

**House Bill 3560**  
Senate Amendments  
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ARTICLE 1. TRANSFER OF DUTIES TO  
COMPTROLLER

Same as House version.

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

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

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

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

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

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

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

Sec. 2151.003. REFERENCE. A statutory reference to the General Services Commission, the State Board of Control, ~~[or]~~ the State Purchasing and General Services Commission, or ~~[means]~~ the Texas Building and Procurement Commission means:

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

(A) charge and control of state buildings, grounds, or

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

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

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

(A) charge and control of state buildings, grounds, or

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property;  
(B) maintenance or repair of state buildings, grounds, or property;  
(C) construction of a state building;  
(D) purchase or lease of state buildings, grounds, or property by or for the state; or  
(E) child care services for state employees under Chapter 663; and

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

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

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

(c) The Texas Facilities Commission retains the powers and duties of the former Texas Building and Procurement Commission relating to charge and control of state buildings, grounds, or property, maintenance or repair of state buildings, grounds, or property, child care services for state employees under Chapter 663,

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property;  
(B) maintenance or repair of state buildings, grounds, or property;  
(C) construction of a state building;  
(D) purchase or lease of state buildings, grounds, or property by or for the state;  
(E) child care services for state employees under Chapter 663; or

(F) surplus and salvage property; and

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

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

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

(c) The Texas Facilities Commission retains the powers and duties of the former Texas Building and Procurement Commission relating to charge and control of state buildings, grounds, or property, maintenance or repair of state buildings, grounds, or property, child care services for state employees under Chapter 663, surplus

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construction of a state building, or purchase or lease of state buildings, grounds, or property by or for the state.

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

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and salvage property, construction of a state building, or purchase or lease of state buildings, grounds, or property by or for the state.

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

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

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

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

(c) Unless otherwise provided by the legislature by law, on September 1, 2011:

(1) the powers and duties transferred to the comptroller under Section 2151.004(d) and under House Bill 3560,

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Acts of the 80th Legislature, Regular Session, 2007, are transferred to the Texas Facilities Commission;

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

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

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

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

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

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

(B) Section 2155.0011;

(C) Section 2155.086;

(D) Section 2155.087;

(E) Section 2156.0011;

(F) Section 2157.0011;

(G) Section 2158.0011;

(H) Section 2161.0011;

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- (I) Section 2163.0011;
- (J) Section 2170.0011;
- (K) Section 2171.0011;
- (L) Section 2172.0011;
- (M) Section 2176.0011;
- (N) Section 2177.0011; and
- (O) Section 2262.0011.

SECTION 1.02. The heading to Chapter 2152, Government Code, is amended to read as follows:  
CHAPTER 2152. TEXAS FACILITIES [~~BUILDING AND PROCUREMENT~~] COMMISSION

SECTION 1.03. Same as House version.

SECTION 1.03. Section 2152.001, Government Code, is amended to read as follows:  
Sec. 2152.001. COMMISSION. The Texas Facilities [~~Building and Procurement~~] Commission is an agency of the state.

SECTION 1.04. Same as House version.

SECTION 1.04. Subchapter A, Chapter 2152, Government Code, is amended by adding Section 2152.0011 to read as follows:  
Sec. 2152.0011. TEXAS FACILITIES COMMISSION; DEFINITION. (a) The Texas Building and Procurement Commission is renamed the Texas Facilities Commission.  
(b) In this chapter, "commission" or "Texas Building

SECTION 1.05. Same as House version.

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and Procurement Commission" means the Texas Facilities Commission.

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

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

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

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

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

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

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services

SECTION 1.06. Subchapter A, Chapter 2155, Government Code, is amended by adding Sections 2155.0011 and 2155.0012 to read as follows:

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

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

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

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

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

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

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by an agency of the state; or

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

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

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

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

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

No equivalent provision.

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

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

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

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

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

**Also added again by FA 5.**

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

Sec. 2155.086. PROCEDURES FOR AWARDED CERTAIN CONTRACTS. (a) In this section and in Section 2155.087, "chief clerk" means the chief clerk of

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the comptroller or the chief clerk's designee.

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

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

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

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

(c) This section does not apply to:

(1) any part of the contracting process other than the award, including planning, budgeting, solicitation, pre-response conference, respondent presentation, evaluation, development of staff or evaluation committee recommendations, negotiation, and signature;

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

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

(d) A contract to which this section applies must be awarded in a public meeting chaired and conducted by the chief clerk. The chief clerk shall determine the time and location for the meeting. The meeting must comply with applicable provisions of Chapter 551, including requirements relating to posting notice of the meeting. The comptroller shall also post notice of the meeting on



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the comptroller's website and in the state business daily. The office of the attorney general shall advise the comptroller on the applicable provisions of Chapter 551.

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

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

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

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

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

(b) The Statewide Procurement Advisory Council

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consists of the following four members or their designees:

(1) one member appointed by the governor;

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

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

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

(c) The comptroller shall adopt rules describing the purpose and tasks of the council as provided by Section 2110.005. Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

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

Also added again by FA 5, and refers to adding Sections 2155.086 and 2155.087, but only adds Section 2155.086.

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

(k) Subject to Section 531.0055(c), the Health and

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Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The comptroller [~~commission~~] may use the database to monitor health and human services agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the comptroller [~~commission~~] in the manner prescribed by the comptroller [~~commission~~] the information the agency possesses that the comptroller [~~commission~~] requires for inclusion in the database.

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

(b) If state law requires that a payment for the goods or services be made on a warrant drawn or an electronic funds transfer initiated by the comptroller or a state agency with delegated authority under Section 403.060, promptly after the later of the receipt of the invoice or the receipt of the goods or services, the agency shall send to the comptroller the certification, together with the financial information and purchase information provided by the invoice and purchase voucher, on a form or in the manner prescribed [~~agreed to~~] by the comptroller [~~and the commission~~].

SECTION 1.09. Section 2155.323(b), Government

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SECTION 1.10. Same as House version.

SECTION 1.11. Same as House version.

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Code, is amended to read as follows:

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

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

Sec. 2155.324. PURCHASE ~~[COMMISSION]~~ AUDIT.

(a) When ~~[Not later than the eighth day after the date the commission receives the certification and purchase information required by this subchapter from]~~ the comptroller considers a purchase audit to be advisable, ~~the comptroller[, the commission]~~ shall audit the purchase information for compliance with applicable purchasing statutes and ~~[commission]~~ rules.

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

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

SECTION 1.12. Same as House version.

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

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

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

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

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

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

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

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

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SECTION 1.13. Same as House version.

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SECTION 1.14. Same as House version.

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~~commission with information detailing all vouchers paid under this subchapter and Section 2155.132.]~~

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

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

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

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

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

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

No equivalent provision.

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SECTION 1.15. Same as House version.

SECTION 1.16. Same as House version.

SECTION \_\_. Subsections (a), (c), and (e), Section 2155.444, Government Code, are amended to read as follows:

(a) The commission and all state agencies making purchases of goods, including agricultural products, shall

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give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1) goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident shall be given a first preference and goods produced in this state or offered by other Texas bidders shall [equally] be given second preference, if the cost to the state and quality are equal; and

(2) agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(c) In this section:

(1) "Agricultural products" includes textiles and other similar products.

(1-a) "Service-disabled veteran" means a person who is a veteran as defined by 38 U.S.C. Section 101(2) and who has a service-connected disability as defined by 38 U.S.C. Section 101(16).

(2) "Texas bidder" means a business:

(A) incorporated in this state;

(B) that has its principal place of business in this state;

or

(C) that has an established physical presence in this state.

(e) The commission and all state agencies procuring services shall give first preference to services offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident and shall give second preference to services offered by other Texas bidders if:

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- (1) the services meet state requirements regarding the service to be performed and expected quality; and
- (2) the cost of the service does not exceed the cost of other similar services of similar expected quality that are ~~[not]~~ offered by a ~~[Texas]~~ bidder that is not entitled to a preference under this subsection.

No equivalent provision.

SECTION \_\_. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) The commission and state agencies making purchases of food for consumption in a public cafeteria may give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b) In complying with this section, the commission and state agencies shall review the Department of Agriculture's nutrition standards.

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

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

- (1) establish standard terms for contracts listed on a

SECTION 1.17. Same as House version.



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schedule; and

(2) maintain consistency with existing purchasing standards.

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

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

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

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

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

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

Sec. 2157.0011. TRANSFER OF DUTIES;

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

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

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

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

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

Sec. 2157.0011. TRANSFER OF DUTIES;

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REFERENCE. (a) The powers and duties of the commission under this chapter are transferred to the comptroller.

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

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

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

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

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

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

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REFERENCE. (a) The powers and duties of the commission under this chapter are transferred to the comptroller.

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

Sec. 2157.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer this chapter. **Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.**

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

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

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

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

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

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

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

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

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

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

(e) A local government or a nonprofit organization that certifies historically underutilized businesses under Subsection (c) or that conducts a certification program described by and approved under Subsection (b) shall

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

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

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

Sec. 2161.0012. AUTHORITY TO ADOPT RULES. (a) The comptroller may adopt rules to efficiently and effectively administer this chapter. **Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.**

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

SECTION 1.22. Same as House version.

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make available to the public an online searchable database containing information about historically underutilized businesses, minority business enterprises, women's business enterprises, and disadvantaged business enterprises certified by the local government or nonprofit organization, including:

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

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

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

- (1) has adopted rules under Section 2161.003;
- (2) has used the commission's directory under Section 2161.064 and other resources to identify historically underutilized businesses that are able and available to

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SECTION 1.23. Same as House version.

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contract with the agency;

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

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

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

(A) scheduled fiscal year expenditures; and

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

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

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

Sec. 2161.125. CATEGORIZATION BY SEX, RACE, AND ETHNICITY. The comptroller [commission], in cooperation with ~~the comptroller and~~ each state agency

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SECTION 1.24. Same as House version.

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reporting under this subchapter, shall categorize each historically underutilized business included in a report under this subchapter by sex, race, and ethnicity.

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

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

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

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

(2) a statement regarding whether the goals established under Section 2161.123(d)(5) were met during the two calendar years preceding the calendar year in which the

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

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

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

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

(2) a statement regarding whether the goals established under Section 2161.123(d)(5) were met during the two calendar years preceding the calendar year in which the

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request is submitted; and

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

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

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

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

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

(1) the governor;

(2) the lieutenant governor;

(3) the comptroller;

(4) the speaker of the house of representatives;

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

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

(7) the land commissioner.

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

Sec. 2162.053. ADMINISTRATION BY

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request is submitted; and

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

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

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

SECTION 1.26. Same as House version.

SECTION 1.27. Same as House version.

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COMPTROLLER. (a) The comptroller shall provide offices for the council and shall provide the council with legal, technical, administrative, and other support necessary to carry out its powers and duties.

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

SECTION 1.26. Section 2162.102(c), Government Code, is amended to read as follows:

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

- (1) require a state agency to conduct a hearing, study, review, or cost estimate, including an agency in-house cost estimate or a management study, concerning any aspect of a service identified under Subsection (a);
- (2) develop and require state agencies to use methods to accurately and fairly estimate and account for the cost of providing a service identified under Subsection (a);
- (3) require that a service identified under Subsection (a) be submitted to competitive bidding or another process that creates competition with private commercial sources;
- (4) prescribe, after consulting affected state agencies, the specifications and conditions of purchase procedures that must be followed by the comptroller [~~commission~~] and a state agency or a private commercial source engaged in competitive bidding to provide a service identified under Subsection (a);

SECTION 1.28. Same as House version.



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- (5) award a contract to a state agency providing the service, another state agency, a private commercial source, or a combination of those entities, if the bidder presents the best and most reasonable bid, which is not necessarily the lowest bid; and
- (6) determine the terms of a contract for service or interagency contract to provide a service identified under Subsection (a).

No equivalent provision.

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SECTION \_\_. Subsection (a), Section 2162.103, Government Code, is amended to read as follows:

- (a) In comparing the cost of providing a service, the council shall consider the:
  - (1) cost of supervising the work of a private contractor;
  - ~~[and]~~
  - (2) cost of a state agency's performance of the service, including:
    - (A) the costs of the comptroller, attorney general, and other support agencies; and
    - (B) other indirect costs related to the agency's performance of the service;
  - (3) installation costs and any other initial costs associated with a contract with a private contractor;
  - (4) other costs associated with the transition to using a private contractor's goods or services; and
  - (5) cost savings to the state if a private contractor were awarded the contract.

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

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

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

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

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

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

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

SECTION 1.29. Section 2166.001, Government Code, is amended by amending Subdivision (1) and adding

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

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

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

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

SECTION 1.30. Same as House version.

SECTION 1.31. Same as House version.

