement  
29 organization to have a part that could be medically suitable for  
30 transplantation, therapy, research, or education. The term does  
31 not include an individual who has made a refusal.

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1           (26) "Reasonably available" means able to be  
2 contacted by a procurement organization without undue effort and  
3 willing and able to act in a timely manner consistent with  
4 existing medical criteria necessary for the making of an  
5 anatomical gift.

6           (27) "Recipient" means an individual into whose body  
7 a decedent's part has been or is intended to be transplanted.

8           (28) "Record" means information that is inscribed on  
9 a tangible medium or that is stored in an electronic or other  
10 medium and is retrievable in perceivable form.

11           (29) "Refusal" means a record created under Section  
12 692A.007 that expressly states an intent to bar other persons  
13 from making an anatomical gift of an individual's body or part.

14           (30) "Sign" means, with the present intent to  
15 authenticate or adopt a record:

16                   (A) to execute or adopt a tangible symbol; or

17                   (B) to attach to or logically associate with the  
18 record an electronic symbol, sound, or process.

19           (31) "State" means a state of the United States, the  
20 District of Columbia, Puerto Rico, the United States Virgin  
21 Islands, or any territory or insular possession subject to the  
22 jurisdiction of the United States.

23           (32) "Technician" means an individual determined to  
24 be qualified to remove or process parts by an appropriate  
25 organization that is licensed, accredited, or regulated under  
26 federal or state law. The term includes an enucleator.

27           (33) "Timely notification" means notification of an  
28 imminent death to the organ procurement organization within one  
29 hour of the patient's meeting the criteria for imminent death  
30 and before the withdrawal of any life-sustaining therapies.  
31 With respect to cardiac death, timely notification means

1 notification to the organ procurement organization within one  
2 hour of the cardiac death.

3 (34) "Tissue" means a portion of the human body other  
4 than an organ or an eye. The term does not include blood unless  
5 the blood is donated for the purpose of research or education.

6 (35) "Tissue bank" means a person licensed,  
7 accredited, or regulated under federal or state law to engage in  
8 the recovery, screening, testing, processing, storage, or  
9 distribution of tissue.

10 (36) "Transplant hospital" means a hospital that  
11 furnishes organ transplants and other medical and surgical  
12 specialty services required for the care of transplant patients.

13 (37) "Visceral organ" means the heart, kidney, or  
14 liver or another organ or tissue that requires a patient support  
15 system to maintain the viability of the organ or tissue.

16 Sec. 692A.003. APPLICABILITY. This chapter applies to an  
17 anatomical gift or amendment to, revocation of, or refusal to  
18 make an anatomical gift, whenever made.

19 Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT  
20 BEFORE DONOR'S DEATH. Subject to Section 692A.008, an  
21 anatomical gift of a donor's body or part may be made during the  
22 life of the donor for the purpose of transplantation, therapy,  
23 research, or education in the manner provided in Section  
24 692A.005 by:

25 (1) the donor, if the donor is an adult or if the  
26 donor is a minor and is:

27 (A) emancipated; or

28 (B) authorized under state law to apply for a  
29 driver's license because the donor is at least 16 years of age;

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1           (2) an agent of the donor, unless the medical power  
2 of attorney or other record prohibits the agent from making an  
3 anatomical gift;

4           (3) a parent of the donor, if the donor is an  
5 unemancipated minor; or

6           (4) the donor's guardian.

7           Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE  
8 DONOR'S DEATH. (a) A donor may make an anatomical gift:

9           (1) by authorizing a statement or symbol indicating  
10 that the donor has made an anatomical gift to be imprinted on  
11 the donor's driver's license or identification card;

12           (2) in a will;

13           (3) during a terminal illness or injury of the donor,  
14 by any form of communication addressed to at least two adults,  
15 at least one of whom is a disinterested witness; or

16           (4) as provided in Subsection (b).

17           (b) A donor or other person authorized to make an  
18 anatomical gift under Section 692A.004 may make a gift by a  
19 donor card or other record signed by the donor or other person  
20 making the gift or by authorizing that a statement or symbol  
21 indicating the donor has made an anatomical gift be included on  
22 a donor registry. If the donor or other person is physically  
23 unable to sign a record, the record may be signed by another  
24 individual at the direction of the donor or other person and  
25 must:

26           (1) be witnessed by at least two adults, at least one  
27 of whom is a disinterested witness, who have signed at the  
28 request of the donor or the other person; and

29           (2) state that the record has been signed and  
30 witnessed as provided in Subdivision (1).

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1 (c) Revocation, suspension, expiration, or cancellation of  
2 a driver's license or identification card on which an anatomical  
3 gift is indicated does not invalidate the gift.

4 (d) An anatomical gift made by will takes effect on the  
5 donor's death whether or not the will is probated. Invalidation  
6 of the will after the donor's death does not invalidate the  
7 gift.

8 Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE  
9 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or  
10 other person authorized to make an anatomical gift under Section  
11 692A.004 may amend or revoke an anatomical gift by:

12 (1) a record signed by:

13 (A) the donor;

14 (B) the other person; or

15 (C) subject to Subsection (b), another  
16 individual acting at the direction of the donor or the other  
17 person if the donor or other person is physically unable to  
18 sign; or

19 (2) a later-executed document of gift that amends or  
20 revokes a previous anatomical gift or portion of an anatomical  
21 gift, either expressly or by inconsistency.

22 (b) A record signed pursuant to Subsection (a)(1)(C) must:

23 (1) be witnessed by at least two adults, at least one  
24 of whom is a disinterested witness, who have signed at the  
25 request of the donor or the other person; and

26 (2) state that the record has been signed and  
27 witnessed as provided in Subdivision (1).

28 (c) Subject to Section 692A.008, a donor or other person  
29 authorized to make an anatomical gift under Section 692A.004 may  
30 revoke an anatomical gift by the destruction or cancellation of

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1 the document of gift, or the portion of the document of gift  
2 used to make the gift, with the intent to revoke the gift.

3 (d) A donor may amend or revoke an anatomical gift that  
4 was not made in a will by any form of communication during a  
5 terminal illness or injury addressed to at least two adults, at  
6 least one of whom is a disinterested witness.

7 (e) A donor who makes an anatomical gift in a will may  
8 amend or revoke the gift in the manner provided for amendment or  
9 revocation of wills or as provided in Subsection (a).

10 Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF  
11 REFUSAL. (a) An individual may refuse to make an anatomical  
12 gift of the individual's body or part by:

13 (1) a record signed by:

14 (A) the individual; or

15 (B) subject to Subsection (b), another  
16 individual acting at the direction of the individual if the  
17 individual is physically unable to sign;

18 (2) the individual's will, whether or not the will is  
19 admitted to probate or invalidated after the individual's death;  
20 or

21 (3) any form of communication made by the individual  
22 during the individual's terminal illness or injury addressed to  
23 at least two adults, at least one of whom is a disinterested  
24 witness.

25 (b) A record signed pursuant to Subsection (a)(1)(B) must:

26 (1) be witnessed by at least two adults, at least one  
27 of whom is a disinterested witness, who have signed at the  
28 request of the individual; and

29 (2) state that the record has been signed and  
30 witnessed as provided in Subdivision (1).

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1        (c) An individual who has made a refusal may amend or  
2 revoke the refusal:

3            (1) in the manner provided in Subsection (a) for  
4 making a refusal;

5            (2) by subsequently making an anatomical gift  
6 pursuant to Section 692A.005 that is inconsistent with the  
7 refusal; or

8            (3) by destroying or canceling the record evidencing  
9 the refusal, or the portion of the record used to make the  
10 refusal, with the intent to revoke the refusal.

11        (d) Except as otherwise provided in Section 692A.008(h),  
12 in the absence of an express, contrary indication by the  
13 individual set forth in the refusal, an individual's unrevoked  
14 refusal to make an anatomical gift of the individual's body or  
15 part bars all other persons from making an anatomical gift of  
16 the individual's body or part.

