

## BILL ANALYSIS

Senate Research Center  
82R12073 MTB-D

S.B. 1579  
By: Ogden  
Finance  
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### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article 1 of this bill authorizes state agencies to reduce or recover expenditures by taking action to consolidate reports, extend license, permit or registration periods, enter into contracts to carry out an agency's duties, adopt additional eligibility requirements for benefits, provide for electronic communication, and adopt and collect fees or charges to recover costs incurred by an agency.

Article 2 of this bill implements recommendations from the report "Optimize the Use of State Parking Facilities" in the Legislative Budget Board's (LBB) *Government Effectiveness and Efficiency Report* (GEER), submitted to the 82nd Legislature, 2011. This bill expands the Texas Facilities Commission's (TFC) authority related to the operations of state-owned parking lots and garages by authorizing TFC to lease excess parking spaces, those not used by state employees, to public motorists. This bill authorizes TFC to lease an entire parking facility, or a significant part of a facility, to an institution of higher education or local government. This bill directs revenue received from leasing operations to be deposited to the General Revenue Fund. This bill requires TFC to report biennially on the use and effectiveness of leased parking operations. Article 2 provisions take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions take effect September, 1, 2011.

Article 3 of this bill implements two recommendations from the report "Implement Strategies to Increase the Transparency of the State Constitutional Debt Limit" in the LBB's GEER report, submitted to the 82nd Texas Legislature, 2011. This bill permits the Texas Bond Review Board (BRB) to use common or standard debt issuance practices to make changes to the assumptions used for estimating debt service amounts for any unissued debt included in the constitutional debt limit (CDL) calculation. This includes changes to assumptions for interest rates, debt maturity, and debt service payment structures. The impact to the debt limit depends upon what, if any, changes the BRB makes to the current assumptions it uses for unissued debt. This bill also requires the BRB to publish an explanation of how the CDL is calculated, including debt service amounts for issued and unissued debt and the assumptions regarding unissued debt. Article 3 provisions take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions take effect September, 1, 2011.

Article 4 of this bill implements recommendations in the report, "Eliminate Paper Warrants by Using Direct Deposit or E-Pay Card," in the LBB's GEER report submitted to the 82nd Legislature, 2011. This bill amends the Government Code to allow state employees and annuitants to choose either direct deposit or an electronic pay card to receive payment of state funds. This provision eliminates the paper warrant option currently available to state employees and annuitants. Article 4 provisions take effect January 1, 2012.

Article 5 of this bill eliminates the publication and distribution of bound copies of the General and Special Laws of Texas (referred to as session law) by the Secretary of State following each session of the legislature, replacing such publications with the same information provided electronically on the agency's website. This change does not apply to a contract for the publication of laws entered into prior to the effective date of this bill. Article 5 provisions take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions take effect September, 1, 2011.

Article 6 of this bill authorizes three specific fees for the Office of Attorney General (OAG),

which include a reasonable fee for documents filed electronically with the agency; a fee to review state agency invoices relating to the use of outside legal services, upon request of a party to an outside counsel contract; and a reasonable fee for review of the legal sufficiency of proposed comprehensive development agreements for toll projects in accordance with Section 371.051 (Attorney General Review), Transportation Code. Article 6 provisions take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions take effect September, 1, 2011.

Article 7 of this bill authorizes money in the Preservation Trust Fund to be used on the operating expenses of the Texas Historical Commission (THC). This bill eliminates references to distributions made to the account and repeal provisions authorizing the comptroller of public accounts (comptroller) to manage the assets of the account under certain requirements and rules for investment and distribution of funds. This bill requires the comptroller and THC to enter into a memorandum of understanding to facilitate the conversion of assets of the fund into cash for deposit into the state treasury using a method that provides for the lowest amount of revenue loss. Article 7 provisions take effect November 1, 2011.

Article 8 of this bill transfers the operations of the Texas State Cemetery from TFC to the State Preservation Board.

Article 9 of this bill clarifies the appropriate expenditure of revenue derived from the collection of fees imposed by the agency, including developing statewide information resources technology policies; and providing shared information resources technology services and network security services. This bill also directs the comptroller to transfer excess funds from the telecommunications revolving fund, as certified by the Department of Information Resources, to the credit of the General Revenue Fund. Article 9 provisions take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions take effect September, 1, 2011.

The provisions of this bill take effect September 1, 2011, unless otherwise noted.

