

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 1. Section 44.031(a), Education Code, is amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) a request for proposals, for services other than construction services;
- (4) ~~[a catalogue purchase as provided by Subchapter B, Chapter 2157, Government Code;~~
- (5) ~~[(5)]~~ an interlocal contract;
- (6) ~~[(6)]~~ a design/build contract;
- (7) ~~[(7)]~~ a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager;
- (8) ~~[(8)]~~ a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility;
- (9) ~~[(9)]~~ the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (10) ~~[(10)]~~ the formation of a political subdivision corporation under Section 304.001, Local Government Code.

Same as House version.

SECTION 2. The heading to Section 2054.0565, Government Code, is amended to read as follows:

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

Sec. 2054.0565. USE OF CONTRACTS BY OTHER
[GOVERNMENTAL] ENTITIES.

SECTION 3. Section 2054.0565, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The department may include terms in a procurement contract entered into by the department, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, ~~[or]~~ a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

(c) Notwithstanding any other law, a state governmental entity that is not a state agency as defined by Section 2054.003 may use a contract as provided by Subsection (a) without being subject to a rule, statute, or contract provision, including a provision in a contract entered into under Section 2157.068, that would otherwise require the state governmental entity to:

(1) sign an interagency agreement; or
(2) disclose the items purchased or the value of the purchase.

(d) A state governmental entity that is not a state agency as defined by Section 2054.003 that uses a contract as provided by Subsection (a) may prohibit a vendor from disclosing the items purchased, the use of the items purchased, and the value of the purchase.

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 4. Section 2054.301, Government Code, is amended to read as follows:

Sec. 2054.301. APPLICABILITY; DEFINITION. (a)

This subchapter applies only to:

(1) a major information resources project; and

(2) a major contract.

(b) In this subchapter, "major contract" means a major contract as defined by Section 2262.001(4) under which a vendor will perform or manage an outsourced function or process.

Same as House version.

SECTION 5. Sections 2054.303(a) and (c), Government Code, are amended to read as follows:

(a) For each proposed major information resources project or major contract, a state agency must prepare:

(1) a business case providing the initial justification for the project or contract, including the anticipated return on investment in terms of cost savings and efficiency for the project or contract; and

(2) a statewide impact analysis of the project's or contract's effect on the state's common information resources infrastructure, including the possibility of reusing code or other resources.

(c) The department shall use the analysis to ensure that the proposed project or major contract does not unnecessarily duplicate existing statewide information resources technology.

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 6. Section 2054.304, Government Code, is amended to read as follows:

Sec. 2054.304. PROJECT PLANS. (a) A state agency shall develop a project plan for each major information resources project or major contract.

(b) Except as provided by Subsection (c), the state agency must file the project plan with the quality assurance team and the Texas Building and Procurement Commission before the agency:

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

(2) first issues a vendor solicitation for the project or contract.

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

(1) the Texas Building and Procurement Commission may not issue a vendor solicitation for the project or major contract; and

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

Same as House version.

SECTION 7. Section 2054.305, Government Code, is amended to read as follows:

Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING CONTRACTS. Before issuing a vendor solicitation for a project or major contract, the state agency must develop, consistent with department guidelines:

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

- (1) a procurement plan with anticipated service levels and performance standards for each vendor; and
- (2) a method to monitor changes to the scope of each contract.

SECTION 8. Section 2155.502, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

Same as House version.

(b) In developing a [the] schedule under Subsection (a) or (e), the commission or department, as appropriate, shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The commission may not list a multiple award contract on a schedule developed under Subsection (a) [this section] if the goods or services provided by that contract:

- (1) are available from only one vendor; ~~[or]~~
- (2) are telecommunications services, facilities, or equipment; or
- (3) are commodity items as defined by Section 2157.068(a).

(e) The department may develop a schedule of multiple award contracts for commodity items as defined by Section 2157.068(a) using the criteria established under Subsection (a).

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 9. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.006 to read as follows:

Sec. 2157.006. PURCHASING METHODS. (a) The commission or other state agency shall purchase an automated information system using:

(1) the purchasing method described by Section 2157.068 for commodity items; or

(2) a purchasing method designated by the commission to obtain the best value for the state, including a request for offers method.

