

BILL ANALYSIS

Senate Research Center

S.B. 1638
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Successful contract management involves four phases: planning, procurement, contract formation/rate/price establishment, and contract oversight. State employees must be knowledgeable of the required state's required polices and laws, particular processes specialized to the agency's mission, and most importantly, the skills to keep the contract on track and address problems as they arise.

S.B. 1638 ensures that the state's employees are competent in contract planning, negotiation, and performance monitoring by increasing the training topics and improving the training schedule for state employees.

As proposed, S.B. 1638 amends current law relating to training for state employees, including procurement and contract management training.

[**Note:** While the statutory reference in this bill is to the State Purchasing and General Services Commission (commission), the following amendments affect the comptroller of public accounts of the State of Texas, as the successor agency to the commission for procurement.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the State Purchasing and General Services Commission is transferred to the comptroller of public accounts of the State of Texas in SECTION 3 (Section 656.051, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 656.047, Government Code, as follows:

Sec. 656.047. PAYMENT OF PROGRAM EXPENSES. (a) Creates this subsection from existing text. Authorizes a state agency to spend public funds as appropriate to pay the salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.

(b) Requires a state agency that spends more than \$5,000 in a state fiscal year for a training or education program for any individual employee to, not later than August 31 of that year, submit to the Legislative Budget Board (LBB) a report including:

- (1) a list of the employees participating in a training or education program and receiving payment from the agency;
- (2) the amount spent on each employee; and
- (3) the certification earned by each employee through the training or education program.

SECTION 2. Amends Subchapter C, Chapter 656, Government Code, by adding Section 656.054, as follows:

Sec. 656.054. TRAINING BY COMPTROLLER. (a) Requires the comptroller of public accounts of the State of Texas (comptroller) to develop each training program provided by the comptroller under this subchapter to meet the needs of a state agency.

(b) Provides that, on an annual basis the comptroller will assess the number of employees requiring procurement or contract management training and will maintain a regular schedule of classes to accommodate that number.

(c) Authorizes the comptroller to use its own staff or contract with private entities or other state agencies to conduct the training.

SECTION 3. Transfers Sections 2054.057, 2155.078, 2262.053, and 2262.0535, Government Code, to Subchapter C, Chapter 656, Government Code, redesignates them as Sections 656.050, 656.051, 656.052, and 656.053, Government Code, respectively, and amends them, as follows:

Sec. 656.050. New heading: TRAINING IN CONTRACTING FOR INFORMATION RESOURCES TECHNOLOGIES. Redesignates existing Section 2054.057 as Section 656.050. (a) Defines "department" to mean the Department of Information Resources, and defines "information resources technologies" in this section.

(a-1) Creates this subsection from existing text. Requires the Department of Information Resources (DIR), with the cooperation of the comptroller and other appropriate state agencies, to develop and implement a program to train state agency personnel in effectively negotiating

(b) Requires DIR to make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge. Requires state agency personnel directly involved in contract negotiations for the purchase of information resources technologies to complete the training developed by DIR.

(c) Requires DIR to include in the training information on how to use contracts entered into by DIR under Section 2157.068 (Purchase of Information Technology Commodity Items).

(d) Authorizes DIR to use its own staff or contract with private entities or other state agencies to conduct the training.

Sec. 656.051. TRAINING AND CERTIFICATION OF STATE AGENCY PURCHASING PERSONNEL AND VENDORS. Redesignates existing Section 2155.078 as Section 656.051. (a) Requires the comptroller, rather than the State Purchasing and General Services Commission (commission), to establish and administer a system of training, continuing education, and certification for state agency purchasing personnel. Authorizes the comptroller, rather than the commission, to establish and offer appropriate training to vendors on a cost recovery basis. Authorizes the comptroller, rather than the commission, to adopt rules to administer this section, including rules relating to monitoring a certified purchaser's compliance with the continuing education requirements of this section.

(b)-(m) Changes references to the commission to the comptroller, and makes nonsubstantive changes.

(n) Makes no change to this subsection.

Sec. 656.052. TRAINING FOR CONTRACT MANAGERS. Redesignates existing Section 2262.053 as Section 656.052. (a) Defines "contract manager" in this section.

(a-1) Creates this subsection from existing text. Requires the comptroller, in coordination with DIR, the state auditor, and the Health and Human Services Commission, to develop a training program for contract managers.

(b) Requires that the training provide the contract manager with information regarding how to:

(1)-(5) Makes no change to these subdivisions;

(6) comply with any requirements or goals contained in state-issued contract management documents, rather than comply with any requirements or goals contained in the contract management guide;

(7) use and apply advanced sourcing strategies, techniques, and tools;

(8) develop an accurate and comprehensive statement of work;

(9) build and maintain a working relationship with the contractor, including communication and timely management of problems;

(10) create a process for evaluating the potential risk to the state, including product risk, process risk, financial risk, or schedule risk;

(10) create a corrective action procedure for use when contract implementation or performance problems occur;

(11) maintain required documentation for contracting decisions, changes to a contract, and problems with a contract;

(12) create procedure for the selection and application of the preferred method for the resolution of disputes with the contractor; and

(13) develop a process for contract closure and to evaluate performance under the contract.

(c)-(f) Makes no change to these subsections.

Sec. 656.053. New heading: CONTRACT TRAINING FOR GOVERNING BODIES. Redesignates existing Section 2262.0535 as Section 656.053. (a) Defines "state agency" in this section.

(a-1) Creates this subsection from existing text. Makes a conforming change.

(b) Makes no change to this subsection.

SECTION 4. Amends Section 2056.002(b), Government Code, as follows:

(b) Requires the LBB and the Governor's Office of Budget, Policy, and Planning to determine the elements required to be included in each agency's strategic plan. Requires that the plan, unless modified by the LBB and the Governor's Office of Budget, Policy, and Planning, and except as provided by Subsection (c) (requiring that a state agency's plan that does not include an item described by Subsection (b) include the reason the item does not apply to the agency), include a description of the training of the agency's contract managers under Section 656.052, rather than Section 2262.053.

SECTION 5. Reenacts Section 2262.101(a), Government Code, as amended by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(a) Changes a reference to Section 2262.053 to Section 656.052, and makes conforming and nonsubstantive changes.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: September 1, 2015.