

By: West

S.B. No. 1488

A BILL TO BE ENTITLED

AN ACT

relating to the purchasing and contracting practices of junior college districts; providing criminal penalties.

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

SECTION 1. Subsection (a), Section 44.0311, Education Code, is amended to read as follows:

Sec. 44.0311. APPLICABILITY TO JUNIOR COLLEGE DISTRICTS.

(a) Except as provided by Education Code Chapter 130 Subchapter K ~~Subsection (c)~~, this subchapter applies to junior college districts.

(b) For purposes of this subchapter, "board of trustees" includes the governing board of a junior college district.

~~(c) This subchapter does not apply to a purchase, acquisition, or license of library goods and services for a library operated as a part of a junior college district. In this subsection, "library goods and services" has the meaning assigned by Section 130.0101(a).~~

SECTION 2. Subchapter A, Chapter 130, Education Code, is amended by adding Sections 130.0104, and 130.0105 to read as follows:

Sec. 130.0104. POLICY AND REPORT REGARDING HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In this section, "historically underutilized business" has the meaning assigned by Section 2161.001, Government Code.

1 (b) This section applies only to a junior college district
2 that:

3 (1) is located wholly or partially in a county with a
4 population of one million or more; and

5 (2) had an annual enrollment of 30,000 or more
6 full-time equivalent students in one or more of the most recent five
7 academic years.

8 (c) Each junior college district shall adopt a policy
9 stating its commitment to developing, maintaining, and enhancing
10 participation by historically underutilized businesses in all
11 phases of the district's procurement processes in order to support,
12 to the greatest extent feasible, the efforts of historically
13 underutilized businesses to compete for purchases of equipment,
14 supplies, services, including professional services, and
15 construction contracts.

16 (d) Annually, each junior college district shall publish a
17 report of the total number and total value of contracts awarded by
18 the district in the preceding fiscal year and the number and total
19 value of those contracts awarded to historically underutilized
20 businesses. The report must be published in a newspaper of general
21 circulation in the county in which the majority of the territory or
22 population of the district is located not later than the 60th day
23 following the last day of the district's fiscal year.

24 SECTION 3. Chapter 130, Education Code, is amended by
25 adding Subchapters K, L and M to read as follows:

26 SUBCHAPTER K. PURCHASING CONTRACTS FOR GOODS AND SERVICES OTHER
27 THAN CONSTRUCTION OR PROFESSIONAL SERVICES

1 Sec. 130.251. DEFINITIONS. In this subchapter:

2 (1) "Board of trustees" means the governing board of a
3 district.

4 (2) "District" means a junior college district.

5 (3) "Purchase of goods and services":

6 (A) includes:

7 (i) contracting for the rights to use
8 rather than own goods;

9 (ii) purchase of the materials and labor
10 incidental to the delivery and installation of personal property;
11 and

12 (iii) services to repair or replace
13 equipment

14 (B) does not include the purchase or lease of
15 real property;

16 (4) "Services" does not include:

17 (A) construction services; or

18 (B) professional services, including services of
19 a consultant, to which Subchapter M applies.

20 Sec. 130.2511. USE OF TERMS "BIDDER," "VENDOR," AND "BID."

21 (a) In this subchapter, the terms "bidder" and "vendor" are used
22 interchangeably to identify an entity that responds to a request
23 for competitive bids, proposals, or qualifications.

24 (b) In this subchapter, the term "bid" is used to refer to a
25 competitive bid, proposal, or statement of qualifications.

26 Sec. 130.252. CONFLICT WITH OTHER LAW. To the extent of any
27 conflict, this subchapter prevails over any other law relating to

1 the purchase of goods and services by a district other than a law
2 relating to:

3 (1) contracting with historically underutilized
4 businesses; or

5 (2) the procurement of goods and services from persons
6 with disabilities.