17        Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,  
18 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in  
19 Subsection (g) and subject to Subsection (f), in the absence of  
20 an express, contrary indication by the donor, a person other  
21 than the donor is barred from making, amending, or revoking an  
22 anatomical gift of a donor's body or part if the donor made an  
23 anatomical gift of the donor's body or part under Section  
24 692A.005 or an amendment to an anatomical gift of the donor's  
25 body or part under Section 692A.006.

26        (b) A donor's revocation of an anatomical gift of the  
27 donor's body or part under Section 692A.006 is not a refusal and  
28 does not bar another person specified in Section 692A.004 or  
29 692A.009 from making an anatomical gift of the donor's body or  
30 part under Section 692A.005 or 692A.010.

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1       (c) If a person other than the donor makes an unrevoked  
2 anatomical gift of the donor's body or part under Section  
3 692A.005 or an amendment to an anatomical gift of the donor's  
4 body or part under Section 692A.006, another person may not  
5 make, amend, or revoke the gift of the donor's body or part  
6 under Section 692A.010.

7       (d) A revocation of an anatomical gift of a donor's body  
8 or part under Section 692A.006 by a person other than the donor  
9 does not bar another person from making an anatomical gift of  
10 the body or part under Section 692A.005 or 692A.010.

11       (e) In the absence of an express, contrary indication by  
12 the donor or other person authorized to make an anatomical gift  
13 under Section 692A.004, an anatomical gift of a part is neither  
14 a refusal to give another part nor a limitation on the making of  
15 an anatomical gift of another part at a later time by the donor  
16 or another person.

17       (f) In the absence of an express, contrary indication by  
18 the donor or other person authorized to make an anatomical gift  
19 under Section 692A.004, an anatomical gift of a part for one or  
20 more of the purposes set forth in Section 692A.004 is not a  
21 limitation on the making of an anatomical gift of the part for  
22 any of the other purposes by the donor or any other person under  
23 Section 692A.005 or 692A.010.

24       (g) If a donor who is an unemancipated minor dies, a  
25 parent of the donor who is reasonably available may revoke or  
26 amend an anatomical gift of the donor's body or part.

27       (h) If an unemancipated minor who signed a refusal dies, a  
28 parent of the minor who is reasonably available may revoke the  
29 minor's refusal.

30       Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S  
31 BODY OR PART. (a) Subject to Subsections (b) and (c) and

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1 unless barred by Section 692A.007 or 692A.008, an anatomical  
2 gift of a decedent's body or part for the purpose of  
3 transplantation, therapy, research, or education may be made by  
4 any member of the following classes of persons who is reasonably  
5 available, in the order of priority listed:

6 (1) an agent of the decedent at the time of death who  
7 could have made an anatomical gift under Section 692A.004(2)  
8 immediately before the decedent's death;

9 (2) the spouse of the decedent;

10 (3) adult children of the decedent;

11 (4) parents of the decedent;

12 (5) adult siblings of the decedent;

13 (6) adult grandchildren of the decedent;

14 (7) grandparents of the decedent;

15 (8) the persons who were acting as the guardians of  
16 the person of the decedent at the time of death;

17 (9) the hospital administrator; and

18 (10) any other person having the authority to dispose  
19 of the decedent's body.

20 (b) If there is more than one member of a class listed in  
21 Subsection (a)(1), (3), (4), (5), (6), (7), or (8) entitled to  
22 make an anatomical gift, an anatomical gift may be made by a  
23 member of the class unless that member or a person to which the  
24 gift may pass under Section 692A.011 knows of an objection by  
25 another member of the class. If an objection is known, the gift  
26 may be made only by a majority of the members of the class who  
27 are reasonably available.

28 (c) A person may not make an anatomical gift if, at the  
29 time of the decedent's death, a person in a prior class under  
30 Subsection (a) is reasonably available to make or to object to  
31 the making of an anatomical gift.

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1       Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING  
2 ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person  
3 authorized to make an anatomical gift under Section 692A.009 may  
4 make an anatomical gift by a document of gift signed by the  
5 person making the gift or by that person's oral communication  
6 that is electronically recorded or is contemporaneously reduced  
7 to a record and signed by the individual receiving the oral  
8 communication.

9       (b) Subject to Subsection (c), an anatomical gift by a  
10 person authorized under Section 692A.009 may be amended or  
11 revoked orally or in a record by any member of a prior class who  
12 is reasonably available. If more than one member of the prior  
13 class is reasonably available, the gift made by a person  
14 authorized under Section 692A.009 may be:

15       (1) amended only if a majority of the reasonably  
16 available members agree to the amending of the gift; or

17       (2) revoked only if a majority of the reasonably  
18 available members agree to the revoking of the gift or if they  
19 are equally divided as to whether to revoke the gift.

20       (c) A revocation under Subsection (b) is effective only  
21 if, before an incision has been made to remove a part from the  
22 donor's body or before the initiation of invasive procedures to  
23 prepare the recipient, the procurement organization, transplant  
24 hospital, or physician or technician knows of the revocation.

25       Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;  
26 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made  
27 to the following persons named in the document of gift:

28       (1) a hospital or organ procurement organization for  
29 research or education;

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1           (2) subject to Subsection (d), an individual  
2 designated by the person making the anatomical gift if the  
3 individual is the recipient of the part;

4           (3) an eye bank or tissue bank;

5           (4) a forensic science program at:

6                 (A) a general academic teaching institution, as  
7 defined by Section 61.003(3), Education Code; or

8                 (B) a private or independent institution of  
9 higher education, as defined by Section 61.003(15), Education  
10 Code; or

11           (5) the Anatomical Board of the State of Texas.

12           (b) Except for a donation to an organ procurement  
13 organization, eye bank, tissue bank, or forensic science program  
14 made for the purpose of therapy, transplantation, or research,  
15 the Anatomical Board of the State of Texas is the donee of a  
16 gift of a body or part made for purposes of education or  
17 research. The gift of the body or part is subject to  
18 distribution by the board under Chapter 691.

19           (c) A forensic science program that receives a donation  
20 under Subsection (a)(4) must submit a report to the Anatomical  
21 Board of the State of Texas on a quarterly basis that lists:

22                 (1) the number of bodies or parts the program  
23 received; and

24                 (2) the method in which the program used the bodies  
25 or parts for education or research purposes.

26           (d) If an anatomical gift to an individual under  
27 Subsection (a)(2) cannot be transplanted into the individual,  
28 the part passes in accordance with Subsection (i) in the absence  
29 of an express, contrary indication by the person making the  
30 anatomical gift.

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1 (e) If an anatomical gift of one or more specific parts or  
2 of all parts is made in a document of gift that does not name a  
3 person described in Subsection (a) but identifies the purpose  
4 for which an anatomical gift may be used, the following rules  
5 apply:

6 (1) if the part is an eye and the gift is for the  
7 purpose of transplantation or therapy, the gift passes to the  
8 appropriate eye bank;

9 (2) if the part is tissue and the gift is for the  
10 purpose of transplantation or therapy, the gift passes to the  
11 appropriate tissue bank; and

12 (3) if the part is an organ and the gift is for the  
13 purpose of transplantation or therapy, the gift passes to the  
14 appropriate organ procurement organization as custodian of the  
15 organ.

16 (f) For the purpose of Subsection (e), if there is more  
17 than one purpose of an anatomical gift set forth in the document  
18 of gift but the purposes are not set forth in any priority, the  
19 gift must be used for transplantation or therapy, if suitable.  
20 If the gift cannot be used for transplantation or therapy, the  
21 gift may be used for research or education.

22 (g) If an anatomical gift of one or more specific parts is  
23 made in a document of gift that does not name a person described  
24 in Subsection (a) and does not identify the purpose of the gift,  
25 the gift may be used only for transplantation or therapy, and  
26 the gift passes in accordance with Subsection (i).