As proposed, S.B. 1579 amends current law relating to state fiscal matters related to general government.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the comptroller of public accounts is modified in SECTION 4.01 (Section 403.016, Government Code) of this bill.

Rulemaking authority is expressly granted to the attorney general in SECTION 6.03 (Section 402.0212, Government Code) and SECTION 6.04 (Section 371.051, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF CHARGES GENERALLY

SECTION 1.01. Provides that this article applies to any state agency that receives an appropriation under Article I of the General Appropriations Act.

SECTION 1.02. Provides that, notwithstanding any other statute of this state, each state agency to which this article applies is authorized to reduce or recover expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- (2) extending the effective period of any license, permit, or registration the agency grants or administers;

- (3) entering into a contract with another governmental entity or with a private vendor to carry out any of the agency's duties;
- (4) adopting additional eligibility requirements for persons who receive benefits under any law the agency administers to ensure that those benefits are received by the most deserving persons consistent with the purposes for which the benefits are provided;
- (5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet; and
- (6) adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions.

## ARTICLE 2. FISCAL MATTERS REGARDING LEASING CERTAIN STATE FACILITIES

SECTION 2.01. Amends the heading to Section 2165.2035, Government Code, to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION 2.02. Amends Subchapter E, Chapter 2165, Government Code, by adding Sections 2165.204, 2165.2045, and 2165.2046, as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) Authorizes the Texas Facilities Commission (TFC) to lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that TFC determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Requires that money received from a lease under this section be deposited to the credit of the general revenue fund.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) Authorizes TFC to lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that TFC determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Requires that money received from a lease under this section be deposited to the credit of the general revenue fund.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. Requires TFC, on or before October 1 of each even-numbered year, to submit a report to the Legislative Budget Board (LBB) describing the effectiveness of parking programs developed by TFC under this subchapter. Requires that the report, at a minimum, include:

- (1) the yearly revenue generated by the programs;
- (2) the yearly administrative and enforcement costs of each program;
- (3) yearly usage statistics for each program; and
- (4) initiatives and suggestions by TFC to modify administration of the programs, and increase revenue generated by the programs.

SECTION 2.03. Effective date, this article: upon passage or September 1, 2011.

### ARTICLE 3. STATE DEBT

SECTION 3.01. Amends Chapter 1231, Government Code, by adding Subchapter G, as follows:

#### SUBCHAPTER G. LIMIT ON STATE DEBT PAYABLE FROM GENERAL REVENUE FUND

Sec. 1231.151. DEFINITIONS. Defines, in this subchapter, "maximum annual debt service," "state debt payable from the general revenue fund," and "unissued debt."

Sec. 1231.152. COMPUTATION OF DEBT LIMIT. Authorizes the Texas Bond Review Board (BRB), in computing the annual debt service in a state fiscal year on state debt payable from the general revenue fund for purposes of determining whether additional state debt may be authorized without exceeding the maximum annual debt service, to employ any assumptions related to unissued debt that BRB determines are necessary to reflect common or standard debt issuance practices authorized by law, including assumptions regarding interest rates, debt maturity, and debt service payment structures.

Sec. 1231.153. REPORT ON COMPUTATION. (a) Requires BRB to publish during each state fiscal year a report providing a detailed description of the method used to compute the annual debt service in that fiscal year on state debt payable from the general revenue fund for purposes of determining whether additional state debt may be authorized. Requires that the report describe:

- (1) the debt service included in the computation, including debt service on issued and unissued debt;
- (2) the assumptions on which the debt service on unissued debt was based; and
- (3) any other factors required by law that affect the computation.

(b) Authorizes BRB to publish the report required by this section as a component of any other report required by law, including the annual report required by Section 1231.102 (Annual Report), or as an independent report. Requires BRB to make the report available to the public.

SECTION 3.02. Requires BRB to publish the initial report required by Section 1231.153, Government Code, as added by this article, during the state fiscal year beginning September 1, 2011.

SECTION 3.03. Effective date, this article: upon passage or September 1, 2011.

### ARTICLE 4. ELECTRONIC PAYMENTS

SECTION 4.01. Amends Section 403.016, Government Code, as follows:

Sec. 403.016. New heading: ELECTRONIC FUNDS TRANSFER AND ELECTRONIC PAY CARDS. (a) Requires the comptroller of public accounts (comptroller) to establish and operate an electronic funds transfer system in accordance with this section. Authorizes the comptroller to use the services of financial institutions, automated clearinghouses, and the federal government to establish and operate the electronic funds transfer system. Requires the comptroller to also establish and operate an efficient and effective system of making payments by electronic pay card.