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Subdivision (1-a) to read as follows:

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

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

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

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

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

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

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

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

SENATE VERSION

SECTION 1.32. Same as House version.

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

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

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

Sec. 2170.0012. AUTHORITY TO ADOPT RULES. The comptroller may adopt rules to efficiently and effectively administer the comptroller's powers and duties under this chapter. Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are

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met.

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

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

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

No equivalent provision.

SECTION 1.34. Same as House version.

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

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

- (1) the structure of the comptroller's [~~commission's~~] travel agency contracts;
- (2) the procedures the comptroller [~~commission~~] uses in requesting and evaluating bids or proposals for travel agency contracts; and
- (3) the use by state agencies of negotiated contract rates for travel services.

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

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

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

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

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

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

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

SECTION 1.36. Same as House version.

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

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

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

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

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

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

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

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

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

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

SECTION 1.37. Section 2175.123(b), Government Code, is amended to read as follows:

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

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No equivalent provision.

No equivalent provision.

No equivalent provision.

CONFERENCE

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

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

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

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

No equivalent provision.

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

Sec. 2176.0011. TRANSFER OF DUTIES; REFERENCE. (a) The powers and duties of the

SENATE VERSION

No equivalent provision.

No equivalent provision.

SECTION 1.38. Section 2175.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:  
(1-a) "Commission" means the Texas Facilities Commission.

SECTION 1.39. Same as House version.

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commission under this chapter are transferred to the comptroller.

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

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

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

No equivalent provision.

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

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

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SECTION 1.40. Same as House version.

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

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

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

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

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comptroller.  
(b) In this chapter, a reference to the commission means the comptroller.  
Sec. 2177.0012. AUTHORITY TO ADOPT RULES.  
The comptroller may adopt rules to efficiently and effectively administer this chapter.

No equivalent provision.

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comptroller.  
(b) In this chapter, a reference to the commission means the comptroller.  
Sec. 2177.0012. AUTHORITY TO ADOPT RULES.  
The comptroller may adopt rules to efficiently and effectively administer this chapter. **Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.**

SECTION \_\_. Section 2177.052, Government Code, is amended by amending Subsections (b), (c), and (f) and adding Subsection (g) to read as follows:  
(b)Each state agency shall provide the commission:  
(1)copies of the following documents:  
(A)~~(1)~~ each major contract entered into by the agency;  
and  
(B)~~(2)~~ each request for proposal, invitation to bid, or comparable solicitation related to the major contract; and  
(2)information regarding each major contract entered into by the agency, including:  
(A)the name of the contractor;  
(B)the contract value;  
(C)the beginning date and end date of the contract;  
(D)a description of any amendments made to the contract;  
(E)cumulative payments and encumbrances under the contract;

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(F)key contract terms that are out Of compliance in terms of timeliness standards; and

(G)any other information that the commission considers necessary.

(c)The commission shall include in the information posted on the electronic procurement marketplace:

(1)each major contract of a state agency, including the commission; ~~and~~

(2)each request for proposal, invitation to bid, or comparable solicitation related to the major contract; and

(3)information provided to the commission under Subsection (b)(2) regarding a major contract.

(f)The commission shall make the information searchable by contract value, state agency, ~~and~~ vendor, and date, including both the beginning date and the end date of the contract. The commission may make the information searchable by other subjects as appropriate.

(g)The commission shall set appropriate criteria to determine when and what information should be updated.

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

(d) The reporter shall return the record, with briefs and opinions, to the clerk when the report is completed and from time to time shall deliver the reports to the comptroller ~~[State Purchasing and General Services Commission]~~ for publication. Each volume shall be copyrighted in the name of the reporter, who

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immediately on delivery of the edition shall transfer and assign it to the state. The edition shall be electrotyped. The state owns the plates, and the comptroller [~~State Purchasing and General Services Commission~~] shall preserve them.

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

Same as House version.

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

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

Same as House version.

Sec. 403.251. ADDITIONAL DUTIES OF COMPTROLLER [~~COMMISSION~~]. The comptroller [~~commission~~] shall treat documentation submitted [~~to the commission~~] by a state agency as part of the procedure for replenishing a petty cash account as a proposed expenditure of appropriated funds. The comptroller [~~commission~~] shall follow its usual procedures for reviewing purchases. The comptroller [~~commission~~]

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shall give the agency a written approval or disapproval of each disbursement from the petty cash account.

SECTION 1.46. Section 441.106, Government Code, is amended to read as follows:  
Sec. 441.106. PAYMENT FOR PRINTING OF STATE PUBLICATIONS. If a state agency's printing is done by contract, an account for the printing may not be approved and a warrant may not be issued unless the agency first furnishes to the comptroller [~~Texas Building and Procurement Commission~~] a receipt from the state librarian for the publication or a written waiver from the state librarian exempting the publication from this subchapter.

Same as House version.

SECTION 1.47. Sections 441.194(a) and (b), Government Code, are amended to read as follows:  
(a) Unless otherwise provided by law, the comptroller [~~General Services Commission~~] shall take custody of the records of a state agency that is abolished by the legislature and whose duties and responsibilities are not transferred to another state agency.  
(b) Unless the requirement is waived by the state records administrator, the records management officer of the comptroller [~~General Services Commission~~], or of another state agency that receives custody of the records pursuant to law, shall prepare and submit to the state archivist and the state records administrator a list of the

Same as House version.

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records of the abolished state agency within 180 days of the effective date of the agency's abolition.

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

(a) The commission shall:

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

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

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

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

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

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

(7) provide advice, on request of the governor, relating to the artistic character of buildings constructed, erected,

Same as House version.

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or remodeled by the state.

No equivalent provision.

SECTION \_\_. Subtitle D, Title 4, Government Code, is amended by adding Chapter 446 to read as follows:  
CHAPTER 446. TEXAS STATE MUSIC HISTORY MUSEUMS  
SUBCHAPTER A. GENERAL PROVISIONS  
Sec. 446.001. DEFINITIONS. In this chapter:  
(1) "Museum operator" means the person selected by the music office to operate the museum.  
(2) "Music office" means the Music, Film, Television, and Multimedia Office established in Chapter 485.  
Sec. 446.002. CREATION; PURPOSE. (a) The Texas State Music History Museum is created to educate visitors on the musical heritage of Texas, display objects and information relating to the musical history of Texas, and recognize great musical artists that have contributed to the musical fabric of Texas.  
(b) Section 2165.005 does not apply to the museum.  
[Sections 446.003-446.020 reserved for expansion]  
SUBCHAPTER A-1. REQUESTS FOR PROPOSALS FOR MUSEUM  
Sec. 446.021. DEFINITION. In this subchapter, "proposal advisory council" means the proposal advisory council created by Section 446.024.  
Sec. 446.022. REQUEST FOR PROPOSAL PROCESS. The music office shall establish a request for proposal process to select contractors for the operation and, if applicable, construction of the museum.

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Sec. 446.023. CRITERIA. (a) The music office, with the assistance of the proposal advisory council, shall develop criteria to evaluate proposals for selecting a contractor for the initial operation and, if applicable, construction of the museum.

(b) The criteria must:

(1) require proposals that do not require money appropriated by the state;

(2) specify information that must be provided in a proposal, including:

(A) information on the construction cost, if applicable;

(B) the proposed location of the museum;

(C) sources of funding for the construction, if applicable;

(D) estimated revenue from and annual usage of the museum; and

(E) the proposed museum operator; and

(3) allow the music office to change the museum operator after a period of time specified by the music office.

Sec. 446.024. PROPOSAL ADVISORY COUNCIL. (a) A proposal advisory council is created to advise the music office on the request for proposal process.

(b) The proposal advisory council is made up of six members appointed by the governor as follows:

(1) one representative from the Texas Commission on the Arts;

(2) one representative from the State Preservation Board;

(3) one representative from the Texas Historical Commission;

(4) one representative from the Texas Economic

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Development and Tourism Office;  
(5)one representative involved in tourism-related activities at the Texas Department of Transportation; and  
(6)one representative from the music office.  
(c)The music office representative serves as the presiding officer of the proposal advisory council.  
(d)The proposal advisory council shall meet at the call of the presiding officer.  
(e)Chapter 2110 does not apply to the council.  
Sec. 446.025. DUTIES OF PROPOSAL ADVISORY COUNCIL. The proposal advisory council shall advise the music office regarding:  
(1)criteria used to select a proposal for operation and, if applicable, construction of the museum under this subchapter; and  
(2)the selection process after proposals have been submitted for the operation and, if applicable, construction of the museum.  
Sec. 446.026. EXPIRATION. On September 1, 2013, the proposal advisory council is abolished and this subchapter expires.  
[Sections 446.027-446.050 reserved for expansion]  
SUBCHAPTER B. ADMINISTRATIVE PROVISIONS  
Sec. 446.051. ADMINISTRATION.The music office shall administer this chapter.  
Sec. 446.052. ADVISORY BOARD. (a) The music history advisory board is created to advise the music office and the museum operator on the content and additions to the content of the Texas State Music History Museum, including the addition of specific



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Texan artists for recognition of their contributions to music.

(b) The advisory board is appointed by the governor and must include at least one representative from the Texas Commission on the Arts.

Sec. 446.053. MUSEUM OPERATOR. The music office shall hire a museum operator to manage the operation of the museum.

Sec. 446.054. PERSONNEL. The museum operator may hire personnel necessary for the museum.

[Sections 446.055-446.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 446.101. GENERAL POWERS. (a) The museum shall provide exhibits, programs, and activities that promote the purposes described by Section 446.002 and support the education of the public, including students, in the knowledge and appreciation of the various musical trailblazers and pioneers of Texas and the varied musical styles of Texas that have evolved and cross-pollinated the face of modern popular music, including country, blues, jazz, gospel, rock, pop, and TexMex or Tejano music.

(b) The music office and museum operator may exercise any power appropriate to implement or promote a museum purpose.

Sec. 446.102. SALE OF MUSIC. (a) The museum operator may license and sell music from the museum's website.

(b) In addition to music connected with Texas music history, the museum operator may sell commercially

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produced music from the museum's website.

Sec. 446.103. LIVE MUSIC.The museum operator may host live musical performances.

Sec. 446.104. FILMS, RECORDINGS, AND OTHER PRODUCTS. The museum operator may develop and produce films, musical recordings or compilations, and other products and may retain royalties or otherwise receive revenue from the production, distribution, exhibition, or sale of those films, recordings, or products.

Sec. 446.105. MEMBERSHIP PROGRAM. The museum operator may establish a museum membership program.

Sec. 446.106. MARKETING AND PUBLIC RELATIONS. (a) The museum operator may market and publicize the museum's exhibits, programs, and activities.

(b) The museum operator may:

(1) employ public relations personnel;

(2) publish brochures, books, and periodicals intended for the general public that are promotional, informational, or educational; and

(3) advertise the museum in any available media.

Sec. 446.107. VENDING FACILITIES.(a) In addition to exhibits and theaters, the museum operator may operate:

(1) a gift shop;

(2) food services, including one or more restaurants, cafeterias, and vending machines;

(3) pay station telephones;

(4) automated teller machines; and

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(5) other services and facilities convenient or necessary for visitors to the museum.

(b) Chapter 94, Human Resources Code, does not apply to vending facilities operated by or approved for operation in the museum.

Sec. 446.108. TOURS; PARKING AND TRANSPORTATION. The museum operator may provide parking for visitors and, in cooperation with other public and private authorities, may participate in providing for tour transportation of visitors between other historical and cultural sites.

Sec. 446.109. PRIVATE EVENTS. (a) The museum operator may rent all or part of the museum facility at various times for private events. The museum operator may restrict public access to that part of the facility rented for a private event.

(b) The museum operator may provide for the sale, gift, possession, and consumption of alcoholic beverages at a private event held in the facility.

Sec. 446.110. SUPPORT ORGANIZATIONS. The museum operator may establish and maintain one or more organizations of persons interested in supporting the programs and activities of the museum. Such an organization may be incorporated as a Texas nonprofit corporation.

Sec. 446.111. CONTRACTS. The museum operator may enter into contracts with any person to the extent necessary or convenient to construct or operate the museum, including contracts for exhibits, programs, activities, and facilities, and contracts to acquire, by

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purchase or loan, items for exhibition.  
Sec. 446.112. PROGRAM AND FACILITY ACCESSIBILITY. The museum operator shall comply with federal and state laws related to program and facility accessibility. The museum operator shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the museum's programs and services.  
[Sections 446.113-446.150 reserved for expansion]  
SUBCHAPTER D. FINANCIAL PROVISIONS  
Sec. 446.151. GENERAL FUNDING AND SPENDING AUTHORITY. (a) To the extent possible, the costs of operating the museum shall be paid from revenues generated by the museum. Money from the general revenue fund, other than gifts, grants, and donations that may be used for operating the museum and are deposited in the general revenue fund, may not be appropriated for the purpose of operating the museum.  
(b) The museum operator may spend money received by the museum for any purpose connected with the museum.  
Sec. 446.152. GIFTS, GRANTS, AND DONATIONS.  
(a) The museum operator shall solicit and may accept donations of money or items from individuals and from public or private foundations and organizations.  
(b) The music office may accept donations and grants for the museum.  
Sec. 446.153. FEES. (a) The museum operator may set and collect fees in amounts necessary to operate the museum, including fees for:

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(1)admission to exhibits, theaters, programs, and activities;

(2)parking and transportation; and

(3)facility rental.