27 (h) If a document of gift specifies only a general intent  
28 to make an anatomical gift by words such as "donor," "organ  
29 donor," or "body donor," or by a symbol or statement of similar  
30 import, the gift may be used only for transplantation or  
31 therapy, and the gift passes in accordance with Subsection (i).

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1 (i) For purposes of Subsections (d), (g), and (h), the  
2 following rules apply:

3 (1) if the part is an eye, the gift passes to the  
4 appropriate eye bank;

5 (2) if the part is tissue, the gift passes to the  
6 appropriate tissue bank; and

7 (3) if the part is an organ, the gift passes to the  
8 appropriate organ procurement organization as custodian of the  
9 organ.

10 (j) An anatomical gift of an organ for transplantation or  
11 therapy, other than an anatomical gift under Subsection (a)(2),  
12 passes to the organ procurement organization as custodian of the  
13 organ.

14 (k) If an anatomical gift does not pass pursuant to  
15 Subsections (a)-(j) or the decedent's body or part is not used  
16 for transplantation, therapy, research, or education, custody of  
17 the body or part passes to the person under obligation to  
18 dispose of the body or part.

19 (l) A person may not accept an anatomical gift if the  
20 person knows that the gift was not effectively made under  
21 Section 692A.005 or 692A.010 or if the person knows that the  
22 decedent made a refusal under Section 692A.007 that was not  
23 revoked. For purposes of this subsection, if a person knows  
24 that an anatomical gift was made on a document of gift, the  
25 person is deemed to know of any amendment or revocation of the  
26 gift or any refusal to make an anatomical gift on the same  
27 document of gift.

28 (m) Except as otherwise provided in Subsection (a)(2),  
29 nothing in this chapter affects the allocation of organs for  
30 transplantation or therapy.

31 (n) A donee may accept or reject a gift.

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1       Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of  
2 a person who is involved in an accident or other trauma shall  
3 accompany the person to the hospital or other health care  
4 facility. The driver's license or personal identification  
5 certificate indicating an affirmative statement of gift of a  
6 person who is involved in an accident or other trauma shall  
7 accompany the person to the hospital or health care facility if  
8 the person does not have a donor card.

9       Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED;  
10 RIGHT TO EXAMINE. (a) A document of gift need not be delivered  
11 during the donor's lifetime to be effective.

12       (b) On or after an individual's death, a person in  
13 possession of a document of gift or a refusal to make an  
14 anatomical gift with respect to the individual shall allow  
15 examination and copying of the document of gift or refusal by a  
16 person authorized to make or object to the making of an  
17 anatomical gift with respect to the individual or by a person to  
18 which the gift could pass under Section 692A.011.

19       Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT  
20 ORGANIZATION AND OTHERS. (a) When a hospital refers an  
21 individual at or near death to a procurement organization, the  
22 organization shall make a reasonable search of the records of  
23 the Department of Public Safety and any donor registry that it  
24 knows exists for the geographical area in which the individual  
25 resides to ascertain whether the individual has made an  
26 anatomical gift.

27       (b) A procurement organization must be allowed reasonable  
28 access to information in the records of the Department of Public  
29 Safety to ascertain whether an individual at or near death is a  
30 donor.

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1        (c) When a hospital refers an individual at or near death  
2 to a procurement organization, the organization may conduct any  
3 reasonable examination necessary to ensure the medical  
4 suitability of a part that is or could be the subject of an  
5 anatomical gift for transplantation, therapy, research, or  
6 education from a donor or a prospective donor. During the  
7 examination period, measures necessary to ensure the medical  
8 suitability of the part may not be withdrawn unless the hospital  
9 or procurement organization knows that the individual expressed  
10 a contrary intent.

11        (d) Unless prohibited by law other than this chapter, at  
12 any time after a donor's death, the person to which a part  
13 passes under Section 692A.011 may conduct any reasonable  
14 examination necessary to ensure the medical suitability of the  
15 body or part for its intended purpose.

16        (e) Unless prohibited by law other than this chapter, an  
17 examination under Subsection (c) or (d) may include an  
18 examination of all medical and dental records of the donor or  
19 prospective donor.

20        (f) On the death of a minor who was a donor or had signed  
21 a refusal, unless a procurement organization knows the minor is  
22 emancipated, the procurement organization shall conduct a  
23 reasonable search for the parents of the minor and provide the  
24 parents with an opportunity to revoke or amend the anatomical  
25 gift or revoke the refusal.

26        (g) On referral by a hospital under Subsection (a), a  
27 procurement organization shall make a reasonable search for any  
28 person listed in Section 692A.009 having priority to make an  
29 anatomical gift on behalf of a prospective donor. If a  
30 procurement organization receives information that an anatomical

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1 gift to any other person was made, amended, or revoked, it shall  
2 promptly advise the other person of all relevant information.

3 (h) Subject to Sections 692A.011(k) and 693.002, the  
4 rights of the person to which a part passes under Section  
5 692A.011 are superior to the rights of all others with respect  
6 to the part. The person may accept or reject an anatomical gift  
7 wholly or partly. Subject to the terms of the document of gift  
8 and this chapter, a person that accepts an anatomical gift of an  
9 entire body may allow embalming, burial, or cremation, and use  
10 of remains in a funeral service. If the gift is of a part, the  
11 person to which the part passes under Section 692A.011, on the  
12 death of the donor and before embalming, burial, or cremation,  
13 shall cause the part to be removed without unnecessary  
14 mutilation.

15 (i) The physician who attends the decedent at death or the  
16 physician who determines the time of the decedent's death may  
17 not participate in the procedures for removing or transplanting  
18 a part from the decedent.

19 (j) A physician or technician may remove a donated part  
20 from the body of a donor that the physician or technician is  
21 qualified to remove.

22 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;  
23 HOSPITAL PROCEDURES. Each hospital in this state shall enter  
24 into agreements or affiliations with procurement organizations  
25 for coordination of procurement and use of anatomical gifts.  
26 Each hospital must have a protocol that ensures its maintenance  
27 of an effective donation system in order to maximize organ and  
28 tissue donation. The protocol must:

29 (1) be available to the public during the hospital's  
30 normal business hours;

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1           (2) establish a procedure for notifying, in a timely  
2 manner, an organ procurement organization of individuals whose  
3 death is imminent or who have died in the hospital;

4           (3) establish procedures to ensure potential donors  
5 are declared dead by an appropriate practitioner in an  
6 acceptable time frame;

7           (4) establish procedures to ensure that hospital  
8 staff and organ procurement organization staff maintain  
9 appropriate medical treatment of potential donors while  
10 necessary testing and placement of potential donated organs,  
11 tissues, and eyes take place;

12           (5) ensure that all families are provided the  
13 opportunity to donate organs and tissues, including vascular  
14 organs procured from asystolic donors;

15           (6) provide that the hospital use appropriately  
16 trained persons from an organ procurement organization, tissue  
17 bank, or eye bank to make inquiries relating to donations;

18           (7) provide for documentation of the inquiry and of  
19 its disposition in the decedent's medical records;

20           (8) require an organ procurement organization, tissue  
21 bank, or eye bank that makes inquiries relating to donations to  
22 develop a protocol for making those inquiries;

23           (9) encourage sensitivity to families' beliefs and  
24 circumstances in all discussions relating to the donations;

25           (10) provide that the organ procurement organization  
26 determines medical suitability for organ donation and, in the  
27 absence of alternative arrangements by the hospital, the organ  
28 procurement organization determines medical suitability for  
29 tissue and eye donation, using the definition of potential  
30 tissue and eye donor and the notification protocol developed in

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1 consultation with the tissue and eye banks identified by the  
2 hospital for this purpose;

3 (11) ensure that the hospital works cooperatively  
4 with the designated organ procurement organization, tissue bank,  
5 and eye bank in educating staff on donation issues;

6 (12) ensure that the hospital works with the  
7 designated organ procurement organization, tissue bank, and eye  
8 bank in reviewing death records; and

9 (13) provide for monitoring of donation system  
10 effectiveness, including rates of donation, protocols, and  
11 policies, as part of the hospital's quality improvement program.