(b) Requires the comptroller to use either the electronic funds transfer system or an electronic pay card to pay an employee's net state salary and travel expense

reimbursements. Deletes existing text requiring the comptroller to use the electronic funds transfer system to pay an employee's net state salary and travel expense reimbursements unless the employee does not hold a classified position under the state's position classification plan and the employee's gross state salary is less than the gross state salary for a position classified to group 8, step 1, of the state position classification plan; or the employee holds a classified position under the state's position classification plan that is classified below group 8.

(c) Requires the comptroller to use either the electronic funds transfer system or an electronic pay card to make:

(1) payments, rather than payments of more than \$100, to annuitants by the Employees Retirement System of Texas or the Teacher Retirement System of Texas under either system's administrative jurisdiction and payments to annuitants of any other retirement system who are paid from funds in the state treasury;

(2) recurring payments to municipalities, counties, political subdivisions, special districts, and other governmental entities of this state; and

(3) payments to vendors who choose to receive payment through the electronic funds transfer system or an electronic pay card rather than by warrant.

(d) Authorizes the comptroller, if the comptroller is not required by this section to use either the electronic funds transfer system or an electronic pay card to pay a person, to use the electronic funds transfer system or an electronic pay card to pay the person on the person's request.

(e) Redesignates existing Subsection (f) as Subsection (e). Makes no further changes to this subsection.

(f) Redesignates existing Subsection (g) as Subsection (f). Authorizes the comptroller, when a law requires the comptroller to make a payment by warrant, to instead make the payment through the electronic funds transfer system or by electronic pay card. Provides that the comptroller's use of the electronic funds transfer system, an electronic pay card, or any other payment means does not create a right that would not have been created if a warrant had been issued.

(g) Redesignates existing Subsection (i) as Subsection (g). Authorizes the comptroller, notwithstanding any requirement in this section to make a payment through the electronic funds transfer system or by electronic pay card, to make a payment by warrant if the comptroller determines after conducting a cost analysis that the cost to the state of using the electronic funds transfer or electronic pay card system would exceed the cost of issuing a warrant. Requires the comptroller to submit to the LBB the cost analysis supporting each determination made by the comptroller under this subsection. Deletes existing Subsection (h) requiring the comptroller, notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, to issue a warrant to pay a person under certain circumstances. Deletes existing text from Subsection (i) authorizing the comptroller, notwithstanding any requirement in this section to make a payment through the electronic funds transfer system, to make a payment by warrant if the comptroller determines that using the electronic funds transfer system would be impractical to the state.

(h) Redesignates existing Subsection (j) as Subsection (h). Requires the comptroller to adopt rules to administer this section, including rules relating to allowing recipients of state payments to choose at appropriate times between receiving payment through the electronic funds transfer system, by electronic pay

card, or by warrant, rather than rules relating to the notifications that may be provided to the comptroller under Subsection (h).

SECTION 4.02. Amends Subchapter B, Chapter 403, Government Code, by adding Section 403.0161, as follows:

Sec. 403.0161. **CONTRACTS FOR ELECTRONIC PAY CARD SERVICES.** Requires the comptroller to contract with one or more vendors for the provision of electronic pay card services. Requires that a contract under this section be by competitive bid. Requires the comptroller to specify the qualifications for bidders, which are required to include requirements that the entity that issues the pay card is required to be federally insured or possess sufficient financial resources to ensure protection of payees, and demonstrate adequate 24-hour customer service to ensure that all payees are able to reasonably access their funds worldwide at any time.

SECTION 4.03. Amends Section 659.084, Government Code, to require that salaries for state officers and employees paid once a month be paid through electronic funds transfer under Section 403.016, unless paid on an electronic pay card, rather than on warrant, as permitted under that section.

SECTION 4.04. Effective date, this article: January 1, 2012.

#### ARTICLE 5. FISCAL MATTERS RELATING TO SECRETARY OF STATE

SECTION 5.01. Amends Section 405.014, Government Code, as follows:

Sec. 405.014. **ACTS OF THE LEGISLATURE.** (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires the secretary of state, as soon as practicable after the closing of each session of the legislature, to publish and maintain electronically the bills enacted at that session. Requires that the electronic publication be:

- (1) indexed by bill number and assigned chapter number for each bill; and
- (2) made available by an electronic link on the secretary of state's generally accessible Internet website.

SECTION 5.02. Repealer: Subchapter B (Contract for Printing Laws), Chapter 2158, Government Code.