7 Sec. 130.253. PURCHASE METHODS. (a) Except as otherwise
8 provided by this subchapter and subject to Section 130.264, each
9 contract by a district with a value of \$50,000 or more that covers
10 one or more fiscal years shall be made by the method, of the
11 following methods, that provides the best value for the district:

12 (1) competitive sealed bids;

13 (2) competitive sealed proposals;

14 (3) the reverse auction procedure defined by Section
15 2155.062(d), Government Code; or

16 (4) the formation of a political subdivision
17 corporation under Section 304.001, Local Government Code.

18 (b) Only one of the methods listed in Subsection (a) may be
19 used for any individual contract. The district must determine
20 which method provides the best value for the district before
21 publishing the notice required by Section 130.258.

22 (c) If the district uses the competitive sealed proposal
23 method, the district shall:

24 (1) reveal when the proposals are opened the names of
25 the companies submitting proposals; and

26 (2) keep the contents of the proposals confidential
27 until the district concludes negotiations and awards a contract.

1 (d) Without complying with Subsection (a), a district may
2 purchase a good or service that is available from only one source,
3 including:

4 (1) an item for which competition is precluded because
5 of the existence of a patent, copyright, secret process, or
6 monopoly;

7 (2) a film, recording, periodical, manuscript, book,
8 or computer software;

9 (3) a utility service, including gas or water;

10 (4) a captive replacement part or component for
11 equipment;

12 (5) a product needed to match or work with like
13 products;

14 (6) technical or specialized services, including
15 advertising, audio/video production, and the repair and
16 maintenance of specialized equipment; and

17 (7) perishable goods, vehicle fuel, advertising
18 services, meeting and catering services, and travel services,
19 including airfare, ground transportation, and lodging.

20 (e) Without complying with Subsection (a), a district may
21 purchase a good or service under:

22 (1) an interlocal contract under Chapter 791,
23 Government Code;

24 (2) a contract established by the State Comptroller or
25 Department of Information Resources, including a contract for the
26 purchase of travel services, telephone service, computers, and
27 computer-related equipment and service, cabling, and software; or

1 (3) a purchase made under Subchapter D, F, or G,
2 Chapter 271, Local Government Code.

3 (f) Contracts for services that result in no cost to the
4 district or that provide income greater than \$50,000 to a district
5 must be based on bids, proposals, or qualifications that are
6 solicited and awarded in the same manner as a contract for the
7 purchase of goods or services. Such contracts include contracts
8 for bookstore services, food services, and vending services.

9 (g) If district property is destroyed, stolen, severely
10 damaged, or unusable, or a contractor is unable to fulfill its
11 obligations in providing goods or services, and the board of
12 trustees, or its designee, determines that the delay posed by using
13 the methods required by Subsection (a) would pose a material threat
14 to personal safety or potential damage to other property or would
15 prevent or substantially impair the conduct of classes or other
16 essential district activities, then contracts for the replacement
17 or repair of the property may be made by methods other than those
18 required by Subsection (a).

19 (h) Without complying with Subsection (a), a district may
20 purchase, license, or otherwise acquire library goods and services,
21 including in any manner authorized by law for the purchase,
22 license, or acquisition of library goods and services by a public
23 senior college or university, as defined by Section 61.003. In this
24 subsection, "library goods and services" means:

25 (1) serial and journal subscriptions, including
26 electronic databases, digital content, and information products;

27 (2) other library materials and resources, including

1 books, e-books, and media not available under a statewide contract
2 and papers;

3 (3) library services, including periodical jobber and
4 binding services not available under a statewide contract;

5 (4) equipment and supplies specific to the storage and
6 access of library content; and

7 (5) library or resource-sharing programs operated by
8 the Texas State Library and Archives Commission.