12 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED.

13 (a) Except as otherwise provided in Subsection (b), a person  
14 commits an offense if the person for valuable consideration  
15 knowingly purchases or sells a part for transplantation or  
16 therapy if removal of a part from an individual is intended to  
17 occur after the individual's death. An offense under this  
18 subsection is a Class A misdemeanor.

19 (b) A person may charge a reasonable amount for the  
20 removal, processing, preservation, quality control, storage,  
21 transportation, implantation, or disposal of a part.

22 (c) If conduct that constitutes an offense under this  
23 section also constitutes an offense under other law, the actor  
24 may be prosecuted under this section, the other law, or both  
25 this section and the other law.

26 Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person  
27 commits an offense if the person, in order to obtain a financial  
28 gain, intentionally falsifies, forges, conceals, defaces, or  
29 obliterates a document of gift, an amendment or revocation of a  
30 document of gift, or a refusal. An offense under this section  
31 is a Class A misdemeanor.

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1 (b) If conduct that constitutes an offense under this  
2 section also constitutes an offense under other law, the actor  
3 may be prosecuted under this section, the other law, or both  
4 this section and the other law.

5 Sec. 692A.018. IMMUNITY. (a) A person who acts in good  
6 faith in accordance with this chapter is not liable for civil  
7 damages or subject to criminal prosecution for the person's  
8 action if the prerequisites for an anatomical gift are met under  
9 the laws applicable at the time and place the gift is made.

10 (b) A person that acts in accordance with this chapter or  
11 with the applicable anatomical gift law of another state, or  
12 attempts in good faith to do so, is not liable for the act in a  
13 civil action, criminal prosecution, or administrative  
14 proceeding.

15 (c) A person who acts in good faith in accordance with  
16 this chapter is not liable as a result of the action except in  
17 the case of an act or omission of the person that is  
18 intentional, wilfully or wantonly negligent, or done with  
19 conscious indifference or reckless disregard. For purposes of  
20 this subsection, "good faith" in determining the appropriate  
21 person authorized to make a donation under Section 692A.009  
22 means making a reasonable effort to locate and contact the  
23 member or members of the highest priority class who are  
24 reasonably available at or near the time of death.

25 (d) Neither a person making an anatomical gift nor the  
26 donor's estate is liable for any injury or damage that results  
27 from the making or use of the gift.

28 (e) In determining whether an anatomical gift has been  
29 made, amended, or revoked under this chapter, a person may rely  
30 on representations of an individual listed in Section  
31 692A.009(a)(2), (3), (4), (5), (6), or (7) relating to the

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1 individual's relationship to the donor or prospective donor  
2 unless the person knows that the representation is untrue.

3 (f) In a civil action brought by a person listed in  
4 Section 692A.009 who did not object before the removal of tissue  
5 or a body part specified by Section 693.002, a medical examiner,  
6 justice of the peace, county judge, medical facility, physician  
7 acting on permission of a medical examiner, justice of the  
8 peace, or county judge, or person assisting a physician is not  
9 liable for damages on a theory of civil recovery based on a  
10 contention that the plaintiff's consent was required before the  
11 part or tissue could be removed.

12 Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO  
13 EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A  
14 document of gift is valid if executed in accordance with:

15 (1) this chapter;

16 (2) the laws of the state or country where it was  
17 executed; or

18 (3) the laws of the state or country where the person  
19 making the anatomical gift was domiciled, has a place of  
20 residence, or was a national at the time the document of gift  
21 was executed.

22 (b) If a document of gift is valid under this section, the  
23 law of this state governs the interpretation of the document of  
24 gift.

25 (c) A person may presume that a document of gift or  
26 amendment of an anatomical gift is valid unless that person  
27 knows that it was not validly executed or was revoked.

28 Sec. 692A.020. DONOR REGISTRY. (a) In consultation with  
29 the Department of Public Safety and organ procurement  
30 organizations, the department shall establish the Donor  
31 Education, Awareness, and Registry Program of Texas.

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1       (b) The department shall enter into an agreement with an  
2 organization selected by the commissioner under a competitive  
3 proposal process for the establishment and maintenance of a  
4 statewide Internet-based registry of organ, tissue, and eye  
5 donors. Contingent on the continued availability of  
6 appropriations under Subsection (h), the term of the initial  
7 agreement is two years and may be renewed for two-year terms  
8 thereafter unless terminated in a written notice to the other  
9 party by the department or organization not later than the 180th  
10 day before the last day of a term.

11       (c) The Department of Public Safety at least monthly shall  
12 electronically transfer to the organization selected by the  
13 commissioner as provided by Subsection (b) the name, date of  
14 birth, driver's license number, most recent address, and any  
15 other relevant information in the possession of the Department  
16 of Public Safety for any person who indicates on the person's  
17 driver's license application under Section 521.401,  
18 Transportation Code, that the person would like to make an  
19 anatomical gift and consents in writing to the release of the  
20 information by the Department of Public Safety to the  
21 organization for inclusion in the Internet-based registry.

22       (d) The contract between the department and the  
23 organization selected by the commissioner as provided by  
24 Subsection (b) must require the organization to:

25           (1) make information obtained from the Department of  
26 Public Safety under Subsection (c) available to procurement  
27 organizations;

28           (2) allow potential donors to submit information in  
29 writing directly to the organization for inclusion in the  
30 Internet-based registry;

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1           (3) maintain the Internet-based registry in a manner  
2 that allows procurement organizations to immediately access  
3 organ, tissue, and eye donation information 24 hours a day,  
4 seven days a week through electronic and telephonic methods; and

5           (4) protect the confidentiality and privacy of the  
6 individuals providing information to the Internet-based  
7 registry, regardless of the manner in which the information is  
8 provided.

9           (e) Except as otherwise provided by Subsection (d)(3) or  
10 this subsection, the Department of Public Safety, the  
11 organization selected by the commissioner under Subsection (b),  
12 or a procurement organization may not sell, rent, or otherwise  
13 share any information provided to the Internet-based registry.  
14 A procurement organization may share any information provided to  
15 the registry with an organ procurement organization or a health  
16 care provider or facility providing medical care to a potential  
17 donor as necessary to properly identify an individual at the  
18 time of donation.

19           (f) The Department of Public Safety, the organization  
20 selected by the commissioner under Subsection (b), or the  
21 procurement organizations may not use any demographic or  
22 specific data provided to the Internet-based registry for any  
23 fund-raising activities. Data may only be transmitted from the  
24 selected organization to procurement organizations through  
25 electronic and telephonic methods using secure, encrypted  
26 technology to preserve the integrity of the data and the privacy  
27 of the individuals providing information.

28           (g) In each office authorized to issue driver's licenses  
29 or personal identification certificates, the Department of  
30 Public Safety shall make available educational materials  
31 developed by the Texas Organ, Tissue, and Eye Donor Council

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1 established under Chapter 113, as added by Chapter 1186, Acts of  
2 the 79th Legislature, Regular Session, 2005.

3 (h) The Department of Public Safety shall remit to the  
4 comptroller the money collected under Sections 521.421(g) and  
5 521.422(c), Transportation Code, as provided by those  
6 subsections. A county assessor-collector shall remit to the  
7 comptroller any money collected under Section 502.1745,  
8 Transportation Code, as provided by that section. Money  
9 remitted to the comptroller in accordance with those sections  
10 that is appropriated to the department must be spent in  
11 accordance with the priorities established by the department in  
12 consultation with the Texas Organ, Tissue, and Eye Donor Council  
13 to pay the costs of:

14 (1) maintaining, operating, and updating the  
15 Internet-based registry and establishing procedures for an  
16 individual to be added to the registry; and

17 (2) designing and distributing educational materials  
18 for prospective donors as required under this section.