(b) A local government may purchase an automated information system using a method listed under Subsection (a). A local government that purchases an item using a method listed under Subsection (a) satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) The commission shall adopt rules for designating purchasing methods under **Subsection (a)**.

SECTION 10. The heading to Subchapter B, Chapter 2157, Government Code, is amended to read as follows:

SUBCHAPTER B. COMMODITY ITEMS
~~[CATALOG PURCHASE METHOD]~~

SECTION 11. The heading to Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION

SENATE VERSION

SECTION 9. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.006 to read as follows:

Sec. 2157.006. PURCHASING METHODS. (a) The commission or other state agency shall purchase an automated information system using:

(1) the purchasing method described by Section 2157.068 for commodity items; or

(2) a purchasing method designated by the commission to obtain the best value for the state, including a request for offers method.

(b) A local government may purchase an automated information system using a method listed under Subsection (a). A local government that purchases an item using a method listed under Subsection (a) satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) The commission shall adopt rules for designating purchasing methods under **Subsection (a)(2)**.

Same as House version.

Same as House version.

CONFERENCE

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

TECHNOLOGY COMMODITY ITEMS.

SECTION 12. Section 2157.068, Government Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

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

(i) A state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

SECTION 13. Section 2262.051, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The guide must establish procedures for major

SECTION 12. Section 2157.068, Government Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

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

(i) Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the commission under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

contracts that outsource a state function or process to a contractor, including when applicable the use of documents required under Subchapter J, Chapter 2054.

SECTION 14. Section 2262.053(b), Government Code, is amended to read as follows:

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

- (1) fairly and objectively select and negotiate with the most qualified contractor;
- (2) establish prices that are cost-effective and that reflect the cost of providing the service;
- (3) include provisions in a contract that hold the contractor accountable for results;
- (4) monitor and enforce a contract;
- (5) make payments consistent with the contract; ~~and~~
- (6) comply with any requirements or goals contained in the contract management guide; and
- (7) use and apply advanced sourcing strategies, techniques, and tools.

Same as House version.

SECTION 15. Section 60.454, Water Code, is amended to read as follows:

Sec. 60.454. PURCHASING CONTRACT METHODS. Notwithstanding any other provision of this chapter or other law, a district contract valued at \$25,000 or more in the aggregate for each 12-month period may be made by the method below that, in the opinion of the district's

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

commission, provides the best value for the district:

- (1) a design-build contract to construct, rehabilitate, alter, or repair facilities;
- (2) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager-agent or construction manager-at-risk;
- (3) competitive sealed proposals;
- (4) a job order contract for the construction, repair, rehabilitation, or alteration of a facility;
- (5) a request for proposals, if the contract is for services other than construction services;
- (6) competitive sealed bids;
- (7) ~~[a catalog purchase as provided by Subchapter B, Chapter 2157, Government Code;~~
- ~~[(8)]~~ an interlocal contract as provided by Chapter 791, Government Code;
- ~~(8)~~ ~~[(9)]~~ the reverse auction procedure as defined by Section 2155.062(d), Government Code;
- ~~(9)~~ ~~[(10)]~~ a contract with the United States, including any agency thereof; or
- ~~(10)~~ ~~[(11)]~~ a contract with this state, including an agency of this state.

SECTION 16. The following sections are repealed:

- (1) 2155.507, Government Code;
- (2) 2157.061, Government Code;
- (3) 2157.0611, Government Code;
- (4) 2157.062, Government Code;
- (5) 2157.063, Government Code;

Same as House version.

House Bill 2918
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

- (6) 2157.066, Government Code; and
- (7) 2157.067, Government Code.

SECTION 17. Subchapter J, Chapter 2054, Government Code, as amended by this Act, applies only to a major contract entered into on or after the effective date of this Act. A major contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

Same as House version.

SECTION 18. The Texas Building and Procurement Commission must comply with Sections 2157.006(c) and 2262.051(h), Government Code, as added by this Act, and Section 2262.053(b), Government Code, as amended by this Act, not later than October 1, 2007.

Same as House version.

SECTION 19. This Act takes effect September 1, 2007.

Same as House version.