9 Sec. 130.254. PURCHASE OF INSURANCE. (a) A district may
10 acquire insurance using a two-step process to obtain competitive
11 sealed proposals. In the first step, the district shall determine
12 which insurance providers are represented by agents interested in
13 providing insurance for the district. If more than one agent
14 indicates a desire to represent the same provider, the agent with
15 the longest and most substantial relationship with the insurance
16 provider shall be authorized to submit a proposal for the
17 designated insurance provider. In the second step, the district
18 shall notify the interested agents in writing as to which insurance
19 providers the agents represent and request the agents to submit
20 proposals for providing insurance.

21 (b) In notifying the interested agents to begin the second
22 step, the district is not required to comply with Section 130.258.
23 However, the district in the request for proposals shall give the
24 interested agents notice of the date, time, and place where
25 proposals are to be submitted. Proposals received after the date
26 and time stated in the request for proposals may not be considered.

27 Sec. 130.255. MULTIYEAR CONTRACT. A contract that extends

1 past the end of a district's fiscal year must include a provision
2 that permits termination at the end of each fiscal year. Contracts
3 solely for the purchase of goods may not exceed five years in
4 duration.

5 Sec. 130.256. EVALUATION AND AWARD OF CONTRACT.

6 (a) Except as otherwise provided by this subchapter, a district
7 shall award a contract to the lowest responsible bidder offering
8 the best value to the district according to the selection criteria
9 established by the district. The district shall publish in the
10 request for bids, proposals, or qualifications the criteria the
11 district will use to evaluate the offers.

12 (b) In determining the lowest responsible bidder, the
13 district shall consider:

14 (1) the purchase price, including delivery and
15 installation charges;

16 (2) the reputation of the bidder and of the bidder's
17 goods or services;

18 (3) the quality of the bidder's goods or services;

19 (4) the extent to which the offered goods or services
20 meet the district's needs;

21 (5) the bidder's past relationship with the district;

22 (6) the total long-term cost to the district to
23 acquire the bidder's goods or services;

24 (7) the extent to which the offers comply with the
25 requirements of the request for bids, proposals, or qualifications;

26 (8) any other relevant factor specifically listed in
27 the request for bids or proposals; and

1 (9) the impact on the ability of the district to comply
2 with laws and rules relating to historically underutilized
3 businesses.

4 (c) A district may reject any or all bids, proposals, or
5 qualifications, or parts of bids, proposals, or qualifications if
6 the rejection serves the district's interest.

7 (d) The district shall provide all bidders with the
8 opportunity to bid to provide the same goods or services on equal
9 terms and to have bids judged according to the same standards as
10 those set forth in the request for bids.

11 (e) Bids may be opened only by the district in a
12 district-owned or district-controlled facility. The meeting or
13 other occasion at which bids are opened shall be open to the public.
14 At the time the district opens a bid, if one or more members of the
15 public are present, the appropriate employee or officer of the
16 district shall read aloud the name of the bidder and the total bid
17 amount, if the bid is of a type that should contain a single bid
18 amount. When opening proposals or qualifications, the appropriate
19 employee or officer shall read aloud only the name of the
20 respondents and may not disclose the contents of a proposal or
21 qualification on opening or during negotiations with competing
22 bidders. At least two district employees or members of the
23 district's board of trustees must be present at the bid, proposal,
24 or qualification opening.

25 (f) A bid that has been opened may not be changed for the
26 purpose of correcting an error in the bid price. If there is a
27 discrepancy between the total price and the unit price of a bid, the

1 unit price prevails. If there is a discrepancy between the written
2 price and the numerical price of a bid, the written price prevails.

3 (g) This subchapter does not change the common law right of
4 a bidder to withdraw a bid due to a material mistake in the bid.

5 (h) The district shall document the basis of its selection
6 and shall make its evaluations public not later than the seventh day
7 after the date the contract is awarded. The district shall state in
8 writing the reasons for making an award.

9 (i) A contract awarded in violation of this subchapter is
10 void.