19 (i) Any additional money over the amount necessary to  
20 accomplish the purposes of Subsections (h)(1) and (2) may be  
21 used by the department to provide education under this chapter  
22 or may be awarded using a competitive grant process to  
23 organizations to conduct organ, eye, and tissue donation  
24 education activities in this state. A member of the Texas  
25 Organ, Tissue, and Eye Donor Council may not receive a grant  
26 under this subsection.

27 (j) The department shall require the organization selected  
28 under Subsection (b) to submit an annual written report to the  
29 department that includes:

30 (1) the number of donors listed on the Internet-based  
31 registry;

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1           (2) changes in the number of donors listed on the  
2 registry; and

3           (3) the demographic characteristics of listed donors,  
4 to the extent the characteristics may be determined from  
5 information provided on donor registry forms submitted by donors  
6 to the organization.

7           (k) To the extent funds are available and as part of the  
8 donor registry program, the department shall educate residents  
9 about anatomical gifts. The program shall include information  
10 about:

11           (1) the laws governing anatomical gifts, including  
12 Subchapter Q, Chapter 521, Transportation Code, and this  
13 chapter;

14           (2) the procedures for becoming an organ, eye, or  
15 tissue donor or donee; and

16           (3) the benefits of organ, eye, or tissue donation.

17           (l) In developing the program, the department in  
18 consultation with the Texas Organ, Tissue, and Eye Donor Council  
19 shall solicit broad-based input reflecting recommendations of  
20 all interested groups, including representatives of patients,  
21 providers, ethnic groups, and geographic regions.

22           (m) In consultation with the Texas Organ, Tissue, and Eye  
23 Donor Council, the department may implement a training program  
24 for all appropriate Department of Public Safety and Texas  
25 Department of Transportation employees on the benefits of organ,  
26 tissue, and eye donation and the procedures for individuals to  
27 be added to the Internet-based registry. The department shall  
28 implement the training program before the date that the registry  
29 is operational and shall conduct the training on an ongoing  
30 basis for new employees.

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1 Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE

2 DIRECTIVE. (a) In this section:

3 (1) "Advance directive" means a medical power of  
4 attorney or a record signed or authorized by a prospective donor  
5 containing the prospective donor's direction concerning a  
6 health-care decision for the prospective donor.

7 (2) "Declaration" means a record signed by a  
8 prospective donor specifying the circumstances under which a  
9 life support system may be withheld or withdrawn from the  
10 prospective donor.

11 (3) "Health-care decision" means any decision made  
12 regarding the health care of the prospective donor.

13 (b) If a prospective donor has a declaration or advance  
14 directive and the terms of the declaration or directive and the  
15 express or implied terms of a potential anatomical gift are in  
16 conflict with regard to the administration of measures necessary  
17 to ensure the medical suitability of a part for transplantation  
18 or therapy, the prospective donor's attending physician and  
19 prospective donor shall confer to resolve the conflict. If the  
20 prospective donor is incapable of resolving the conflict, an  
21 agent acting under the prospective donor's declaration or  
22 directive, or, if the agent is not reasonably available, another  
23 person authorized by law other than this chapter to make health-  
24 care decisions on behalf of the prospective donor, shall act on  
25 the prospective donor's behalf to resolve the conflict. The  
26 conflict must be resolved as expeditiously as possible.  
27 Information relevant to the resolution of the conflict may be  
28 obtained from the appropriate procurement organization and any  
29 other person authorized to make an anatomical gift for the  
30 prospective donor under Section 692A.009. Before resolution of  
31 the conflict, measures necessary to ensure the medical

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1 suitability of the part may not be withheld or withdrawn from  
2 the prospective donor.

3 (c) If the conflict cannot be resolved, an expedited  
4 review of the matter must be initiated by an ethics or medical  
5 committee of the appropriate health care facility.

6 Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION.  
7 In applying and construing this chapter, consideration must be  
8 given to the need to promote uniformity of the law with respect  
9 to the subject matter of this chapter among states that enact a  
10 law substantially similar to this chapter.

11 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
12 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and  
13 supersedes the provisions of the Electronic Signatures in Global  
14 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but  
15 does not modify, limit, or supersede Section 101(a) of that Act  
16 (15 U.S.C. Section 7001(a)), or authorize electronic delivery of  
17 any of the notices described in Section 103(b) of that Act (15  
18 U.S.C. Section 7003(b)).

19 SECTION \_\_. Section 241.153, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A  
22 patient's health care information may be disclosed without the  
23 patient's authorization if the disclosure is:

24 (1) directory information, unless the patient has  
25 instructed the hospital not to make the disclosure or the  
26 directory information is otherwise protected by state or federal  
27 law;

28 (2) to a health care provider who is rendering health  
29 care to the patient when the request for the disclosure is made;

30 (3) to a transporting emergency medical services  
31 provider for the purpose of:

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1 (A) treatment or payment, as those terms are  
2 defined by the regulations adopted under the Health Insurance  
3 Portability and Accountability Act of 1996 (Pub. L. No. 104-  
4 191); or

5 (B) the following health care operations  
6 described by the regulations adopted under the Health Insurance  
7 Portability and Accountability Act of 1996 (Pub. L. No. 104-  
8 191):

9 (i) quality assessment and improvement  
10 activities;

11 (ii) specified insurance functions;

12 (iii) conducting or arranging for medical  
13 reviews; or

14 (iv) competency assurance activities;

15 (4) to a member of the clergy specifically designated  
16 by the patient;

17 (5) to a [~~qualified organ or tissue~~] procurement  
18 organization as defined in Section 692A.002 [~~692.002~~] for the  
19 purpose of making inquiries relating to donations according to  
20 the protocol referred to in Section 692A.015 [~~692.013(d)~~];

21 (6) to a prospective health care provider for the  
22 purpose of securing the services of that health care provider as  
23 part of the patient's continuum of care, as determined by the  
24 patient's attending physician;

25 (7) to a person authorized to consent to medical  
26 treatment under Chapter 313 or to a person in a circumstance  
27 exempted from Chapter 313 to facilitate the adequate provision  
28 of treatment;

29 (8) to an employee or agent of the hospital who  
30 requires health care information for health care education,  
31 quality assurance, or peer review or for assisting the hospital

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1 in the delivery of health care or in complying with statutory,  
2 licensing, accreditation, or certification requirements and if  
3 the hospital takes appropriate action to ensure that the  
4 employee or agent:

5 (A) will not use or disclose the health care  
6 information for any other purpose; and

7 (B) will take appropriate steps to protect the  
8 health care information;

9 (9) to a federal, state, or local government agency  
10 or authority to the extent authorized or required by law;

11 (10) to a hospital that is the successor in interest  
12 to the hospital maintaining the health care information;

13 (11) to the American Red Cross for the specific  
14 purpose of fulfilling the duties specified under its charter  
15 granted as an instrumentality of the United States government;

16 (12) to a regional poison control center, as the term  
17 is used in Chapter 777, to the extent necessary to enable the  
18 center to provide information and education to health  
19 professionals involved in the management of poison and overdose  
20 victims, including information regarding appropriate therapeutic  
21 use of medications, their compatibility and stability, and  
22 adverse drug reactions and interactions;

23 (13) to a health care utilization review agent who  
24 requires the health care information for utilization review of  
25 health care under Chapter 4201 [~~Article 21-58A~~], Insurance Code;

26 (14) for use in a research project authorized by an  
27 institutional review board under federal law;

28 (15) to health care personnel of a penal or other  
29 custodial institution in which the patient is detained if the  
30 disclosure is for the sole purpose of providing health care to  
31 the patient;

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1 (16) to facilitate reimbursement to a hospital, other  
2 health care provider, or the patient for medical services or  
3 supplies;

4 (17) to a health maintenance organization for  
5 purposes of maintaining a statistical reporting system as  
6 required by a rule adopted by a state agency or regulations  
7 adopted under the federal Health Maintenance Organization Act of  
8 1973, as amended (42 U.S.C. Section 300e et seq.);

9 (18) to satisfy a request for medical records of a  
10 deceased or incompetent person pursuant to Section 74.051(e),  
11 Civil Practice and Remedies Code;

12 (19) to comply with a court order except as provided  
13 by Subdivision (20); or

14 (20) related to a judicial proceeding in which the  
15 patient is a party and the disclosure is requested under a  
16 subpoena issued under:

17 (A) the Texas Rules of Civil Procedure or Code  
18 of Criminal Procedure; or

19 (B) Chapter 121, Civil Practice and Remedies  
20 Code.