(b) The museum operator may sell at prices set by the museum operator items manufactured or publications printed under contract with the museum.

Sec. 446.154. AUDIT. The transactions, funds, and programs of the museum are subject to audit by the state auditor in accordance with Chapter 321.

Sec. 446.155. STATE EMPLOYEE CHARITABLE CONTRIBUTIONS. For purposes of Subchapter I, Chapter 659:

(1)the museum is considered an eligible charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659; and

(2)a state employee is entitled to authorize a deductionfor contributions to the museum, including contributions for museum membership, as a charitable contribution under Section 659.132, and the museum may use the contributions for museum purposes.

Sec. 446.156. MUSEUM FUND. (a) All money and securities received by the museum, including the net revenue from vending facilities under Section 446.107, shall be credited to and held in trust outside the treasury by the comptroller in a special fund to be known as the Texas State Music History Museum fund.

(b)The comptroller shall manage and invest the fund on behalf of the museum as directed or agreed to by the

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museum operator. Interest, dividends, and other income of the fund shall be credited to the fund.

(c)The museum operator shall prepare a detailed annual report on the fund. That report must describe the status of the fund, list all donations to the fund, including the name of each donor, and list all disbursements from the fund, including the purpose of each disbursement.

(d)The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, may review the annual report on the fund, and any information used in preparing the report as the auditor determines necessary, and shall report any findings or recommendations to the museum and the legislative audit committee.

(e)The fund is not subject to Subchapter F, Chapter 404. A provision of this chapter or other law that provides for the deposit of money or another thing of value into the fund prevails over Subchapter F, Chapter 404.

(f)Subtitle D, Title 10, does not apply to a purchase or lease made with money from the fund.

Sec. 446.157. INSURANCE. The museum operator may purchase insurance policies to insure the museum buildings and contents and other personal property against any insurable risk, including insurance covering historical artifacts, art, recordings, or other items, including items on loan to the museum.

No equivalent provision.

SECTION \_\_. This Act takes effect September 1, 2007.

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

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

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

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

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

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

- (1) acquiring facilities, supplies, materials, equipment, and services under Subtitle D, Title 10; or
- (2) establishing procedures for the executive director's accelerated acquisition of facilities, supplies, materials,

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Same as House version.

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equipment, and services for the operation of the lottery.

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

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

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

Same as House version.

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

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

Same as House version.



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

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

Same as House version.

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

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

Same as House version.

(c) If an agency or political subdivision purchasing

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goods under this subchapter desires to purchase goods or articles from the office, it may do so without complying with any other state law otherwise requiring the agency or political subdivision to request competitive bids for the article or product. Nothing herein shall be interpreted to require a political subdivision to purchase goods or articles from the office if the political subdivision determines that the goods or articles can be purchased elsewhere at a lower price. An agency may decline to purchase goods or articles from the office if the agency determines, after giving the office a final opportunity to negotiate on price, and the comptroller [~~General Services Commission~~] certifies, that the goods or articles can be purchased elsewhere at a lower price.

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

Same as House version.

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

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

Same as House version.

Sec. 497.027. SPECIFICATIONS. (a) The comptroller [~~General Services Commission~~] shall establish specifications for articles and products produced under this subchapter. An article or product produced under

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this subchapter must meet specifications established under this subsection in effect when the article or product is produced.

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

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

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

Same as House version.

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

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

(b) Not later than the 100th day after the last day of each fiscal year, the comptroller [~~General Services~~

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~~Commission~~] shall submit to the office a report that states the types and amounts of articles and products sold under this subchapter in the preceding fiscal year.

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

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

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

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

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

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

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

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

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

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

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

(d) Notwithstanding any other law, the retirement system has exclusive authority over the purchase of

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goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of the retirement system, and Subtitle D, Title 10, does not apply to the retirement system with respect to that money. The retirement system shall acquire goods or services by procurement methods approved by the board of trustees or the board's designee. For purposes of this subsection, goods and services include all professional and consulting services and utilities as well as supplies, materials, equipment, skilled or unskilled labor, and insurance. The comptroller [~~Texas Building and Procurement Commission~~] shall procure goods or services for the retirement system at the request of the retirement system, and the retirement system may use the services of the comptroller [~~that commission~~] in procuring goods or services.

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

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

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

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

Same as House version.

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

Sec. 2101.038. DUTIES OF STATE AUDITOR. The state auditor, when reviewing the operation of a state agency, shall audit for compliance with the uniform statewide accounting system, the comptroller's rules, and the Legislative Budget Board's performance and workload measures. The state auditor shall also audit state agencies that make purchases that are exempted from the purchasing authority of the comptroller [~~General Services Commission~~] or that make purchases under delegated purchasing authority for compliance with applicable provisions of Subtitle D, except that this section does not require the state auditor to audit purchases made under Section 51.9335, Education Code, or made under Section 73.115, Education Code. The state auditor shall notify the comptroller, the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board as soon as practicable when a state agency is not in

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compliance.

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

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

No equivalent provision.

Same as House version.

SECTION \_\_. Subsection (a), Section 2113.102, Government Code, is amended to read as follows:

(a) A state agency may not use appropriated money to contract with a person to audit ~~[the financial records or accounts of]~~ the agency except:

~~(1)~~ as provided by ~~[:]~~

~~[(1)]~~ Subsections (b), (c), and (d); and

~~(2)~~ in accordance with Section 321.020 ~~[Chapter 466, pertaining to the state lottery;]~~

~~[(3)]~~ Chapter 2306, pertaining to the Texas Department of Housing and Community Affairs; and

~~[(4)]~~ Chapter 361, Transportation Code, pertaining to the Texas Turnpike Authority division of the Texas Department of Transportation].



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

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

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

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

(1) to an authorized petty cash account;

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- (2) to a state employee for an emergency purchase of postage or emergency payment of post office box rent;
- (3) that is received by a state agency for authorized services and is appropriated directly to the receiving agency; or
- (4) under a contract for mailing services that may include postage, if the contract has been approved by the comptroller [~~General Services Commission~~].

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

Same as House version.

(h) The comptroller [~~Texas Building and Procurement Commission~~] shall appoint a task force to develop design recommendations that are to be used for state facilities and that encourage rain harvesting and water recycling by state agencies using appropriated money to finance a capital expenditure for a state facility purpose.

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

Same as House version.

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

SECTION 1.71. Sections 2205.004(a) and (c),

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Government Code, are amended to read as follows:

- (a) The board is composed of:
  - (1) a member appointed by the governor;
  - (2) a member appointed by the lieutenant governor;
  - (3) a member appointed by the speaker of the house of representatives; and
  - (4) a representative of the comptroller [~~Texas Building and Procurement Commission, designated from time to time by the presiding officer of the commission~~].
- (c) The representative of the comptroller [~~Texas Building and Procurement Commission~~] is an ex officio, nonvoting member of the board and serves only in an advisory capacity.

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

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

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

Sec. 2251.003. RULES. The comptroller [~~General Services Commission~~] shall establish procedures and adopt rules to administer this chapter[, ~~except that the commission may not establish a procedure or adopt a rule that conflicts with a procedure established or a rule~~].

Same as House version.

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

Sec. 2251.003. RULES. The comptroller [~~General Services Commission~~] shall establish procedures and adopt rules to administer this chapter[, ~~except that the commission may not establish a procedure or adopt a rule that conflicts with a procedure established or a rule~~].

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~~adopted by the comptroller under Section 2251.026(i)].~~

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

- (a) The comptroller [~~General Services Commission~~] annually shall publish in the Texas Register:
- (1) a list showing each state that regulates the award of a governmental contract to a bidder whose principal place of business is not located in that state; and
  - (2) the citation to and a summary of each state's most recent law or regulation relating to the evaluation of a bid from and award of a contract to a bidder whose principal place of business is not located in that state.

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

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

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

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~~adopted by the comptroller under Section 2251.026(i)].~~  
Before adopting a rule under this section, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b) are met.

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services.

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

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

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

- (1) is made under purchasing authority delegated to an agency by or under Section 2155.131 or 2155.132 [~~or 2155.133~~]; or
- (2) is made under some other source of purchasing authority.

No equivalent provision.

Same as House version.

SECTION \_\_. Section 2262.001, Government Code, is amended by amending Subdivisions (3) and (4) and adding Subdivision (3-a) to read as follows:

(3) "Contract manager" means a person who:

(A) is employed by a state agency; and

(B) has significant contract management duties for the state agency [~~, as determined by the agency in consultation with the state auditor~~].

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(3-a) "Executive director" means the administrative head of a state agency.

(4)"Major contract" means a contract, including a renewal of a contract, that has a value of at least \$1 million.

No equivalent provision.

SECTION \_\_. Section 2262.003, Government Code, is transferred to Subchapter D, Chapter 2262, Government Code, as added by this Act, is redesignated as Section 2262.157, Government Code, and is amended to read as follows:

Sec. 2262.157 [~~2262.003~~]. **REQUIRED [~~CONTRACT~~]** PROVISION RELATING TO AUDITING. (a) Each state agency shall include in each of its contracts a term that provides that:

(1)the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(2)acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(3)under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers

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relevant to the investigation or audit.  
(b)The state auditor shall provide assistance to a state agency in developing the contract provisions.

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

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

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

Same as House version.

No equivalent provision.

SECTION \_\_. Subchapter A, Chapter 2262, Government Code, is amended by adding Section 2262.0015 to read as follows:

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The commission by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b)This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on May 1, 2007.

No equivalent provision.

SECTION \_\_. The heading to Section 2262.053,

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Government Code, is amended to read as follows:  
Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

No equivalent provision.

SECTION \_\_. Section 2262.053, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e), (f), and (g) to read as follows:  
(a) in coordination with the comptroller, Department of Information Resources, ~~and~~ state auditor, and Health and Human Services Commission, the commission or a private vendor selected by the commission shall develop ~~or administer~~ a training program for contract managers.  
(d) The ~~commission~~ ~~[Texan Building and Procurement Commission]~~ shall administer the training program under this section.  
(e) The commission shall certify contract managers who have completed the contract management training required under this section and keep a list of those contract managers.  
(f) The program developed under this section must include a separate class on ethics and contracting.  
(g) A state agency or educational entity may develop qualified contract manager training to supplement the training required under this section. The commission may incorporate the training developed by the agency or entity into the training program under this section.



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No equivalent provision.

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SECTION \_\_. Subchapter B, Chapter 2262, Government Code, is amended by adding Section 2262.0535 and Sections 2262.055 through 2262.066 to read as follows:

Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The commission or a private vendor selected by the commission shall adapt the program developed under Section 2262.053 to develop an abbreviated program for training the members of the governing bodies of state agencies. The training may be provided together with other required training for members of state agency governing bodies.

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

Sec. 2262.055. FEES FOR TRAINING. The commission shall set and collect a fee from state agencies that receive training under this subchapter in an amount that recovers the commission's costs for the training.

Sec. 2262.056. STATE AGENCY REPOSITORY. Each state agency shall maintain in a central location all contracts for that agency.

Sec. 2262.057. REPORTING CONTRACTOR PERFORMANCE. (a) After a contract is completed or otherwise terminated, each state agency shall review the contractor's performance under the contract.

(b) Using the forms developed by the team under Sections 2262.104 and 2262.105, the state agency shall

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report to the commission on the results of the review regarding the contractor's performance under the contract.

Sec. 2262.058. CONTRACTOR PERFORMANCE DATABASE. (a) The commission shall store in a database contractor performance reviews as provided by this section.

(b)The commission shall evaluate the contractor's performance based on the information reported under Section 2262.057 and criteria established by the commission.

(c)The commission shall establish an evaluation process that allows vendors who receive an unfavorable performance review to protest any classification given by the commission.

(d)The commission shall develop a database that incorporates the performance reviews and aggregates the reviews for each contractor.

(e)A state agency may use the performance review database to determine whether to award a contract to a contractor reviewed in the database.

Sec. 2262.059. EXCLUDING CONTRACTOR FROM SOLICITATION PROCESS. Based on its own contractor performance reviews and on information in the database developed under Section 2262.058, a state agency may exclude a contractor from the solicitation process for a contract if the agency determines the contractor has performed poorly on a previous state contract without regard to whether the contractor has been barred under Section 2155.077.