11 (j) In awarding a contract by competitive sealed bid under
12 this section, a district that has its central administrative office
13 located in a municipality with a population of less than 250,000 may
14 consider a bidder's principal place of business in the manner
15 provided by Section 271.9051, Local Government Code. This
16 subsection does not apply to the purchase of telecommunications
17 services or information services, as those terms are defined by 47
18 U.S.C. Section 153.

19 Sec. 130.257. RULES AND PROCEDURES; AUDITS BY STATE
20 AUDITOR. (a) The board of trustees may adopt rules and procedures
21 for the acquisition of goods or services by the district.

22 (b) District purchases of goods or services are subject to
23 audit by the state auditor in accordance with Chapter 321,
24 Government Code.

25 Sec. 130.258. NOTICE. (a) Except as otherwise provided by
26 this subchapter, for any method of contracting selected under
27 Section 130.253(a), the district shall, within a seven-day period,

1 publish the notice required by this section in at least two issues
2 of any newspaper of general circulation in the county in which the
3 district's central administrative office is located. The deadline
4 for receiving bids or proposals may not be less than 10 business
5 days after the date of the publication of the first newspaper
6 notice. The deadline for receiving responses to a request for
7 qualifications may not be less than five business days after the
8 date of the publication of the last newspaper notice. If there is
9 not a newspaper of general circulation in the county in which the
10 district's central administrative office is located, the notice
11 shall be published in a newspaper of general circulation in a
12 location nearest the district's central administrative office. In
13 a two-step procurement process, the time and place where the
14 second-step bids, proposals, or responses will be received are not
15 required to be included in the notice.

16 (b) The district may, as an alternative to publishing notice
17 in a newspaper exclusively under Subsection (a), publish on a
18 publicly accessible Internet site the notice required by this
19 section. Before or at the same time the district first publishes
20 the Internet notice, the district shall publish a notice in a
21 newspaper of general circulation, as described by Subsection (a),
22 that includes the name of the goods or services to be purchased, the
23 date, time, and place for receiving and opening bids, proposals, or
24 statements of qualifications, and the Internet address of the
25 Internet site where detailed requirements may be found. The notice
26 posted on the Internet under this subsection must be posted every
27 day for at least:

1 (1) five business days before the deadline for
2 receiving the bids or proposals; or a request for qualifications.

3 (c) Except as otherwise provided by Subsection (b) for the
4 newspaper notice required by that subsection, the notice required
5 by this section must include:

6 (1) the location where the request for bid, proposal,
7 or qualification documents may be obtained or examined;

8 (2) the date, time, and place for receiving and
9 opening bids, proposals, or statements of qualifications;

10 (3) a general description of the goods or services;

11 (4) the location and time of any mandatory site
12 inspections or pre-bid meetings; and

13 (5) the amount of any required bid bond, payment bond,
14 or performance bond.

15 Sec. 130.259. DISCUSSION AND REVISION OF PROPOSALS.

16 (a) As provided in a request for proposals and under rules adopted
17 by the district, the district may discuss acceptable or potentially
18 acceptable proposals with bidders to assess a bidder's ability to
19 meet the solicitation requirements.

20 (b) After receiving a proposal but before making an award,
21 the district may permit the three highest-ranking bidders to revise
22 their proposals, within the scope of the published specifications,
23 to obtain the best final offer.

24 Sec. 130.260. PRE-BID CONFERENCE OR SITE VISIT. (a) The
25 district may require a principal, officer, or employee of each
26 prospective bidder to attend a mandatory pre-bid conference or site
27 visit, or both, as a condition of a request for bid or proposal.

1 Notice of a requirement under this subsection must be included in
2 the notice published under Section 130.258.

3 (b) After the district conducts a mandatory pre-bid
4 conference or site visit, the district may send any additional
5 required notice for the proposed contract only to prospective
6 bidders who attended or were represented at the conference or who
7 are documented as having visited the site.