21 SECTION \_\_. Subsection (d), Section 691.030, Health and  
22 Safety Code, is amended to read as follows:

23 (d) The board may transport a body or anatomical specimen  
24 to an authorized recipient in another state if the board  
25 determines that the supply of bodies or anatomical specimens in  
26 this state exceeds the need for bodies or anatomical specimens  
27 in this state and if:

28 (1) the deceased donated his body in compliance with  
29 Section 691.028 and at the time of the donation authorized the  
30 board to transport the body outside this state; or

*add*

1 (2) the body was donated in compliance with Chapter  
2 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized  
3 to make the donation under Section 692A.009 [~~692.004~~] authorized  
4 the board to transport the body outside this state.

5 SECTION \_\_. Subsection (a), Section 693.002, Health and  
6 Safety Code, is amended by amending Subdivisions (1), (2), and  
7 (4) and adding Subdivisions (2-a) and (5-a) to read as follows:

8 (1) On a request from an [~~a qualified~~] organ  
9 procurement organization, as defined by [~~in~~] Section 692A.002  
10 [~~692.002~~], the medical examiner, justice of the peace, county  
11 judge, or physician designated by the justice of the peace or  
12 county judge may permit the removal of organs from a decedent  
13 who died under circumstances requiring an inquest by the medical  
14 examiner, justice of the peace, or county judge if consent is  
15 obtained pursuant to Sections 692A.005 through 692A.010 or  
16 Section 693.003.

17 (2) If no autopsy is required, the organs to be  
18 transplanted shall be released in a timely manner to the  
19 [~~qualified~~] organ procurement organization, as defined by [~~in~~]  
20 Section 692A.002 [~~692.002~~], for removal and transplantation.

21 (2-a) Within one hour of pronouncement of death, or  
22 within one hour of consent on an asystolic organ donor, the  
23 organ procurement organization shall notify the medical  
24 examiner, justice of the peace, county judge, or designated  
25 physician of any death requiring an inquest that falls under  
26 that person's jurisdiction.

27 (4) If the medical examiner is considering  
28 withholding one or more organs of a potential donor for any  
29 reason, the medical examiner shall be present during the removal  
30 of the organs. In such case, the medical examiner may request a  
31 biopsy of those organs or deny removal of the anatomical gift.

32 

1 If the medical examiner denies removal of the anatomical gift,  
2 the medical examiner shall explain in writing the reasons for  
3 the denial. The medical examiner shall provide the explanation  
4 to:

5 (A) the ~~[qualified]~~ organ procurement  
6 organization; and

7 (B) any person listed in Section 692A.009 or  
8 693.004 who consented to the removal.

9 (5-a) Effective September 1, 2009, the medical  
10 examiner, or physician designee of a justice of the peace, or  
11 physician designee of a county judge, who will subsequently  
12 perform the postmortem examination may restrict designation of  
13 cardiac tissue for organ donation purposes without being  
14 required to be present at the hospital to examine the decedent  
15 before removal of the organs or during the procedure to remove  
16 the organs.

17 SECTION \_\_. Subsection (b), Section 693.002, Health and  
18 Safety Code, is amended to read as follows:

19 (b) On a request from a ~~[qualified]~~ tissue bank  
20 ~~[procurement organization]~~, as defined by ~~[in]~~ Section 692A.002  
21 ~~[692.002]~~, the medical examiner may permit the removal of tissue  
22 believed to be clinically usable for transplants or other  
23 therapy or treatment from a decedent who died under  
24 circumstances requiring an inquest if consent is obtained  
25 pursuant to Sections 692A.005 through 692A.010 or Section  
26 693.003 or, if consent is not required by those sections ~~[that~~  
27 ~~section]~~, no objection by a person listed in Section 692A.009 or  
28 693.004 is known by the medical examiner. If the medical  
29 examiner denies removal of the tissue, the medical examiner  
30 shall explain in writing the reasons for the denial. The  
31 medical examiner shall provide the explanation to:

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1 (1) the ~~[qualified]~~ tissue bank ~~[procurement~~  
2 ~~organization]~~; and

3 (2) the person listed in Section 692A.009 or 693.004  
4 who consented to the removal.

5 SECTION \_\_. Section 693.003, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN  
8 CIRCUMSTANCES. ~~[(a) A medical examiner or a person acting on~~  
9 ~~the authority of a medical examiner may not remove a visceral~~  
10 ~~organ unless the medical examiner or person obtains the consent~~  
11 ~~of a person listed in Section 693.004.~~

12 ~~[(b) If a person listed in Section 693.004 is known and~~  
13 ~~available within four hours after death is pronounced, a medical~~  
14 ~~examiner or a person acting on the authority of a medical~~  
15 ~~examiner may not remove a nonvisceral organ or tissue unless the~~  
16 ~~medical examiner or person obtains that person's consent.~~

17 ~~[(e)]~~ If a person listed in Section 692A.009 or 693.004  
18 cannot be identified and contacted within 12 ~~[four]~~ hours after  
19 death is pronounced and either a county court or ~~[the]~~ medical  
20 examiner determines that no reasonable likelihood exists that a  
21 person can be identified and contacted during the 12-hour ~~[four-~~  
22 ~~hour]~~ period, the county court or medical examiner may permit  
23 the removal of a visceral ~~[nonvisceral]~~ organ or tissue.

24 SECTION \_\_. Section 693.005, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a  
27 civil action brought by a person listed in Section 692A.009 or  
28 693.004 who did not object before the removal of tissue or a  
29 body part specified by Section 693.002, a medical examiner,  
30 justice of the peace, county judge, medical facility, physician  
31 acting on permission of a medical examiner, justice of the

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1 peace, or county judge, or person assisting a physician is not  
2 liable for damages on a theory of civil recovery based on a  
3 contention that the plaintiff's consent was required before the  
4 body part or tissue could be removed.

5 SECTION \_\_. Section 693.006, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request  
8 from an eye bank, as defined in Section 692A.002 [~~692.002~~], the  
9 medical examiner, justice of the peace, county judge, or  
10 physician designated by the justice of the peace or county judge  
11 may permit the removal of corneal tissue subject to the same  
12 provisions that apply to removal of a visceral organ on the  
13 request of a a [~~an organ~~] procurement organization under this  
14 subchapter. The provisions of Chapter 692A [~~this subchapter~~]  
15 relating to immunity and consent apply to the removal of the  
16 corneal tissue.

17 SECTION \_\_. Subsections (b) and (c), Section 521.401,  
18 Transportation Code, are amended to read as follows:

19 (b) The statement of gift may be shown on a donor's  
20 driver's license or personal identification certificate or by a  
21 card designed to be carried by the donor to evidence the donor's  
22 intentions with respect to organ, tissue, and eye donation. A  
23 donor card signed by the donor shall be given effect as if  
24 executed pursuant to Section 692A.005 [~~692.003(d)~~], Health and  
25 Safety Code.