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Sec. 2262.060. PERFORMANCE MEASURES; REPORTS. (a) Each state agency shall develop a plan for incorporating performance measures into all contracts entered into by the agency. This includes ensuring that performance measures are written into each contract prior to execution.

(b) Not later than March 1 of each year, each state agency shall report to the team, governor, lieutenant governor, and speaker of the house of representatives regarding performance measures in the agency's contracts. The report must describe the agency's efforts to include performance-based provisions in the agency's contracts.

(c) The state agency shall make the report accessible to the public on the agency's website.

Sec. 2262.061. CONTRACT MANAGERS. (a) Each state agency that enters into contracts other than interagency contracts shall establish a career ladder program for contract management in the agency.

(b) An employee hired as a contract manager may engage in procurement planning, contract solicitation, contract formation, price establishment, and other contract activities.

(c) Each state agency shall determine, in consultation with the state auditor, the amount and significance of contract management duties sufficient for an employee to be considered a contract manager under this chapter.

Sec. 2262.062. APPROVAL OF CONTRACTS. (a) Each state agency shall establish formal guidelines regarding who may approve a contract for the agency.

(b) Each state agency shall adopt administrative rules to

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establish a monetary threshold above which agency contracts and amendments to or extensions of agency contracts require written authorization by the agency executive director.

(c)For state agency contracts valued in excess of \$1 million the agency executive director must authorize a contract amendment in writing.

(d)Each state agency shall annually report to the commission a list of each person authorized to approve contracts at the agency. The list must include the person's name, position, and supervisory responsibility, if any.

Sec. 2262.063. NEGOTIATION OF CONTRACT BY SINGLE EMPLOYEE PROHIBITED. A state agency may not negotiate a contract with only one employee engaging in the negotiation.

Sec. 2262.064. DEVELOPMENT OF OPTIMIZED MODEL FOR CERTAIN CONTRACTS. (a) If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the agency shall create an optimized model for the identified functions or services to determine how and at what cost the agency could most efficiently provide the functions or services.

(b)The model must show consideration of all relevant factors, including:

(1)best practices in Texas and other states;

(2)available technology;

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(3)access to benefits and services for clients;  
(4)program integrity; and  
(5)assessment of state agency skills available throughout the life of the project.  
(c)An agency that develops an optimized model under this section shall use it as the basis for cost comparison when deciding whether to outsource the identified functions or services.  
(d) A model developed under this section is confidential and is not subject to disclosure under Chapter 552 until a final determination has been made to award the contract for which the model was developed.  
Sec. 2262.065. ANALYSIS OF SERVICES AND FUNCTIONS. (a) In this section, "inherently governmental in nature" means a function or service that involves the exercise or use of governmental authority or discretion.  
(b)If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or would lead to the loss of 100 or more existing state employee positions, then before the agency may issue a competitive solicitation for the contract or amend or extend the contract the agency shall contract with the State Council on Competitive Government for its staff to perform an analysis to determine if any of the services or functions to be performed under the contract or contract extension or amendment are inherently governmental in nature.

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(c) Except as provided by Subsection (e), if the State Council on Competitive Government determines that a service or function to be performed under the contract or contract extension or amendment is inherently governmental in nature, the state agency may not:

(1) contract with a private entity to perform the service or function; or

(2) amend or extend the contract, if a private entity is to perform the service or function under the contract extension or amendment.

(d) The analysis required under this section must use the standards and policies contained in the Office of Federal Procurement Policy, Policy Letter 92-1, or comparable guidelines developed by the State Council on Competitive Government.

(e) A state agency may contract with a private entity to perform a service or function or amend or extend an existing contract to allow a private entity to perform a service or function that the State Council on Competitive Government determines to be inherently governmental in nature if the chief administrative officer of the agency issues a report stating that there is a compelling state interest in outsourcing the service or function.

Sec. 2262.066. FULL AND FAIR COST COMPARISON. (a) If a state agency determines that a proposed contract Or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the agency

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shall:

(1)conduct a full and fair cost comparison to determine whether a private entity could perform the service or function with a comparable or better level of quality at a cost savings to the state; and

(2)prepare a business case providing the initial justification for the proposed contract or proposed contract extension or amendment that includes:

(A)the results of the comparison required under Subdivision (1); and

(B)the anticipated return on investment in terms of cost savings and efficiency for the proposed contract or proposed contract extension or amendment.

(b)To perform the comparison required by Subsection (a)(1), a state agency may:

(1)contract with the State Council on Competitive Government to have its staff perform the comparison; or

(2)use the methodology provided in Section 2162.103.

(c)A state agency shall submit the business case required under Subsection (a)(2) to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and standing committees of the legislature that have primary jurisdiction Over the agency, over state appropriations, and over state purchasing.

No equivalent provision.

SECTION \_\_. Section 2262.101, Government Code, is amended to read as follows:

Sec. 2262.101. CREATION; DUTIES. (a) The Contract

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Advisory Team is created to assist state agencies in improving contract management practices by:

(1)~~[reviewing the solicitation of major contracts by state agencies;]~~

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

(2) [(3)] providing recommendations to the commission regarding:

(A)the development of the contract management guide; and

(B)the training under Section 2262.053; and

(3)certifying that state agencies have complied with Sections 2262.064 and 2262.066.

(b)The team shall consult with state agencies in developing forms, contract terms, guidelines, and criteria required under this chapter.

No equivalent provision.

SECTION \_\_. Subsection (a), Section 2262.102, Government Code, is amended to read as follows:

(a)The team consists of the following six ~~[five]~~ members:

(1)one member from the attorney general's office;

(2)one member from the comptroller's office;

(3)one member from the Department of Information Resources;

(4)one member from the Texas Building and Procurement Commission; ~~[and]~~



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(5)one member from the governor's office; and  
(6)one member from the State Council on Competitive Government.

No equivalent provision.

SECTION \_\_. Subchapter C, Chapter 2262, Government Code, is amended by adding Sections 2262.104 and 2262.105 to read as follows:

Sec. 2262.104. UNIFORM DEFINITIONS AND FORMS. (a) The team shall develop and publish a uniform set of definitions for use as applicable in state contracts.

(b)The team shall develop and publish a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Sec. 2262.105. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section 2262.104, the team shall develop forms for use by state agencies in reporting a contractor's performance under Section 2262.057.

No equivalent provision.

SECTION \_\_. Chapter 2262, Government Code, is amended by adding Subchapters D, E, F, and G to read as follows:

SUBCHAPTER D. CONTRACT PROVISIONS

Sec. 2262.151. USE OF UNIFORM FORMS. A state agency may use the forms developed under Section 2262.104 as templates, guides, or samples for contracts

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entered into by the agency.

Sec. 2262.152. CONTRACT TERMS RELATING TO NONCOMPLIANCE. (a) The team shall develop recommendations for, contract terms regarding penalties for contractors who do not comply with a contract, including penalties for contractors who do not disclose conflicts of interest under Section 2262.201. The team may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b)A state agency may include applicable recommended terms in a contract entered into by the agency.

Sec. 2262.153. REQUIRED PROVISION RELATING TO SUBCONTRACTOR COMPLIANCE. Each state agency contract must require that each contractor provide a list of all subcontractors for the contract and include a provision that:

(1)holds the contractor responsible for the conduct of all subcontractors in complying with the contractor's contract with the state agency; and

(2)requires each subcontractor to disclose all potential conflicts of interest to the state agency, according to guidelines developed under Section 2262.201(b), when the subcontractor contracts with or is otherwise hired by the contractor.

Sec. 2262.154. REQUIRED CONTRACTOR DISCLOSURE STATEMENT; STATE AGENCY EMPLOYEES. Before entering into a contract with the state, a contractor and subcontractor shall disclose each employee:

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(1)who was employed by:  
(A)the state at any time during the two years before the date of the disclosure and is now employed by the contractor or subcontractor; or  
(B)the contractor or subcontractor at any time during the year before the date of the disclosure and is now employed by the state; and  
(2)who is materially involved in the development of the contract terms or the management of the contract.  
Sec. 2262.155. REQUIRED CONTRACTOR DISCLOSURE STATEMENT; OUTSOURCING. (a) Each contract entered into by a state agency must include a provision requiring disclosure of any services materially necessary to fulfill the contract, including services performed by a subcontractor, that will be or are performed in a country other than the United States. This section does not apply to services that are occasional, minor, or incidental to fulfilling the contract.  
(b)The contract must include a provision allowing the state agency to terminate the contract and solicit a new contract, except as provided by Subsection (d), if:  
(1)the contractor or a subcontractor of the contractor performs a service materially necessary to fulfill the contract in a country other than the United States; and  
(2)the contractor does not disclose in the contract that the service will be performed in a country other than the United States.  
(c)A state agency that decides not to solicit a new contract under circumstances in which the agency is authorized to do so under a contract provision required

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by Subsection (b) shall report this decision to:

- (1)the governor;
- (2)the lieutenant governor;
- (3)the speaker of the house of representatives; and
- (4)the team.

(d)A contractor may replace a subcontractor without termination of a contract under this section if the contractor determines that the subcontractor is performing a service materially necessary to fulfill the contract in a country other than the United States and did not disclose that fact to the contractor.

Sec. 2262.156. HIRING PREFERENCE PROVISION FOR CERTAIN LARGE CONTRACTS. If a state agency determines that a proposed contract or proposed contract extension or amendment would outsource existing services or functions performed by the agency that have a value of \$10 million or more, or that would lead to the loss of 100 or more existing state employee positions, the contract or contract amendment must contain a provision that requires the contractor to give preference in hiring to former employees of a state agency:

- (1)whose employment is terminated because of the contract or contract extension or amendment;
- (2)who satisfy the contractor's hiring criteria for that position; and
- (3)whose salary requirements are competitive with market rates for positions with equivalent skills and experience.

SUBCHAPTER E. ETHICS; CONFLICT OF

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Sec. 2262.201. CONTRACTOR CONFLICTS OF INTEREST. (a) Each contractor who responds to a state agency's contract solicitation shall disclose in its response all potential conflicts of interest to the agency.

(b)The team shall develop guidelines to aid contractors and state agencies in identifying potential conflicts of interest.

Sec. 2262.202. EXECUTIVE DIRECTORS; ETHICS IN CONTRACTING CLASS. Each executive director of a state agency shall annually complete the ethics and contracting class developed under Section 2262.053(f). This section does not apply to a state agency that does not enter into any contracts.

SUBCHAPTER F. CHANGES TO CONTRACTS

Sec. 2262.251. CONTRACT AMENDMENTS, EXTENSIONS, AND CHANGE ORDERS. (a) An extension of or amendment to a contract, including a change order, is subject to the same approval processes as the original contract.

(b)A state agency may not extend or amend a contract unless:

(1)the agency complies with the same approval processes for the extension or amendment as required for the original contract; and

(2)a contract manager for the agency states in writing why the extension or amendment is necessary.

(c)This section does not affect whether a state agency is required to undertake a new solicitation process in the manner required for a new contract in order to extend or

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amend a contract.

Sec. 2262.252. LARGE CHANGE IN CONTRACT VALUE.(a) If a proposed contract amendment or extension changes the monetary value of a contract by \$1 million or more, the state agency must obtain review and approval from the team and the agency's executive director before the agency amends or extends the contract.

(b)This section does not apply to a proposed contract amendment required by a state or federal statute.

Sec. 2262.253. CERTAIN CONTRACT EXTENSIONS. This subchapter does not apply to contract extensions that are specifically established as a component of the original procurement.

SUBCHAPTER G. STATE OFFICE OF CONTRACT MANAGEMENT

Sec. 2262.301. DEFINITIONS. In this subchapter:

(1)"High-risk contract" means a state agency contract that:

(A)has a value of at least \$10 million; or

(B)has a value of less than \$10 million, but has high-risk factors as identified by the office.

(2)"Major information resources project" has the meaning assigned by Section 2054.003(10).

(3)"Office" means the state office of contract management.

(4)"Quality assurance team" means the quality assurance team established under Section 2054.158.