8 Sec. 130.261. IDENTICAL BIDS. If, after considering the
9 factors described by Section 130.256, the district determines that
10 the district has received identical bids, the district shall cast
11 lots to determine which bidder will be awarded the contract. The
12 district shall invite the bidders to witness the selection process
13 under this section. The selection process must be conducted by at
14 least two district employees or members of the district's board of
15 trustees.

16 Sec. 130.262. BID DEPOSIT. (a) The district may, as the
17 district determines necessary, require a bid deposit in an amount
18 determined by the district. The amount of the deposit, if any, must
19 be stated in the notice required by Section 130.258 of the
20 invitation to bid.

21 (b) On the award of a contract or the rejection of all bids,
22 the district shall return the bid deposit of an unsuccessful
23 bidder. The bid deposit of the successful bidder may be retained
24 until the contract is signed by the district. A bid deposit may not
25 be held longer than 90 days.

26 (c) The bid deposit required by the district, if any, must
27 be in the form of a cashier's check, certified check, or bid bond

1 written by a surety authorized to conduct business in this state. A
2 district may elect to require a bid deposit to be in the form of a
3 bid bond.

4 Sec. 130.263. PERFORMANCE BOND. A district may require a
5 contractor to provide a performance bond in the amount of the
6 contract before executing a contract for the purchase or use of
7 goods or services with a value of \$100,000 or more. The bond must be
8 written by a surety authorized to conduct business in this state and
9 generally comply with the performance bond requirements of Chapter
10 2253, Government Code.

11 Sec. 130.264. ENFORCEMENT OF PURCHASING PROCEDURES:
12 CRIMINAL PENALTIES; REMOVAL; INELIGIBILITY; INJUNCTION. (a) In
13 this section:

14 (1) "Component purchases" means purchases of the
15 component parts of an item that in normal purchasing practices
16 would be purchased in one purchase.

17 (2) "Separate purchases" means purchases, made
18 separately, of goods or services that in normal purchasing
19 practices would be purchased in one purchase.

20 (3) "Sequential purchases" means purchases, made over
21 a period, of goods or services that in normal purchasing practices
22 would be purchased in one purchase.

23 (b) An officer, employee, or agent of a district commits an
24 offense if the person with criminal negligence makes or authorizes
25 separate, sequential, or component purchases for the purpose of
26 avoiding the requirements of Section 130.253, 130.256, or 130.266.
27 An offense under this subsection is a Class B misdemeanor and is an

1 offense involving moral turpitude that results in a forfeiture of
2 an officer's public office.

3 (c) An officer, employee, or agent of a district commits an
4 offense if the person with criminal negligence violates Section
5 130.253, 130.256, or 130.266 other than by conduct described by
6 Subsection (b). An offense under this subsection is a Class B
7 misdemeanor and is an offense involving moral turpitude that
8 results in a forfeiture of an officer's public office.

9 (d) An officer or employee of a district commits an offense
10 if the officer or employee knowingly violates Section 130.253,
11 130.256, or 130.266 other than by conduct described by Subsection
12 (b) or (c). An offense under this subsection is a Class C
13 misdemeanor.

14 (e) The final conviction of a person other than a member of
15 the board of trustees for an offense under Subsection (b) or (c)
16 results in the immediate removal from office or employment of that
17 person. A trustee who is convicted of an offense under this section
18 is subject to removal as provided by Chapter 66, Civil Practice and
19 Remedies Code. For four years after the date of the final
20 conviction, the removed person is ineligible to be a candidate for
21 or to be appointed or elected to a public office in this state, is
22 ineligible to be employed by or act as an agent for this state or a
23 political subdivision of this state, and is ineligible to receive
24 any compensation through a contract with this state or a political
25 subdivision of this state. This subsection does not prohibit the
26 payment of retirement benefits to the removed person or the payment
27 of workers' compensation benefits to the removed person for an

1 injury that occurred before the commission of the offense for which
2 the person was removed. This subsection does not make a person
3 ineligible for an office for which the federal or state
4 constitution prescribes exclusive eligibility requirements.