26 (c) Donor cards shall be provided to the department by  
27 [~~qualified~~] organ [~~or tissue~~] procurement organizations, tissue  
28 banks, or eye banks, as those terms are defined in Section  
29 692A.002 [~~692.002~~], Health and Safety Code, or by the Donor  
30 Education, Awareness, and Registry Program of Texas established  
31 under Chapter 49, Health and Safety Code. The department shall:

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1 (1) provide to each applicant for the issuance of an  
2 original, renewal, corrected, or duplicate driver's license or  
3 personal identification certificate who applies in person, by  
4 mail, over the Internet, or by other electronic means:

5 (A) the opportunity to indicate on the person's  
6 driver's license or personal identification certificate that the  
7 person is willing to make an anatomical gift, in the event of  
8 death, in accordance with Section 692A.005 [~~692.003~~], Health and  
9 Safety Code; and

10 (B) an opportunity for the person to consent in  
11 writing to the department's provision of the person's name, date  
12 of birth, driver's license number, most recent address, and  
13 other information needed for identification purposes at the time  
14 of donation to the organization selected by the commissioner of  
15 state health services under Section 692A.020 [~~Chapter 49~~],  
16 Health and Safety Code, for inclusion in the statewide Internet-  
17 based registry of organ, tissue, and eye donors and for release  
18 to procurement [~~qualified organ, tissue, and eye bank~~]  
19 organizations; and

20 (2) provide a means to distribute donor cards to  
21 interested individuals in each office authorized to issue  
22 driver's licenses or personal identification certificates.

23 SECTION \_\_. Subsection (f), Section 651.407, Occupations  
24 Code, is amended to read as follows:

25 (f) This section does not apply to a dead human body  
26 obtained by a school or college of mortuary science under  
27 Chapter 691 or 692A [~~692~~], Health and Safety Code.

28 SECTION \_\_. The following provisions are repealed:

- 29 (1) Section 49.002, Health and Safety Code;  
30 (2) Chapter 692, Health and Safety Code;  
31 (3) Section 521.403, Transportation Code; and

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1

(4) Section 521.404, Transportation Code.

~~27~~ 228

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3560** by Swinford (Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities and renaming the commission the Texas Facilities Commission.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

This bill would divide the duties and responsibilities of the Texas Building and Procurement Commission (TBPC) between the Comptroller of Public Accounts (Comptroller) and a new state agency, to be named the Texas Facilities Commission (TFC). Because the bill would provide for the transfer of existing appropriation authority and FTEs, there would be no fiscal impact to the state.

All powers and duties of TBPC that relate to the following areas would be performed by TFC, including:

1. charge and control of state buildings, grounds, or property;
2. maintenance or repair of state buildings, grounds, or property;
3. construction of a state building;
4. purchase or lease of buildings, grounds, or property by or for the state;
5. child care services for state employees;
6. and surplus and salvage property.

All other powers and duties of TBPC would be transferred to the Comptroller, including:

1. statewide procurement;
2. training and compliance;
3. statewide HUB program;
4. travel procurement;
5. fleet management; and
6. support services.

Based on TBPC's 2007 operating budget, the bill would transfer approximately \$13.6 million and 114 FTEs from TBPC to the Comptroller. The remaining appropriations authority (\$134.3 million) and FTEs (464) for TBPC would be redirected to TFC. All TBPC employees would become employees of either TFC or the Comptroller, as applicable. A management employee of TBPC would not automatically continue to hold a management position with the Comptroller after the transfer. To hold the management position on other than an interim basis the person would have to apply for the position with the applicable office.

All money, contracts, leases, rights, bonds, and obligations of TBPC would be transferred to TFC or the Comptroller, as applicable. All personal property, including records, in the custody of TBPC relating to transferred activities would become the property of TFC or the Comptroller, as applicable. All funds appropriated by the Legislature to TBPC, including funds for providing administrative support for transferred services, would be transferred to TFC or the Comptroller, as applicable.

The bill would increase the involvement of the Texas Ethics Commission in administering and enforcing statutory conflict of interest requirements related to state procurement operations. The



Ethics Commission estimates that these activities would require an additional Attorney 3 position, costing \$81,455 in fiscal year 2008 and \$77,804 each year after.

The bill would increase the membership of the State Council on Competitive Government (CCG) by one, to include the state's land commissioner. The bill would also replace the TBPC presiding officer with the presiding officer of the Texas Facilities Commission as a member of the CCG.

The bill would require the functions and responsibilities assigned to the Texas Facilities Commission to undergo Sunset review, with a report, containing evaluation and recommendations, presented to the 81st Legislature. The bill would require the functions and responsibilities transferred to the Comptroller to undergo Sunset review, with a report, containing evaluation and recommendations, presented to the 82nd Legislature. The Sunset Commission can conduct such studies within existing resources.

The bill also contains language concerning the Department of Information Resources' duties and responsibilities relating to telecommunications services for state government. No changes to DIR's current telecommunications activities are anticipated.

The state could realize savings in future years as a result of the passage of the proposed bill once the Comptroller has fully reviewed individual procurement program operations for reorganization or efficiency improvement opportunities. However, because the bill would transfer existing appropriation authority and FTEs, there are no anticipated savings in the 2008-09 biennium.

#### **Local Government Impact**

Local governments that use the TBPC's certification processes and programs to identify HUBs would have no additional costs (e.g. the city of Waco). Larger cities and counties that already have certification processes in place are likely to have the means to quickly and affordably create an online searchable database (e.g. Dallas County and the city of Houston).

Local governments that certify HUBs or conduct certifications and do not have a searchable database already created would incur some costs. For example, the city of LaMarque reported initial costs of \$65,500 in fiscal year 2008 for new staff, capital outlay, and operational costs. These costs would fall to \$54,271 and would consist mostly of salary, benefits, and telephone and software maintenance.

**Source Agencies:** 116 Sunset Advisory Commission

**LBB Staff:** JOB, MN, JI, KY





**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 13, 2007**

**TO:** Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3560** by Swinford (Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

This bill would divide the duties and responsibilities of the Texas Building and Procurement Commission (TBPC) between the Comptroller of Public Accounts (Comptroller) and a new state agency, to be named the Texas Facilities Commission (TFC). Because the bill would provide for the transfer of existing appropriation authority and FTEs, there would be no fiscal impact to the state.

All powers and duties of TBPC that relate to the following areas would be performed by TFC, including:

1. charge and control of state buildings, grounds, or property;
2. maintenance or repair of state buildings, grounds, or property;
3. construction of a state building;
4. purchase or lease of buildings, grounds, or property by or for the state; and
5. child care services for state employees.

All other powers and duties of TBPC would be transferred to the Comptroller, including:

1. statewide procurement;
2. training and compliance;
3. statewide HUB program;
4. travel procurement;
5. fleet management;
6. surplus property; and
7. support services.

Based on TBPC's 2007 operating budget, the bill would transfer approximately \$17.4 million and 143 FTEs from TBPC to the Comptroller. The remaining appropriations authority (\$130.6 million) and FTEs (435) for TBPC would be redirected to TFC. All TBPC employees would become employees of either TFC or the Comptroller, as applicable. A management employee of TBPC would not automatically continue to hold a management position with the Comptroller after the transfer. To hold the management position on other than an interim basis the person would have to apply for the position with the applicable office.

All money, contracts, leases, rights, bonds, and obligations of TBPC would be transferred to TFC or the Comptroller, as applicable. All personal property, including records, in the custody of TBPC relating to transferred activities would become the property of TFC or the Comptroller, as applicable. All funds appropriated by the Legislature to TBPC, including funds for providing administrative support for transferred services, would be transferred to TFC or the Comptroller, as applicable.

The bill would increase the involvement of the Texas Ethics Commission in administering and enforcing statutory conflict of interest requirements related to state procurement operations. The Ethics Commission estimates that these activities would require an additional Attorney 3 position,



costing \$81,455 in fiscal year 2008 and \$77,804 each year after.