SECTION 5.03. Provides that the change in law made by this article does not apply to a contract for the publication of the laws of this state entered into before the effective date of this article.

SECTION 5.04. Effective date, this article: upon passage or September 1, 2011.

#### ARTICLE 6. FISCAL MATTERS REGARDING ATTORNEY GENERAL

SECTION 6.01. Amends Section 402.006, Government Code, by adding Subsection (e) to authorize the attorney general to charge a reasonable fee for the electronic filing of a document.

SECTION 6.02. Amends the heading to Section 402.0212, Government Code, to read as follows:

Sec. 402.0212. **PROVISION OF LEGAL SERVICES--OUTSIDE COUNSEL; FEES.**

SECTION 6.03. Amends Section 402.0212, Government Code, by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f), as follows:

(b) Requires the attorney general, at the request of a party to a contract described by Subsection (a) (relating to a contract for legal services), to review an invoice submitted to a state agency under the contract to determine whether the invoice is eligible for payment. Authorizes the attorney general to charge the party requesting the review a reasonable fee for the review.

(c) Authorizes the attorney general, at the attorney general's discretion, to review an invoice submitted to a state agency under a contract described by Subsection (a).

(d) Redesignates existing Subsection (b) as Subsection (d). Makes no further changes to this subsection.

(e) Redesignates existing Subsection (c) as Subsection (e). Provides that Subsections (a) and (d), rather than this section, do not apply to the Texas Turnpike Authority division of the Texas Department of Transportation. Makes a nonsubstantive change.

(f) Authorizes the attorney general to adopt rules as necessary to implement and administer this section.

SECTION 6.04. Amends Section 371.051, Transportation Code, as follows:

Sec. 371.051. New heading: ATTORNEY GENERAL REVIEW AND FEE. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Authorizes the attorney general to charge a toll project entity a reasonable fee for the review described in Subsection (a).

(c) Requires the toll project entity, if the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, to pay the fee under Subsection (b) for each proposed comprehensive development agreement.

(d) Authorizes the toll project entity to collect or seek reimbursement of the fee under Subsection (b) from the private participant under the proposed comprehensive development agreement.

(e) Authorizes the attorney general to adopt rules necessary to implement and administer this section.

SECTION 6.05. Provides that the fee prescribed by Section 402.006 (Fees), Government Code, as amended by this article, applies only to a document electronically submitted to the office of the attorney general (OAG) on or after the effective date of this article.

SECTION 6.06. Provides that the fee prescribed by Section 402.0212, Government Code, as amended by this article, applies only to invoices for legal services submitted to OAG for review on or after the effective date of this article.

SECTION 6.07. Provides that the fee prescribed by Section 371.051, Transportation Code, as amended by this article, applies only to a comprehensive development agreement submitted to OAG on or after the effective date of this article.

SECTION 6.08. Effective date, this article: upon passage or September 1, 2011.

## ARTICLE 7. TEXAS PRESERVATION TRUST FUND ACCOUNT

SECTION 7.01. Amends Sections 442.015(a), (b), and (f), Government Code, as follows:

(a) Provides that, notwithstanding Section 403.095 (Use of Dedicated Revenue), rather than Sections 403.094 and 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. Provides that the account consists of

transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, income earned on money in the account, rather than earning on the account, and any other money received under this section. Authorizes money in the account to be used only for the purposes of this section and to pay operating expenses of the Texas Historical Commission (THC). Requires that income earned on money in the account, rather than earnings on the account, be deposited to the credit of the account. Deletes existing text authorizing distributions from the account to be used only for the purposes of this section and prohibits them from being used to pay operating expenses of THC.

(b) Authorizes THC to use money in, rather than distributions from, the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that THC determines is eligible for such listing or designation.

(f) Requires the advisory board of THC to recommend to THC rules for administering this section, rather than administering Subsections (a), (b), (c) (relating to conditions for providing financial assistance), (d) (relating to the composition of an advisory board for THC), and (e) (relating to members of the advisory board of the Texas preservation account).

SECTION 7.02. Repealers: Sections 442.015(h) (relating to management of the assets of the Texas preservation trust fund account, (i) (relating to the distribution of the account), (j) (relating to limits on the annual distribution of the account), (k) (relating to the expenses of managing account investments), and (l) (relating to disclosing all details concerning investments of the account), Government Code.

SECTION 7.03. Requires the comptroller and the THC to enter into a memorandum of understanding to facilitate the conversion of assets of the Texas preservation trust fund account into cash for deposit into the state treasury using a method that provides for the lowest amount of revenue loss to the state.