(5)"Solicitation" means a solicitation for bids, offers, qualifications, proposals, or similar expressions of

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interest for a high-risk contract.  
Sec. 2262.302. ESTABLISHMENT; GENERAL DUTIES. The commission shall establish a state office of contract management to:  
(1)develop criteria for identifying high-risk factors in contracts;  
(2)review and approve an action related to a high-risk contract as provided by Section 2262.303;  
(3)provide recommendations and assistance to state agency personnel throughout the contract management process; and  
(4)coordinate and consult with the quality assurance team on all high-risk contracts relating to a major information resources project.  
Sec. 2262.303. REVIEW AND APPROVAL; WAIVER.  
(a) Each state agency must receive approval from the office before taking the following actions in relation to a high-risk contract:  
(1)publicly releasing solicitation documents;  
(2)executing a final contract; and  
(3)making a payment or a series of payments that equal half of the contract value.  
(b)In determining whether to approve an action described by Subsection (a), the office shall review related documentation to ensure that potential risks related to the high-risk contract have been identified and mitigated.  
(c)The commission by rule may adopt criteria for waiving the review and approval requirements under Subsections (a) and (b).  
Sec. 2262.304. SOLICITATION AND CONTRACT

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CANCELLATION. After review of and comment on the matter by the Legislative Budget Board and the governor, the office may recommend the cancellation of a solicitation or a contract during the review process under Section 2262.303 if:

- (1) a proposed solicitation is not in the best interest of the state;
- (2) a proposed contract would place the state at an unacceptable risk if executed; or
- (3) an executed contract is experiencing performance failure or payment irregularities.

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

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

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

(A) the commission;

(B) the Railroad Commission of Texas; and

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

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

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

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

(4) [(3)] one representative of higher education,

Same as House version.



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appointed by the governor.

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

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

Same as House version.

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

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

Same as House version.

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

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

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

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

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

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

(b) The comptroller [~~General Services Commission~~] may adopt rules as necessary to implement Subsection (a).

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Same as House version.

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

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

(b) The comptroller [~~General Services Commission~~] may adopt rules as necessary to implement Subsection (a). Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b), Government Code, are met.

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SECTION 1.84. Section 34.006, Education Code, is amended to read as follows:  
Sec. 34.006. SALE OF BUSES. (a) At the request of a school district, the comptroller [~~General Services Commission~~] shall dispose of a school bus.  
(b) A school district is not required to dispose of a school bus through the comptroller [~~General Services Commission~~].

Same as House version.

No equivalent provision.

SECTION \_\_. Section 51.923, Education Code, is amended to read as follows:  
Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION. (a) In this section:  
(1)"Business entity [~~Corporation~~]" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, limited liability company, holding company, joint stock company, receivership, or trust [a corporation for profit organized under the laws of this state or under laws other than the laws of this state].  
(2)"Governing board" has the meaning assigned by Section 61.003 of this code.  
(3)"Institution of higher education" has the meaning assigned by Section 61.003 of this code.  
(4)"Nonprofit corporation" means any organization

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exempt from federal income tax under Section 501 of the Internal Revenue Code of 1986 that does not distribute any part of its income to any member, director, or officer.

(b)A nonprofit corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a member, ~~or~~ director, or officer of the nonprofit corporation.

(c)A business entity ~~[corporation]~~ is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education has a substantial interest in the business entity ~~[also serves as a stockholder or director of the corporation provided that no member of the governing board owns or has a beneficial interest in more than five percent of the corporation's outstanding capital stock and further provided that the contract or transaction is:]~~

~~[(1)an affiliation, licensing, or sponsored research agreement; or]~~

~~[(2)awarded by competitive bidding or competitive sealed proposals].~~

(d)An institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has a substantial interest ~~[described in this section] if the [any] board member [having an interest described in this~~

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~~section in the contract or transaction]~~ discloses that interest in a meeting held in compliance with Chapter 551, Government Code, and refrains from voting on the contract or transaction. Any such contract or transaction requiring board approval must be approved by an affirmative majority of the board members voting on the contract or transaction.

(e)For purposes of this section, a member of a governing board has a substantial interest in a business entity if:

(1)the member owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity;

(2)funds received by the member from the business entity exceed 10 percent of the member's gross income for the previous year; or

(3)an individual related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has an interest in the business entity as described by Subdivision (1) or (2).

(f)A violation of this section does not render an action of the governing board voidable unless the contract or transaction that was the subject of the action would not have passed the governing board without the vote of the member who violated this section.

(g)This section preempts the common law of conflict of interests as applied to members of a governing board of an institution of higher education.

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

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

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

Sec. 107.66. REQUISITION OF FURNISHINGS, EQUIPMENT, ETC. The board may make requisition to the comptroller ~~[General Services Commission]~~ for

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Same as House version.

Same as House version.

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furniture, furnishings, equipment, and appointments required for the proper use and enjoyment of improvements erected by the board, and the comptroller [~~General Services Commission~~] may purchase and pay for the furnishings, equipment, and appointments.

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

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

Same as House version.

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

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

Same as House version.

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

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

Same as House version.

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

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

Same as House version.

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

Sec. 361.423. RECYCLING MARKET DEVELOPMENT IMPLEMENTATION PROGRAM.

(a) The commission, the comptroller [~~Texas Building and Procurement Commission~~], and other consenting state agencies as appropriate shall regularly coordinate the recycling activities of state agencies and shall each pursue an economic development strategy that focuses on the state's waste management priorities established by Section 361.022 and that includes development of recycling industries and markets as an integrated component.

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

- (1) identify existing economic and regulatory incentives and disincentives for creating an optimal market development strategy;
- (2) analyze or take into consideration the market development implications of:

Same as House version.



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- (A) the state's waste management policies and regulations;
- (B) existing and potential markets for plastic, glass, paper, lead-acid batteries, tires, compost, scrap gypsum, coal combustion by-products, and other recyclable materials; and
- (C) the state's tax structure and overall economic base;
- (3) examine and make policy recommendations regarding the need for changes in or the development of:
  - (A) economic policies that affect transportation, such as those embodied in freight rate schedules;
  - (B) tax incentives and disincentives;
  - (C) the availability of financial capital including grants, loans, and venture capital;
  - (D) enterprise zones;
  - (E) managerial and technical assistance;
  - (F) job-training programs;
  - (G) strategies for matching market supply and market demand for recyclable materials, including intrastate and interstate coordination;
  - (H) the state recycling goal;
  - (I) public-private partnerships;
  - (J) research and development;
  - (K) government procurement policies;
  - (L) educational programs for the public, corporate and regulated communities, and government entities; and
  - (M) public health and safety regulatory policies;
- (4) establish a comprehensive statewide strategy to expand markets for recycled products in Texas;
- (5) provide information and technical assistance to small

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

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

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

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

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

Same as House version.

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

(1) in cooperation with the comptroller [~~General Services Commission~~] or the commission establish a program for the separation and collection of all

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recyclable materials generated by the entity's operations, including, at a minimum, aluminum, steel containers, aseptic packaging and polycoated paperboard cartons, high-grade office paper, and corrugated cardboard;

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

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

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

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

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

No equivalent provision.

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Same as House version.

SECTION \_\_. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 692A to read as follows:

CHAPTER 692A. REVISED UNIFORM

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ANATOMICAL GIFT ACT

Sec. 692A.001. SHORT TITLE. This chapter may be cited as the Revised Uniform Anatomical Gift Act.

Sec. 692A.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(A) authorized to make health care decisions on the principal's behalf by a medical power of attorney; or

(B) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Commissioner" means the commissioner of state health services.

(5) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(6) "Department" means the Department of State Health Services.

(7) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to

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which an anatomical gift could pass under Section 692A.011.

(8) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(9) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(10) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(11) "Driver's license" means a license or permit issued by the Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit.

(12) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(13) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(14) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(15) "Identification card" means an identification card issued by the Department of Public Safety.

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(16) "Imminent death" means a patient who requires mechanical ventilation, has a severe neurologic injury, and meets certain clinical criteria indicating that neurologic death is near or a patient for whom withdrawal of ventilatory support is being considered.

(17) "Know" means to have actual knowledge.

(18) "Minor" means an individual who is under 18 years of age.

(19) "Organ procurement organization" means a person designated by the secretary of the United States Department of Health and Human Services as an organ procurement organization.

(20) "Parent" means a parent whose parental rights have not been terminated.

(21) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(23) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(24) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(25) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research,

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or education. The term does not include an individual who has made a refusal.

(26) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(27) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(28) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(29) "Refusal" means a record created under Section 692A.007 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(30) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(31) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(32) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

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(33) "Timely notification" means notification of an imminent death to the organ procurement organization within one hour of the patient's meeting the criteria for imminent death and before the withdrawal of any life-sustaining therapies. With respect to cardiac death, timely notification means notification to the organ procurement organization within one hour of the cardiac death.

(34) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(35) "Tissue bank" means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(36) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(37) "Visceral organ" means the heart, kidney, or liver or another organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

Sec. 692A.003. APPLICABILITY. This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Subject to Section 692A.008, an anatomical gift of a donor's body or part may be made during the life of the



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donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 692A.005 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(A) emancipated; or

(B) authorized under state law to apply for a driver's license because the donor is at least 16 years of age;

(2) an agent of the donor, unless the medical power of attorney or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.

(a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) in a will;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) as provided in Subsection (b).

(b) A donor or other person authorized to make an anatomical gift under Section 692A.004 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an

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anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.

(a) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to Subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

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(b) A record signed pursuant to Subsection (a)(1)(C) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (a).

Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL. (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

(B) subject to Subsection (b), another individual acting at the direction of the individual if the individual is

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physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to Subsection (a)(1)(B) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in Subsection (a) for making a refusal;

(2) by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal;

or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in Section 692A.008(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons

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from making an anatomical gift of the individual's body or part.

Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in Subsection (g) and subject to Subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 692A.006 is not a refusal and does not bar another person specified in Section 692A.004 or 692A.009 from making an anatomical gift of the donor's body or part under Section 692A.005 or 692A.010.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006, another person may not make, amend, or revoke the gift of the donor's body or part under Section 692A.010.

(d) A revocation of an anatomical gift of a donor's body or part under Section 692A.006 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 692A.005 or 692A.010.

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(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part for one or more of the purposes set forth in Section 692A.004 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 692A.005 or 692A.010.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

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(1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;  
(2) the spouse of the decedent;  
(3) adult children of the decedent;  
(4) parents of the decedent;  
(5) adult siblings of the decedent;  
(6) adult grandchildren of the decedent;  
(7) grandparents of the decedent;  
(8) the persons who were acting as the guardians of the person of the decedent at the time of death;  
(9) the hospital administrator; and  
(10) any other person having the authority to dispose of the decedent's body.  
(b) If there is more than one member of a class listed in Subsection (a)(1), (3), (4), (5), (6), (7), or (8) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 692A.011 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.  
(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.  
Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person

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authorized to make an anatomical gift under Section 692A.009 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to Subsection (c), an anatomical gift by a person authorized under Section 692A.009 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 692A.009 may be:

- (1) amended only if a majority of the reasonably available members agree to the amending of the gift; or
- (2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under Subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before the initiation of invasive procedures to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to the following persons named in the document of gift:

- (1) a hospital or organ procurement organization for



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research or education;  
(2) subject to Subsection (d), an individual designated by the person making the anatomical gift if the individual is the recipient of the part;  
(3) an eye bank or tissue bank;  
(4) a forensic science program at:  
(A) a general academic teaching institution, as defined by Section 61.003(3), Education Code; or  
(B) a private or independent institution of higher education, as defined by Section 61.003(15), Education Code; or  
(5) the Anatomical Board of the State of Texas.  
(b) Except for a donation to an organ procurement organization, eye bank, tissue bank, or forensic science program made for the purpose of therapy, transplantation, or research, the Anatomical Board of the State of Texas is the donee of a gift of a body or part made for purposes of education or research. The gift of the body or part is subject to distribution by the board under Chapter 691.  
(c) A forensic science program that receives a donation under Subsection (a)(4) must submit a report to the Anatomical Board of the State of Texas on a quarterly basis that lists:  
(1) the number of bodies or parts the program received;  
and  
(2) the method in which the program used the bodies or parts for education or research purposes.  
(d) If an anatomical gift to an individual under Subsection (a)(2) cannot be transplanted into the

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individual, the part passes in accordance with Subsection (i) in the absence of an express, contrary indication by the person making the anatomical gift.

(e) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(f) For the purpose of Subsection (e), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(g) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in

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accordance with Subsection (i).

(h) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).

(i) For purposes of Subsections (d), (g), and (h), the following rules apply:

(1) if the part is an eye, the gift passes to the appropriate eye bank;

(2) if the part is tissue, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(j) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(k) If an anatomical gift does not pass pursuant to Subsections (a)-(j) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(l) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 692A.005 or 692A.010 or if the person knows that the decedent made a refusal under Section 692A.007 that was not revoked. For purposes of this

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subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(m) Except as otherwise provided in Subsection (a)(2), nothing in this chapter affects the allocation of organs for transplantation or therapy.

(n) A donee may accept or reject a gift.

Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a person who is involved in an accident or other trauma shall accompany the person to the hospital or other health care facility. The driver's license or personal identification certificate indicating an affirmative statement of gift of a person who is involved in an accident or other trauma shall accompany the person to the hospital or health care facility if the person does not have a donor card.

Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) On or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 692A.011.

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Sec. 692A.014. RIGHTS AND DUTIES OF  
PROCUREMENT ORGANIZATION AND OTHERS.

(a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 692A.011 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an

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examination under Subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) On the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) On referral by a hospital under Subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 692A.009 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to Sections 692A.011(k) and 693.002, the rights of the person to which a part passes under Section 692A.011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift wholly or partly. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 692A.011, on the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without

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unnecessary mutilation.

(i) The physician who attends the decedent at death or the physician who determines the time of the decedent's death may not participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE; HOSPITAL PROCEDURES. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. Each hospital must have a protocol that ensures its maintenance of an effective donation system in order to maximize organ and tissue donation. The protocol must:

(1) be available to the public during the hospital's normal business hours;

(2) establish a procedure for notifying, in a timely manner, an organ procurement organization of individuals whose death is imminent or who have died in the hospital;

(3) establish procedures to ensure potential donors are declared dead by an appropriate practitioner in an acceptable time frame;

(4) establish procedures to ensure that hospital staff and organ procurement organization staff maintain appropriate medical treatment of potential donors while necessary testing and placement of potential donated

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organs, tissues, and eyes take place;  
(5) ensure that all families are provided the opportunity to donate organs and tissues, including vascular organs procured from asystolic donors;  
(6) provide that the hospital use appropriately trained persons from an organ procurement organization, tissue bank, or eye bank to make inquiries relating to donations;  
(7) provide for documentation of the inquiry and of its disposition in the decedent's medical records;  
(8) require an organ procurement organization, tissue bank, or eye bank that makes inquiries relating to donations to develop a protocol for making those inquiries;  
(9) encourage sensitivity to families' beliefs and circumstances in all discussions relating to the donations;  
(10) provide that the organ procurement organization determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the organ procurement organization determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;  
(11) ensure that the hospital works cooperatively with the designated organ procurement organization, tissue bank, and eye bank in educating staff on donation issues;  
(12) ensure that the hospital works with the designated organ procurement organization, tissue bank, and eye



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bank in reviewing death records; and  
(13) provide for monitoring of donation system effectiveness, including rates of donation, protocols, and policies, as part of the hospital's quality improvement program.

Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a) Except as otherwise provided in Subsection (b), a person commits an offense if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. An offense under this subsection is a Class A misdemeanor.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(c) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person commits an offense if the person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal. An offense under this section is a Class A misdemeanor.

(b) If conduct that constitutes an offense under this section also constitutes an offense under other law, the

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actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.018. IMMUNITY. (a) A person who acts in good faith in accordance with this chapter is not liable for civil damages or subject to criminal prosecution for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.

(b) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(c) A person who acts in good faith in accordance with this chapter is not liable as a result of the action except in the case of an act or omission of the person that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard. For purposes of this subsection, "good faith" in determining the appropriate person authorized to make a donation under Section 692A.009 means making a reasonable effort to locate and contact the member or members of the highest priority class who are reasonably available at or near the time of death.

(d) Neither a person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(e) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely on representations of an individual listed in

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Section 692A.009(a)(2), (3), (4), (5), (6), or (7) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

(f) In a civil action brought by a person listed in Section 692A.009 who did not object before the removal of tissue or a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the part or tissue could be removed.

Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A document of gift is valid if executed in accordance with:

- (1) this chapter;
- (2) the laws of the state or country where it was executed; or
- (3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or

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amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 692A.020. DONOR REGISTRY. (a) In consultation with the Department of Public Safety and organ procurement organizations, the department shall establish the Donor Education, Awareness, and Registry Program of Texas.

(b) The department shall enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Contingent on the continued availability of appropriations under Subsection (h), the term of the initial agreement is two years and may be renewed for two-year terms thereafter unless terminated in a written notice to the other party by the department or organization not later than the 180th day before the last day of a term.

(c) The Department of Public Safety at least monthly shall electronically transfer to the organization selected by the commissioner as provided by Subsection (b) the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of the Department of Public Safety for any person who indicates on the person's driver's license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift and consents in writing to the release of the information by the Department of Public Safety to the organization for

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inclusion in the Internet-based registry.

(d) The contract between the department and the organization selected by the commissioner as provided by Subsection (b) must require the organization to:

(1) make information obtained from the Department of Public Safety under Subsection (c) available to procurement organizations;

(2) allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry;

(3) maintain the Internet-based registry in a manner that allows procurement organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods; and

(4) protect the confidentiality and privacy of the individuals providing information to the Internet-based registry, regardless of the manner in which the information is provided.

(e) Except as otherwise provided by Subsection (d)(3) or this subsection, the Department of Public Safety, the organization selected by the commissioner under Subsection (b), or a procurement organization may not sell, rent, or otherwise share any information provided to the Internet-based registry. A procurement organization may share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

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(f) The Department of Public Safety, the organization selected by the commissioner under Subsection (b), or the procurement organizations may not use any demographic or specific data provided to the Internet-based registry for any fund-raising activities. Data may only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

(g) In each office authorized to issue driver's licenses or personal identification certificates, the Department of Public Safety shall make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005.

(h) The Department of Public Safety shall remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. A county assessor-collector shall remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Money remitted to the comptroller in accordance with those sections that is appropriated to the department must be spent in accordance with the priorities established by the department in consultation with the Texas Organ, Tissue, and Eye Donor Council to pay the costs of:

(1) maintaining, operating, and updating the Internet-

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based registry and establishing procedures for an individual to be added to the registry; and  
(2) designing and distributing educational materials for prospective donors as required under this section.  
(i) Any additional money over the amount necessary to accomplish the purposes of Subsections (h)(1) and (2) may be used by the department to provide education under this chapter or may be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. A member of the Texas Organ, Tissue, and Eye Donor Council may not receive a grant under this subsection.  
(j) The department shall require the organization selected under Subsection (b) to submit an annual written report to the department that includes:  
(1) the number of donors listed on the Internet-based registry;  
(2) changes in the number of donors listed on the registry; and  
(3) the demographic characteristics of listed donors, to the extent the characteristics may be determined from information provided on donor registry forms submitted by donors to the organization.  
(k) To the extent funds are available and as part of the donor registry program, the department shall educate residents about anatomical gifts. The program shall include information about:  
(1) the laws governing anatomical gifts, including Subchapter Q, Chapter 521, Transportation Code, and

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this chapter;

(2) the procedures for becoming an organ, eye, or tissue donor or donee; and

(3) the benefits of organ, eye, or tissue donation.

(l) In developing the program, the department in consultation with the Texas Organ, Tissue, and Eye Donor Council shall solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(m) In consultation with the Texas Organ, Tissue, and Eye Donor Council, the department may implement a training program for all appropriate Department of Public Safety and Texas Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry. The department shall implement the training program before the date that the registry is operational and shall conduct the training on an ongoing basis for new employees.

Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE DIRECTIVE. (a) In this section:

(1) "Advance directive" means a medical power of attorney or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or



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withdrawn from the prospective donor.

(3) "Health-care decision" means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if the agent is not reasonably available, another person authorized by law other than this chapter to make health-care decisions on behalf of the prospective donor, shall act on the prospective donor's behalf to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 692A.009. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor.

(c) If the conflict cannot be resolved, an expedited review of the matter must be initiated by an ethics or medical committee of the appropriate health care facility. Sec. 692A.022. UNIFORMITY OF APPLICATION

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AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does not modify, limit, or supersede Section 101(a) of that Act (15 U.S.C. Section 7001(a)), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

No equivalent provision.

SECTION \_\_. Section 241.153, Health and Safety Code, is amended to read as follows:

Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A patient's health care information may be disclosed without the patient's authorization if the disclosure is:

- (1) directory information, unless the patient has instructed the hospital not to make the disclosure or the directory information is otherwise protected by state or federal law;
- (2) to a health care provider who is rendering health care to the patient when the request for the disclosure is made;

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- (3) to a transporting emergency medical services provider for the purpose of:
  - (A) treatment or payment, as those terms are defined by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); or
  - (B) the following health care operations described by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191):
    - (i) quality assessment and improvement activities;
    - (ii) specified insurance functions;
    - (iii) conducting or arranging for medical reviews; or
    - (iv) competency assurance activities;
- (4) to a member of the clergy specifically designated by the patient;
- (5) to a [~~qualified organ or tissue~~] procurement organization as defined in Section 692A.002 [~~692.002~~] for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692A.015 [~~692.013(d)~~];
- (6) to a prospective health care provider for the purpose of securing the services of that health care provider as part of the patient's continuum of care, as determined by the patient's attending physician;
- (7) to a person authorized to consent to medical treatment under Chapter 313 or to a person in a circumstance exempted from Chapter 313 to facilitate the adequate provision of treatment;
- (8) to an employee or agent of the hospital who requires

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health care information for health care education, quality assurance, or peer review or for assisting the hospital in the delivery of health care or in complying with statutory, licensing, accreditation, or certification requirements and if the hospital takes appropriate action to ensure that the employee or agent:

(A) will not use or disclose the health care information for any other purpose; and

(B) will take appropriate steps to protect the health care information;

(9) to a federal, state, or local government agency or authority to the extent authorized or required by law;

(10) to a hospital that is the successor in interest to the hospital maintaining the health care information;

(11) to the American Red Cross for the specific purpose of fulfilling the duties specified under its charter granted as an instrumentality of the United States government;

(12) to a regional poison control center, as the term is used in Chapter 777, to the extent necessary to enable the center to provide information and education to health professionals involved in the management of poison and overdose victims, including information regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions;

(13) to a health care utilization review agent who requires the health care information for utilization review of health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

(14) for use in a research project authorized by an

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institutional review board under federal law;  
(15) to health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient;  
(16) to facilitate reimbursement to a hospital, other health care provider, or the patient for medical services or supplies;  
(17) to a health maintenance organization for purposes of maintaining a statistical reporting system as required by a rule adopted by a state agency or regulations adopted under the federal Health Maintenance Organization Act of 1973, as amended (42 U.S.C. Section 300e et seq.);  
(18) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 74.051(e), Civil Practice and Remedies Code;  
(19) to comply with a court order except as provided by Subdivision (20); or  
(20) related to a judicial proceeding in which the patient is a party and the disclosure is requested under a subpoena issued under:  
(A) the Texas Rules of Civil Procedure or Code of Criminal Procedure; or  
(B) Chapter 121, Civil Practice and Remedies Code.

No equivalent provision.

SECTION \_\_. Subsection (d), Section 691.030, Health and Safety Code, is amended to read as follows:  
(d) The board may transport a body or anatomical

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specimen to an authorized recipient in another state if the board determines that the supply of bodies or anatomical specimens in this state exceeds the need for bodies or anatomical specimens in this state and if:

(1) the deceased donated his body in compliance with Section 691.028 and at the time of the donation authorized the board to transport the body outside this state; or

(2) the body was donated in compliance with Chapter 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to make the donation under Section 692A.009 [~~692.004~~] authorized the board to transport the body outside this state.

No equivalent provision.

SECTION \_\_. Subsection (a), Section 693.002, Health and Safety Code, is amended by amending Subdivisions (1), (2), and (4) and adding Subdivisions (2-a) and (5-a) to read as follows:

(1) On a request from an [~~a qualified~~] organ procurement organization, as defined by [~~in~~] Section 692A.002 [~~692.002~~], the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of organs from a decedent who died under circumstances requiring an inquest by the medical examiner, justice of the peace, or county judge if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

(2) If no autopsy is required, the organs to be

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transplanted shall be released in a timely manner to the ~~[qualified]~~ organ procurement organization, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, for removal and transplantation.

(2-a) Within one hour of pronouncement of death, or within one hour of consent on an asystolic organ donor, the organ procurement organization shall notify the medical examiner, justice of the peace, county judge, or designated physician of any death requiring an inquest that falls under that person's jurisdiction.

(4) If the medical examiner is considering withholding one or more organs of a potential donor for any reason, the medical examiner shall be present during the removal of the organs. In such case, the medical examiner may request a biopsy of those organs or deny removal of the anatomical gift. If the medical examiner denies removal of the anatomical gift, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

(A) the ~~[qualified]~~ organ procurement organization; and  
(B) any person listed in Section 692A.009 or 693.004 who consented to the removal.

(5-a) Effective September 1, 2009, the medical examiner, or physician designee of a justice of the peace, or physician designee of a county judge, who will subsequently perform the postmortem examination may restrict designation of cardiac tissue for organ donation purposes without being required to be present at the hospital to examine the decedent before removal of the organs or during the procedure to remove the organs.

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No equivalent provision.