The bill would increase the membership of the State Council on Competitive Government (CCG) by one, to include the state's land commissioner. The bill would also replace the TBPC presiding officer with the presiding officer of the Texas Facilities Commission as a member of the CCG.

The bill would require the TFC, the Legislative Budget Board (LBB), and GLO to participate in a joint study to assess the functions of the Texas Facilities Commission, including:

1. the acquisition of state buildings through lease or purchase;
2. the construction of buildings owned by the state; and
3. the control and maintenance of state buildings.

While the LBB could participate in the study given existing resources, the requirement to participate would result in a reduction of the resources available for other performance review work.

The bill also contains language concerning the Department of Information Resources' duties and responsibilities relating to telecommunications services for state government. No changes to DIR's current telecommunications activities are anticipated.

The state could realize savings in future years as a result of the passage of the proposed bill once the Comptroller has fully reviewed individual procurement program operations for reorganization or efficiency improvement opportunities. However, because the bill would transfer existing appropriation authority and FTEs, there are no anticipated savings in the 2008-09 biennium.

#### **Local Government Impact**

Local governments that use the TBPC's certification processes and programs to identify HUBs would have no additional costs (e.g. the city of Waco). Larger cities and counties that already have certification processes in place are likely to have the means to quickly and affordably create an online searchable database (e.g. Dallas County and the city of Houston).

Local governments that certify HUBs or conduct certifications and do not have a searchable database already created would incur some costs. For example, the city of LaMarque reported initial costs of \$65,500 in fiscal year 2008 for new staff, capital outlay, and operational costs. These costs would fall to \$54,271 and would consist mostly of salary, benefits, and telephone and software maintenance.

#### **Source Agencies:**

**LBB Staff:** JOB, MN, JI, KJG, KY



LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 24, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3560** by Swinford (Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities.),  
**Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

This bill would divide the duties and responsibilities of the Texas Building and Procurement Commission (TBPC) between the Comptroller of Public Accounts (Comptroller) and a new state agency, named the Texas Facilities Commission (TFC). Because the bill would provide for the transfer of existing appropriation authority and FTEs, there would be no fiscal impact to the state.

All powers and duties of TBPC that relate to the following areas would be performed by TFC:

1. charge and control of state buildings, grounds, or property;
2. maintenance or repair of state buildings, grounds, or property;
3. construction of a state building;
4. purchase or lease of buildings, grounds, or property by or for the state; and
5. child care services for state employees.

All other powers and duties of TBPC would be transferred to the Comptroller, including:

1. statewide procurement;
2. training and compliance;
3. statewide HUB program;
4. travel procurement;
5. fleet management;
6. surplus property; and
7. support services.

For the 2008-09 biennium, the bill would transfer approximately \$17.4 million and 143 FTEs from TBPC to the Comptroller. The remaining appropriations authority (\$130.6 million) and FTEs (435) granted to TBPC would be redirected to TFC. All TBPC employees would become employees of either TFC or the Comptroller, as applicable. A management employee of TBPC would not automatically continue to hold a management position with the Comptroller after the transfer. To hold the management position on other than an interim basis the person would have to apply for the position with the applicable office.

All money, contracts, leases, rights, bonds, and obligations of TBPC would be transferred to TFC or the Comptroller, as applicable. All personal property, including records, in the custody of TBPC relating to transferred activities would become the property of TFC or the Comptroller, as applicable. All funds appropriated by the Legislature to TBPC, including funds for providing administrative support for transferred services, would be transferred to TFC or the Comptroller, as applicable.

The bill would increase the involvement of the Texas Ethics Commission in administering and enforcing statutory conflict of interest requirements related to state procurement operations. The Ethics Commission estimates that these activities would require an additional Attorney 3 position, costing \$81,455 in fiscal year 2008 and \$77,804 each year after.

The bill would increase the membership of the State Council on Competitive Government (CCG) by one, to include the state's land commissioner. The bill would also replace the TBPC presiding officer with the



presiding officer of the Texas Facilities Commission as a member of the CCG.

The bill would require the TFC, the state auditor, and GLO to participate in a joint study to assess the functions of the Texas Facilities Commission, including:

1. the acquisition of state buildings through lease or purchase;
2. the construction of buildings owned by the state; and
3. the control and maintenance of state buildings.

The bill would prescribe additional duties and responsibilities to the State Auditor's Office, including:

1. assisting the Comptroller in developing rules and procedures for Reporting, auditing, and approving purchases;
2. reviewing purchase information to determine if an audit is needed;
3. auditing agencies to determine compliance with procurement rules and statutes;
4. participating in the joint study on the functions of the TFC.

SAO estimates these activities would require 2,130 hours of agency resources in fiscal year 2008 and 40 hours of agency resources in each year after. At SAO's current billing rate of \$96 per hour, the resulting cost to the agency would be \$208,320 during the 2008-09 biennium. Without increasing audit FTEs, the requirement to participate in the joint study could result in a reduction of the resources available for discretionary audit work by the agency.

The bill also contains language concerning the Department of Information Resources' duties and responsibilities relating to telecommunications services for state government. No changes to DIR's current telecommunications activities are anticipated.

The state could realize savings in future years as a result of the passage of the proposed bill once the Comptroller has fully reviewed individual procurement program operations for reorganization or efficiency improvement opportunities. However, because the bill would transfer existing appropriation authority and FTEs, there are no anticipated savings in the 2008-09 biennium.

#### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 303 Building and Procurement Commission, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 308 State Auditor's Office, 313 Department of Information Resources, 356 Texas Ethics Commission

**LBB Staff:** JOB, KJG, JI, KY





LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 18, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3560** by Swinford (Relating to the transfer of the primary duties of the Texas Building and Procurement Commission to the comptroller and the General Land Office.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

This bill would divide the primary duties and responsibilities of the Texas Building and Procurement Commission (TBPC) between the Comptroller of Public Accounts (Comptroller) and the General Land Office (GLO), and would abolish TBPC. Because the proposed bill provides for transfer of existing appropriation authority, there would be no fiscal impact to the state.

All powers and duties of TBPC that relate to the following areas would be transferred to GLO:

1. charge and control of state buildings, grounds, or property;
2. maintenance or repair of state buildings, grounds, or property;
3. construction of a state building; and
4. the purchase or lease of buildings, grounds, or property by or for the state.

All other powers and duties of TBPC would be transferred to the Comptroller, including:

1. statewide procurement;
2. training and compliance;
3. statewide HUB program;
4. travel procurement;
5. fleet management;
6. surplus property; and
7. support services.

For the 2008-09 biennium, the bill would transfer approximately \$130.6 million and 435 FTEs from TBPC to GLO. During the same period the bill would transfer approximately \$17.4 million and 143 FTEs from TBPC to the Comptroller.

All TBPC employees would become employees of GLO or the Comptroller, as applicable. A management employee of TBPC would not automatically continue to hold a management position. To hold the management position on other than an interim basis the person would have to apply for the position with the applicable office.

All money, contracts, leases, rights, bonds, and obligations of TBPC would be transferred to GLO or the Comptroller, as applicable. All personal property, including records, in the custody of TBPC relating to transferred activities would become the property of GLO or the Comptroller, as applicable. All funds appropriated by the Legislature to TBPC, including funds for providing administrative support for transferred services, would be transferred to GLO or the Comptroller, as applicable.

The bill also contains language concerning the Department of Information Resources' duties and responsibilities relating to telecommunications services for state government. No changes to DIR's current telecommunications activities are anticipated.



The state could realize savings in future years as a result of the passage of the proposed bill once the GLO and Comptroller have fully reviewed individual program operations for reorganization or efficiency improvement opportunities. However, because the bill would transfer all existing appropriation authority and FTEs, there are no anticipated savings in the 2008-09 biennium.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 303 Building and Procurement Commission, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board

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