SECTION 7.04. Effective date, this article: November 1, 2011.

## ARTICLE 8. FISCAL MATTERS REGARDING OPERATION OF STATE CEMETERY

SECTION 8.01. Amends Section 2165.256(a), Government Code, to require the Texas State Cemetery Committee (TSCC) to develop a budget for the operations of the State Preservation Board (SPB), rather than of TFC, relating to the State Cemetery and determine the salary of employees of SPB, rather than of TFC, whose duties primarily relate to the operation of the State Cemetery.

SECTION 8.02. Amends Sections 2165.2561(a), (k), (l), (p), (q), (r), and (t), Government Code, as follows:

(a) Provides that the TSCC is composed of:

(1) three voting members appointed as follows:

(A) one member of the general public appointed by the governor;

(B) one member of the general public appointed by the governor from a list submitted by the lieutenant governor; and

(C) one member of the general public appointed by the governor from a list submitted by the speaker of the house of representatives; and



(2) three nonvoting advisory members appointed as follows:

(A) one employee of THC appointed by the executive director of THC;

(B) one employee of SPB, rather than the Texas Building and Procurement Commission, appointed by the executive director of SPB, rather than the Texas Building and Procurement Commission; and

(C) one employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department.

(k) Requires the legislature to separately appropriate money to TSCC within the appropriations to SPB, rather than the Texas Building and Procurement Commission, for all matters relating to the operation of the State Cemetery. Requires that activities relating to maintenance of the State Cemetery grounds and monuments required to conform to guidelines for historic preservation be submitted to TSCC by THC.

(l) Authorizes funds appropriated to SPB, rather than the Texas Building and Procurement Commission, to be transferred by interagency contract for the performance of, at the direction of TSCC, an act related to the State Cemetery.

(p)-(t) Makes conforming changes.

SECTION 8.03. (a) Provides that not later than January 1, 2012, the following are transferred from TFC to SPB:

(1) the powers, duties, functions, programs, and activities of TFC relating to the operation of the State Cemetery under Sections 2165.256 (State Cemetery and Other Burial Grounds) and 2165.2561 (State Cemetery Committee), Government Code;

(2) any obligations and contracts of TFC that are directly related to implementing a power, duty, function, program, or activity transferred under this subsection; and

(3) all property and records in the custody of TFC that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) Authorizes the executive director of SPB and the executive director of TFC to agree by memorandum of understanding to transfer to SPB any personnel of TFC whose functions predominantly involve powers, duties, obligations, functions, and activities related to the operation of the State Cemetery under Sections 2165.256 and 2165.2561, Government Code.

(c) Provides that a reference in law to TFC that relates to a power, duty, function, program, or activity transferred under Subsection (a) of this section means SPB.

SECTION 8.04. Requires TFC and SPB to enter into a memorandum of understanding that:

(1) identifies in detail the applicable powers and duties that are transferred by this article; and

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of TFC that are used for purposes of TFC's powers and duties directly related to the operation of the State Cemetery under Sections 2165.256 and 2165.2561, Government Code.

## ARTICLE 9. FISCAL MATTERS CONCERNING INFORMATION TECHNOLOGY

SECTION 9.01. Amends Section 2054.380, Government Code, as follows:

Sec. 2054.380. FEES. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Authorizes revenue derived from the collection of fees imposed under Subsection (a) to be appropriated to the Department of Information Resources (DIR) for:

- (1) developing statewide information resources technology policies; and
- (2) providing shared information resources technology services.

SECTION 9.02. Amends Section 2157.068(d), Government Code, to authorize revenue derived from the collection of fees imposed under this subsection to be appropriated to DIR for developing statewide information resources technology policies, and providing shared information resources technology services.

SECTION 9.03. Amends Section 2170.057(d), Government Code, as follows:

(d) Requires DIR to certify amounts that exceed this amount to the comptroller, and requires the comptroller to transfer the excess amounts to the credit of the general revenue fund, rather than the statewide network applications account established by Section 2054.011 (Statewide Network Applications Account). Authorizes the amounts transferred under this subsection to be appropriated to DIR for:

- (1) developing statewide information resources technology policies; and
- (2) providing shared information resources technology services, and network security services under Chapter 2059 (Texas Computer Network Security System).

SECTION 9.04. Effective date, this article: upon passage or September 1, 2011.

#### ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Effective date: September 1, 2011.