SECTION \_\_. Subsection (b), Section 693.002, Health and Safety Code, is amended to read as follows:  
(b) On a request from a ~~[qualified]~~ tissue bank ~~[procurement organization]~~, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, the medical examiner may permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003 or, if consent is not required by those sections ~~[that section]~~, no objection by a person listed in Section 692A.009 or 693.004 is known by the medical examiner. If the medical examiner denies removal of the tissue, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:  
(1) the ~~[qualified]~~ tissue bank ~~[procurement organization]~~; and  
(2) the person listed in Section 692A.009 or 693.004 who consented to the removal.

No equivalent provision.

SECTION \_\_. Section 693.003, Health and Safety Code, is amended to read as follows:  
Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN CIRCUMSTANCES. ~~[(a)—A medical examiner or a person acting on the authority of a medical~~



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~~examiner may not remove a visceral organ unless the medical examiner or person obtains the consent of a person listed in Section 693.004.~~

~~[(b) If a person listed in Section 693.004 is known and available within four hours after death is pronounced, a medical examiner or a person acting on the authority of a medical examiner may not remove a nonvisceral organ or tissue unless the medical examiner or person obtains that person's consent.~~

~~[(e)] If a person listed in Section 692A.009 or 693.004 cannot be identified and contacted within 12 [~~four~~] hours after death is pronounced and either a county court or [~~the~~] medical examiner determines that no reasonable likelihood exists that a person can be identified and contacted during the 12-hour [~~four-hour~~] period, the county court or medical examiner may permit the removal of a visceral [~~nonvisceral~~] organ or tissue.~~

No equivalent provision.

SECTION \_\_. Section 693.005, Health and Safety Code, is amended to read as follows:

Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a civil action brought by a person listed in Section 692A.009 or 693.004 who did not object before the removal of tissue or a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages on a theory of civil recovery based on

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a contention that the plaintiff's consent was required before the body part or tissue could be removed.

No equivalent provision.

SECTION \_\_. Section 693.006, Health and Safety Code, is amended to read as follows:  
Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from an eye bank, as defined in Section 692A.002 [~~692.002~~], the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of corneal tissue subject to the same provisions that apply to removal of a visceral organ on the request of a ~~an~~ organ procurement organization under this subchapter. The provisions of Chapter 692A [~~this subchapter~~] relating to immunity and consent apply to the removal of the corneal tissue.

No equivalent provision.

SECTION \_\_. Subsections (b) and (c), Section 521.401, Transportation Code, are amended to read as follows:  
(b) The statement of gift may be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed pursuant to Section 692A.005 [~~692.003(d)~~], Health and Safety Code.  
(c) Donor cards shall be provided to the department by ~~qualified~~ organ ~~or tissue~~ procurement organizations.

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tissue banks, or eye banks, as those terms are defined in Section 692A.002 [~~692.002~~], Health and Safety Code, or by the Donor Education, Awareness, and Registry Program of Texas established under Chapter 49, Health and Safety Code. The department shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005 [~~692.003~~], Health and Safety Code; and

(B) an opportunity for the person to consent in writing to the department's provision of the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the organization selected by the commissioner of state health services under Section 692A.020 [~~Chapter 49~~], Health and Safety Code, for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to procurement [~~qualified organ, tissue, and eye bank~~] organizations; and

(2) provide a means to distribute donor cards to interested individuals in each office authorized to issue driver's licenses or personal identification certificates.

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No equivalent provision.

No equivalent provision.

SECTION 1.94. Section 841.083(c-2), Health and Safety Code, is amended to read as follows:  
(c-2) If the equipment necessary to implement the tracking service is available through a contract entered into by the comptroller [~~Texas Building and Procurement Commission~~], the Department of Public Safety or the council, as appropriate, shall acquire that equipment through that contract.

SECTION 1.95. Section 32.044(d), Human Resources Code, is amended to read as follows:  
(d) The department with the assistance of the Health and Human Services Commission and the comptroller [~~General Services Commission~~] shall adopt rules under

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SECTION \_\_. Subsection (f), Section 651.407, Occupations Code, is amended to read as follows:  
(f) This section does not apply to a dead human body obtained by a school or college of mortuary science under Chapter 691 or 692A [~~692~~], Health and Safety Code.

SECTION \_\_. The following provisions are repealed:  
(1) Section 49.002, Health and Safety Code;  
(2) Chapter 692, Health and Safety Code;  
(3) Section 521.403, Transportation Code; and  
(4) Section 521.404, Transportation Code.

Same as House version.

Same as House version.

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this section that allow the public or private hospital to make purchases through group purchasing programs except when the department has reason to believe that a better value is available through another procurement method.

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

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

- (1) ensure compliance with the best-value purchasing requirements of Section 2155.144(c), Government Code;
- (2) document that a best-value review of vendors has occurred;
- (3) document the reasons for selecting a vendor;
- (4) negotiate price discounts with high-volume vendors;
- (5) consolidate purchases with other agencies, including the Texas Department of Health and the comptroller [~~General Services Commission~~], to achieve best value; and
- (6) provide effective public notification to potential vendors of planned commission purchases.

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

Sec. 122.0011. TRANSFER OF DUTIES:

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Same as House version.

Same as House version.

CONFERENCE

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REFERENCE. (a) The powers and duties of the commission under this chapter are transferred to the comptroller.

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

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

Same as House version.

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

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

Same as House version.

(b) After the settlement of the outstanding indebtedness of an abolished municipality and the satisfaction of the other applicable requirements of Chapter 62, Local Government Code, the municipality's governing body at the time the municipality is abolished, or the receiver or trustees if appointed by a court, shall transfer the records of the municipality to the custody of the comptroller [~~General Services Commission~~]. A record of an

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abolished municipality may not be sold to satisfy an outstanding indebtedness.

(c) After the settlement of the outstanding indebtedness of an abolished special-purpose district or authority, other than a school district, and the satisfaction of the other applicable requirements of state law establishing or permitting the establishment of the district or authority or governing its abolition, the district's governing body at the time the district is abolished shall transfer the records of the district to the custody of the comptroller [~~General Services Commission~~]. A record of an abolished special-purpose district or authority may not be sold to satisfy an outstanding indebtedness.

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

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

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

Same as House version.

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

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

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

Same as House version.

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

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

Same as House version.

SECTION 1.103. Section 271.082, Local Government

SECTION 1.103. Section 271.082, Local Government



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Code, is amended to read as follows:

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

- (1) the extension of state contract prices to participating local governments when the comptroller [~~commission~~] considers it feasible;
- (2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller [~~commission~~] and is desired by the local government; and
- (3) provision of information and technical assistance to local governments about the purchasing program.

(b) The comptroller [~~commission~~] may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller [~~commission~~] in providing purchasing services to the local government under the program.

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

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

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Code, is amended to read as follows:

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

- (1) the extension of state contract prices to participating local governments when the comptroller [~~commission~~] considers it feasible;
- (2) solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller [~~commission~~] and is desired by the local government; and
- (3) provision of information and technical assistance to local governments about the purchasing program.

(b) The comptroller [~~commission~~] may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller [~~commission~~] in providing purchasing services to the local government under the program.

(c) The comptroller [~~commission~~] may adopt rules and procedures necessary to administer the purchasing program. **Before adopting a rule under this subsection, the comptroller must conduct a public hearing regarding the proposed rule regardless of whether the requirements of Section 2001.029(b), Government Code, are met.**

Same as House version.

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

- (1) the commissioner of the General Land Office;
- (2) the members of the Railroad Commission of Texas;
- (3) the comptroller [~~chairman of the General Services Commission~~]; and
- (4) the chairman of the Texas Natural Resource Conservation Commission.

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

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

Same as House version.

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

(c) The comptroller [~~State Purchasing and General Services Commission~~] shall execute any sale of products under this section under the general law governing the sale of state property; however, the department shall determine the quantity of products to be offered for sale and the consideration in lieu of money to be received under the sale. The department may lease grazing or farming rights under this section. In leasing the rights,

Same as House version.

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the department must follow a competitive bidding procedure.

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

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

Same as House version.

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

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

Same as House version.

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SECTION 1.109. Section 111.0036(f), Tax Code, is amended to read as follows:  
(f) Except as provided by Subsection (g), the comptroller shall award a contract made under this section through a competitive bidding process that complies with Section 2155.132, Government Code~~[-and the rules adopted by the General Services Commission relating to delegated purchases]~~. If the comptroller receives not more than three bids through the competitive bidding process, the comptroller shall report the number of bidders to the Legislative Budget Board before awarding the contract.

Same as House version.

SECTION 1.110. Section 201.706, Transportation Code, is amended to read as follows:  
Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From appropriated funds, the department shall assist counties with materials to repair and maintain county roads. The department shall:  
(1) provide that the total annual value of assistance under this section is:  
(A) at least \$12 million per year for fiscal years 1998 and 1999; and  
(B) at least \$6 million per year for a fiscal year other than 1998 or 1999;  
(2) make maximum usage of surplus materials on hand;  
(3) develop rules and procedures to implement this

Same as House version.

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section and to provide for the distribution of the assistance with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits based on the previous year's permit totals; and

(4) undertake cooperative and joint procurement of road materials with counties under ~~[General—Services Commission]~~ procedures of the comptroller.

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

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

(1) Chapter 2175, Government Code; or

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

Same as House version.

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

(b) The department, in setting a minimum level of expenditures in these engineering-related activities that will be paid to the private sector providers, shall provide that the expenditure level for a state fiscal year in all strategies paid to private sector providers for all department engineering-related services for transportation projects is not less than 35 percent of the total funds appropriated in Strategy A.1.1.

Same as House version.

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Plan/Design/Manage and Strategy A.1.2. of the General Appropriations Act for that state fiscal biennium. The department shall attempt to make expenditures for engineering-related services with private sector providers under this subsection with historically underutilized businesses, as defined by Section 2161.001, Government Code, in an amount consistent with the applicable provisions of the Government Code, any applicable state disparity study, and in accordance with the good-faith-effort procedures outlined in the rules adopted by the comptroller [~~Texas Building and Procurement Commission~~].

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

Same as House version.

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

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

Same as House version.

(b) When manufacturing is started, the Texas Department of Criminal Justice, the Texas Department of Transportation, and the comptroller [~~Texas Building and Procurement Commission~~], after negotiation, shall set

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the price to be paid for each license plate or insignia.  
The price must be determined from:

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

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

Same as House version.

Sec. 14.058. FEES FOR ELECTRONIC ACCESS TO INFORMATION. The fees charged by the commission for electronic access to information that is stored in the system established by the commission using funds from the Texas Public Finance Authority and approved by the Department of Information Resources shall be established:

- (1) by the commission in consultation with the comptroller [~~General Services Commission~~]; and
- (2) in an amount reasonable and necessary to retire the debt to the Texas Public Finance Authority associated with establishing the electronic access system.

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

Same as House version.

(v) The authority may enter into contracts with this state through the comptroller [~~Texas Building and~~

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~~Procurement Commission]~~ providing for direct sale by the authority of electrical power to this state for use in buildings or other facilities owned, leased, or rented by this state in Travis County.

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

- (1) Section 403.241(1);
- (2) Section 2103.063;
- (3) Section 2152.003;
- (4) Section 2152.104(c);
- (5) Sections 2155.323(c) and (d);
- (6) Section 2161.002(b); and
- (7) **Section 2175.182(c).**

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

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

SECTION 1.120. (a) The Texas Facilities Commission retains the powers and duties of the former Texas Building and Procurement Commission that relate to charge and control of state buildings, grounds, or

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

- (1) Section 403.241(1);
- (2) Section 2103.063;
- (3) Section 2152.003;
- (4) Section 2152.104(c);
- (5) Sections 2155.323(c) and (d); and
- (6) Section 2161.002(b).

Same as House version.

Same as House version.

SECTION 1.120. (a) The Texas Facilities Commission retains the powers and duties of the former Texas Building and Procurement Commission that relate to charge and control of state buildings, grounds, or



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property, to maintenance or repair of state buildings, grounds, or property, to child care services for state employees under Chapter 663, Government Code, to construction of a state building, or to the purchase or lease of buildings, grounds, or property by or for the state.

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

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

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

(c) A rule, form, policy, procedure, or decision of the Texas Building and Procurement Commission that is related to an activity described by Subsection (a) of this section continues in effect as a rule, form, policy, procedure, or decision of the Texas Facilities

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property, to maintenance or repair of state buildings, grounds, or property, to child care services for state employees under Chapter 663, Government Code, **to surplus and salvage property**, to construction of a state building, or to the purchase or lease of buildings, grounds, or property by or for the state.

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

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

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

(c) A rule, form, policy, procedure, or decision of the Texas Building and Procurement Commission that is related to an activity described by Subsection (a) of this section continues in effect as a rule, form, policy, procedure, or decision of the Texas Facilities

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Commission.