5 (f) A court may enjoin performance of a contract made in
6 violation of this subchapter. A county attorney, district
7 attorney, criminal district attorney, citizen of the county in
8 which the district is located, or an interested party may bring an
9 action for an injunction. A party who prevails in an action brought
10 under this subsection is entitled to reasonable attorney's fees as
11 approved by the court.

12 Sec. 130.265. NOTIFICATION OF CRIMINAL HISTORY OF
13 CONTRACTOR. (a) A person or business entity that enters into a
14 contract with a district must give advance notice to the district if
15 the person or an owner or operator of the business entity has been
16 convicted of a felony. The notice must include a general
17 description of the conduct resulting in the conviction of a felony.

18 (b) A district may refuse to enter into a contract or other
19 transaction with a person who has been convicted of a felony or with
20 a business entity if an owner or operator of the entity has been
21 convicted of a felony.

22 (c) A district may terminate a contract with a person or
23 business entity if the district determines that the person or
24 business entity failed to give notice as required by Subsection (a)
25 or misrepresented the conduct resulting in the conviction. The
26 district must compensate the person or business entity for goods
27 delivered or services performed before the termination of the

1 contract.

2 (d) This section does not apply to a publicly held
3 corporation.

4 Sec. 130.266. EFFICIENCY AND SAVINGS. In order to increase
5 efficiency of operations and to achieve savings through volume
6 purchases, on an annual basis a district shall identify common
7 types of goods and services to be purchased from the district's
8 budget and, to the extent the district determines practicable,
9 consolidate the purchase of those goods or services under contracts
10 entered into under this subchapter.

11 Sec. 130.267. DELEGATION. (a) Except as provided by
12 Subsection (b), the board of trustees may, as appropriate, delegate
13 its authority under this subchapter to a designated person,
14 representative, or committee. In procuring goods or services, the
15 district shall provide notice of the delegation and the limits of
16 the delegation in the request for bids, proposals, or
17 qualifications or in an addendum to the request. If the district
18 fails to provide that notice, a ranking, selection, or evaluation
19 of bids, proposals, or qualifications other than by the board of
20 trustees in an open public meeting is advisory only.

21 (b) The board may not delegate the authority to act
22 regarding an action specifically authorized or required by this
23 subchapter to be taken by the board of trustees.

24 [Sections 130.271-130.350 reserved for expansion]

25 SUBCHAPTER L. DISPOSAL OF SURPLUS PERSONAL PROPERTY

26 Sec. 130.351. SALE OF PERSONAL PROPERTY. A junior college
27 district shall dispose of surplus personal property in an

1 accountable manner that best serves the interest of the district. A
2 sale or transfer of personal property that is not covered by Chapter
3 791, Government Code, must be solicited and awarded in the same
4 manner as a contract for the purchase of goods or services under
5 Subchapter K.

6 Sec. 130.352. METHODS OF DISPOSAL. (a) A junior college
7 district may use any of the following methods to dispose of surplus
8 personal property:

9 (1) the use of a licensed auctioneer to conduct live or
10 Internet-based auctions;

11 (2) a direct sale by the district to a person
12 submitting the highest and best bid through a competitive process,
13 including an Internet-based bidding system;

14 (3) the trade-in of items when purchasing new items;

15 (4) a sale or transfer to another governmental entity
16 at a mutually agreed price; or

17 (5) a donation to a governmental entity in this state.

18 (b) If the junior college district is unable to find a buyer
19 or governmental entity that wants the surplus property, the
20 property may be:

21 (1) discarded in accordance with applicable federal,
22 state, and local laws, ordinances, and rules; or

23 (2) removed by an interested party at no charge or for
24 a nominal charge.

25 (c) Except as provided by this section, a junior college
26 district may not give, donate, loan, or transfer surplus property
27 to any person or entity.

1 [Sections 130.353-130.400 reserved for expansion]

2 SUBCHAPTER M. PROFESSIONAL SERVICES AND CONSULTANT SERVICES

3 Sec. 130.401. PROFESSIONAL SERVICES. (a) For purposes of
4 this section, "professional service provider" means a person who
5 provides services of a predominantly mental or intellectual matter
6 and who is a member of a discipline requiring special knowledge or
7 the attainment of a high order of learning, skill, or intelligence.
8 The term includes a person who provides professional services, as
9 defined by Section 2254.002, Government Code.

10 (b) A junior college district shall select and enter into
11 contracts for professional services in accordance with Subchapter
12 A, Chapter 2254, Government Code. If the estimated value of a
13 contract for professional services is \$50,000 or more during a
14 fiscal year, or during the contract's term if the contract is a
15 multiple year contract, the district shall publish notice of the
16 request for qualifications as provided by Section 130.258.

17 (c) A professional service provider selected by the junior
18 college district may be selected for a specific project or for
19 various projects that arise during the term of the provider's
20 contract. The term of a contract with a professional service
21 provider may not exceed five years, except that the professional
22 service provider shall complete services for projects started
23 before the end of the contract term.

24 Sec. 130.402. CONSULTANTS. (a) For purposes of this
25 section, "consultant" includes a financial advisor, fiscal agent,
26 auctioneer, personnel services provider, travel agent, technology
27 or educational services provider or advisor, and a business engaged

1 to teach approved courses.

2 (b) A junior college district shall select and enter into
3 contracts with consultants in accordance with Section 130.253 or
4 Subchapter B, Chapter 2254, Government Code. If the estimated
5 value of a contract for consulting services is \$50,000 or more
6 during a fiscal year, or during the contract's term if the contract
7 is a multiple year contract, the district shall advertise the
8 request for qualifications, bids, or proposals as provided by
9 Section 130.258.

10 (e) A consultant selected by the junior college district may
11 be selected for a specific project or for various projects that
12 arise during the term of the consultant's contract. The term of a
13 contract with a consultant may not exceed five years, except that
14 the consultant shall complete services for projects started before
15 the end of the contract term.

16 Sec. 130.403. RULES AND PROCEDURES; AUDITS BY STATE
17 AUDITOR. (a) The board of trustees of a junior college district
18 may adopt rules and procedures for the acquisition of professional
19 services and consultants by the district.

20 (b) Junior college district contracts for professional
21 services or consultants are subject to audit by the state auditor in
22 accordance with Chapter 321, Government Code.

23 SECTION 4. Section 271.023, Local Government Code, is
24 amended to read as follows:

25 Sec. 271.023. CONFLICT OF LAWS. To the extent of any
26 conflict, the provisions of Subchapter B, Chapter 44, Education
27 Code, relating to the purchase of goods and services under contract

1 by a school district and the provisions of Subchapters K and L,
2 Chapter 130, Education Code, relating to the purchase of goods and
3 services under contract by a junior college prevail over this
4 subchapter.

5 SECTION 5. Sections 130.010 and 130.0101, Education Code,
6 are repealed.

7 SECTION 6. The change in law made by this Act applies only
8 to a contract for which requests for bids, requests for proposals,
9 or requests for qualifications are published or distributed on or
10 after the effective date of this Act. A contract for which requests
11 for bids, requests for proposals, or requests for qualifications
12 are published or distributed before the effective date of this Act
13 is covered by the law in effect when the requests were published or
14 distributed, and the former law is continued in effect for that
15 purpose.

16 SECTION 7. This Act does not make an appropriation. A
17 provision in this Act that creates a new governmental program,
18 creates a new entitlement, or imposes a new duty on a governmental
19 entity is not mandatory during a fiscal period for which the
20 legislature has not made a specific appropriation to implement the
21 provision.

22 SECTION 8. This Act takes effect September 1, 2011.