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

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

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

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

(e-1) All money, contracts, memoranda of understanding, leases, rights, bonds, and obligations of

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Commission.

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

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

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

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

(e-1) All money, contracts, memoranda of understanding, leases, rights, bonds, and obligations of

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the Texas Building and Procurement Commission related to an activity transferred by this Act to the comptroller are transferred to the comptroller.

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

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

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

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

SECTION 1.121. In accordance with Section 1.117 of this article, the comptroller and the Texas Facilities Commission shall adopt a memorandum of understanding that identifies and allocates between the

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the Texas Building and Procurement Commission related to an activity transferred by this Act to the comptroller are transferred to the comptroller.

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

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

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

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

Same as House version, but refers to Section 1.120.

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office of the comptroller and the Texas Facilities Commission the powers, duties, property, employees, appropriations, and other items transferred under Section 1.117. The memorandum of understanding must also:

- (1) identify and allocate between the office of the comptroller and the Texas Facilities Commission the employees and real and personal property of the Texas Building and Procurement Commission, including space in the central administrative offices of the commission, used to generally support the activities of the Texas Building and Procurement Commission; and
- (2) provide a timetable for any necessary or advisable movement of the physical location of employees and property.

No equivalent provision.

ARTICLE 2. DEPARTMENT OF INFORMATION

80R23209 ELB-INF

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SECTION 1.122. Sections 2155.086 and 2155.087, Government Code, as added by this Act, apply only to a contract for which the solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2007. A contract for which the solicitation of bids or proposals or similar expressions of interest is published before September 1, 2007, is governed by the law in effect on the date the solicitation of bids or proposals or similar expressions of interest is published, and the former law is continued in effect for that purpose.

Same as House version.

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RESOURCES

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

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

Same as House version.

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

(i) A school district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources [~~General Services Commission~~] under contracts entered into in accordance with Chapter 2054 or 2157, Government Code. Before issuing an invitation for bids, the department [~~commission~~] shall consult with the agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

Same as House version.

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

Same as House version.

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

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

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

- (1) a representative of the comptroller's office, appointed by the comptroller;
- (2) the executive director of the Telecommunications Infrastructure Fund Board;
- (3) a representative of the department ~~[Texas Building and Procurement Commission]~~, appointed by the executive director of the department ~~[commission]~~;
- (4) a member representing the interests of state agencies with 1,000 employees or more, appointed by the lieutenant governor;
- (5) a member representing the interests of state agencies with fewer than 1,000 employees, appointed by the

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Same as House version.

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speaker of the house of representatives;

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

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

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

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

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

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

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

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

(1) the representative of the comptroller's office serves at the discretion of the comptroller;

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

(3) the representative of the Health and Human Services

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Commission serves at the discretion of the commissioner of health and human services.

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

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

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

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

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

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

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

Same as House version.

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

(b) The following individuals serve as nonvoting ex officio members:

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

Same as House version.



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(2) the executive director of the Department of Information Resources [~~General Services Commission~~], or an individual designated by the executive director; and  
(3) the commissioner of public health, or an individual who has responsibility for the poison control network designated by the commissioner.

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

Same as House version.

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

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

Same as House version.

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

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ARTICLE 3. CONFORMING AMENDMENTS;  
MISCELLANEOUS

Same as House version.

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

Same as House version.

(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:

Same as House version.

(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~~

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~~on behalf of state agencies].~~

No equivalent provision.

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

- (a) The Records Management Interagency Coordinating Council is composed of:
- (1) permanent members, consisting of the following officers or the officer's designee:
    - (A) the secretary of state;
    - (B) the state auditor, who serves as a nonvoting member;
    - (C) the comptroller of public accounts;
    - (D) the attorney general;
    - (E) the director and librarian; and
    - (F) ~~the executive director of the Texas Building and Procurement Commission; and~~
    - ~~[(G)]~~ the executive director of the Department of Information Resources; and
  - (2) auxiliary voting members, consisting of:

SECTION \_\_. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.031 to read as follows:

Sec.403.031.APPROVAL BY COMPTROLLER. A public agency as defined under Section 30.003(3), Water Code may not enter into a contract as provided by Subchapter C, Chapter 2254, Government Code, without review and approval by the comptroller.

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

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

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

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

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

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

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

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Same as House version.

Same as House version.

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- (a) The open records steering committee is composed of two representatives of the attorney general's office and:
- (1) a representative of each of the following, appointed by its governing entity:
    - (A) the comptroller's office;
    - (B) the Department of Public Safety;
    - (C) the Department of Information Resources; and
    - (D) the Texas State Library and Archives Commission;
  - (2) five public members, appointed by the attorney general; and
  - (3) a representative of each of the following types of local governments, appointed by the attorney general:
    - (A) a municipality;
    - (B) a county; and
    - (C) a school district.

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

- (a) The commission shall administer and enforce:
- (1) Chapters 302, 303, 305, 572, and 2004;
  - (2) Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission; ~~and~~
  - (3) Title 15, Election Code; and
  - (4) Sections 2152.064 and 2155.003.

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

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

- (1) Chapter 302;
- (2) Chapter 303;
- (3) Chapter 305;
- (4) Chapter 2004;
- (5) Chapter 572;
- (6) Subchapter C, Chapter 159, Local Government Code, as provided by Section 571.061(a)(2);
- (7) Title 15, Election Code;
- (8) Chapter 36, Penal Code; [øø]
- (9) Chapter 39, Penal Code;
- (10) Section 2152.064; or
- (11) Section 2155.003.

Same as House version.

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

- (c) The term means a member of:
- (1) the Public Utility Commission of Texas;
  - (2) the Texas Department of Economic Development;
  - (3) the Texas Commission on Environmental Quality;
  - (4) the Texas Alcoholic Beverage Commission;
  - (5) The Finance Commission of Texas;
  - (6) the Texas Facilities [~~Building and Procurement~~]

Same as House version.

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Commission;

- (7) the Texas Board of Criminal Justice;
- (8) the board of trustees of the Employees Retirement System of Texas;
- (9) the Texas Transportation Commission;
- (10) the Texas Workers' Compensation Commission;
- (11) the Texas Department of Insurance;
- (12) the Parks and Wildlife Commission;
- (13) the Public Safety Commission;
- (14) the Texas Ethics Commission;
- (15) the State Securities Board;
- (16) the Texas Water Development Board;
- (17) the governing board of a public senior college or university as defined by Section 61.003, Education Code, or of The University of Texas Southwestern Medical Center at Dallas, The University of Texas Medical Branch at Galveston, The University of Texas Health Science Center at Houston, The University of Texas Health Science Center at San Antonio, The University of Texas System Cancer Center, The University of Texas Health Science Center at Tyler, University of North Texas Health Science Center at Fort Worth, Texas Tech University Health Sciences Center, Texas State Technical College--Harlingen, Texas State Technical College--Marshall, Texas State Technical College--Sweetwater, or Texas State Technical College--Waco;
- (18) the Texas Higher Education Coordinating Board;
- (19) the Texas Workforce Commission;
- (20) the State Banking Board;
- (21) the board of trustees of the Teacher Retirement

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System of Texas;

- (22) the Credit Union Commission;
- (23) the School Land Board;
- (24) the board of the Texas Department of Housing and Community Affairs;
- (25) the Texas Racing Commission;
- (26) the State Board of Dental Examiners;
- (27) the Texas State Board of Medical Examiners;
- (28) the Board of Pardons and Paroles;
- (29) the Texas State Board of Pharmacy;
- (30) the Department of Information Resources governing board;
- (31) the Motor Vehicle Board;
- (32) the Texas Real Estate Commission;
- (33) the board of directors of the State Bar of Texas;
- (34) the bond review board;
- (35) the Texas Board of Health;
- (36) the Texas Board of Mental Health and Mental Retardation;
- (37) the Texas Board on Aging;
- (38) the Texas Board of Human Services;
- (39) the Texas Funeral Service Commission;
- (40) the board of directors of a river authority created under the Texas Constitution or a statute of this state; or
- (41) the Texas Lottery Commission.

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

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



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

(1) have an interest in, or in any manner be connected with,

a contract or bid for a purchase of goods or services, including professional or consulting services, by the commission or another agency of the state in connection with the commission's duties concerning:

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

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

(C) construction of a state building; or

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

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

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

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

(d) The Texas Ethics Commission shall administer and

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

(1) have an interest in, or in any manner be connected with:

(A) a contract or bid for a purchase of goods or services, including professional or consulting services, by the commission or another agency of the state in connection with the commission's duties concerning:

(i) charge and control of state buildings, grounds, or property;

(ii) maintenance or repair of state buildings, grounds, or property;

(iii) construction of a state building; or

(iv) purchase or lease of state buildings, grounds, or property by or for the state; or

(B) a recipient of state surplus or salvage property under the control of the commission; or

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

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

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

(d) The Texas Ethics Commission shall administer and

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enforce this section and may prepare written opinions regarding this section in accordance with Subchapter D, Chapter 571.

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

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

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

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

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

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

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enforce this section and may prepare written opinions regarding this section in accordance with Subchapter D, Chapter 571.

Same as House version.

Same as House version.

Same as House version.

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ARTICLE 4. STUDY OF TEXAS FACILITIES COMMISSION FUNCTIONS

Same as House version.

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

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

- (1) the acquisition of state buildings through lease or purchase;
- (2) the construction of buildings owned by the state;
- (3) the control and maintenance of buildings owned or leased by the state; and
- (4) all other related responsibilities performed by the commission.

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

(c) Not later than November 1, 2008, the executive director of the commission, the Legislative Budget

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

Sec. 2152.004. STUDY TO ASSESS FUNCTIONS OF TEXAS FACILITIES COMMISSION. (a) The Sunset Advisory Commission shall conduct a study of the functions of the Texas Facilities Commission. The study must assess the best allocation of state resources for:

- (1) the acquisition of state buildings through lease or purchase;
- (2) the construction of buildings owned by the state;
- (3) the control and maintenance of buildings owned or leased by the state; and
- (4) all other related responsibilities performed by the commission.

(b) The study must consider the benefits to the state of outsourcing any of the commission's functions to private entities or of allocating those functions to other state agencies.

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Board, and the General Land Office shall submit a written report to the governor, lieutenant governor, and speaker of the house of representatives that contains the findings of the joint study and any recommendations.

(d) This section expires January 1, 2009.

No equivalent provision.

No equivalent provision.

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(c) The commission shall take into consideration the findings and conclusions of the study in its report to the 81st Legislature and shall include any recommendations it considers appropriate resulting from its consideration of the study.

(d) The Texas Facilities Commission, the General Land Office, and the state auditor shall provide support to the Sunset Advisory Commission in conducting the study.

(e) This section expires January 1, 2009.

SECTION \_\_. Subsection (f), Section 2262.051, Government Code, is repealed.

SECTION \_\_. (a) Sections 2262.063 through 2262.066 and 2262.154, Government Code, and Subchapter G, Chapter 2262, Government Code, as added by this Act, apply only to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act.

(b) Subsection (a), Section 2262.201, Government Code, as added by this Act, applies only in relation to a contract for which a state agency first solicits bids, proposals, offers, or qualifications on or after the date that the Contract Advisory Team's guidelines regarding potential

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conflicts of interest take effect.

No equivalent provision.

SECTION \_\_. Not later than May 1, 2008, the Texas Building and Procurement Commission shall develop the training program, including the ethics and contracting class, required by Section 2262.053, Government Code, as amended by this Act, and Section 2262.0535, Government Code, as added by this Act.

No equivalent provision.

SECTION \_\_. A member of a governing body of a state agency is not required to complete the training developed under Section 2262.0535, Government Code, as added by this Act, until September 1, 2009.

No equivalent provision.

SECTION \_\_. An executive director of a state agency is not required to comply with Section 2262.202, Government Code, as added by this Act, until September 1, 2009.

No equivalent provision.

SECTION \_\_. A contract manager is not required to be certified under Chapter 2262, Government Code, as amended by this Act, until September 1, 2009.

No equivalent provision.

SECTION \_\_. (a) As soon as practicable, and not later than May 1, 2008, the Contract Advisory Team shall

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develop the forms, criteria, recommendations, and provisions required by this Act, including Sections 2262.104, 2262.105, and 2262.152 and Subsection (b), 2262.201, Government Code, as added by this Act.

(b)A state agency is not required to comply with Sections 2262.056 through 2262.062 and Sections 2262.153, 2262.155, and 2262.156, Government Code, as added by this Act, until September 1, 2009. A state agency may comply earlier if the forms, electronic requirements, database, or other items are available before that date.

ARTICLE 5. EFFECTIVE DATE

Same as House version.

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

Same as House version.