

By: Zaffirini

S.B. No. 1638

A BILL TO BE ENTITLED

AN ACT

relating to training for state employees, including procurement and contract management training; authorizing fees.

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

SECTION 1. Section 656.047, Government Code, is amended to read as follows:

Sec. 656.047. PAYMENT OF PROGRAM EXPENSES. (a) A state agency may 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) A state agency that spends more than \$5,000 in a state fiscal year for a training or education program for any individual employee shall not later than August 31 of that year submit to the Legislative Budget Board 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. Subchapter C, Chapter 656, Government Code, is amended by adding Section 656.054 to read as follows:

1 Sec. 656.054. TRAINING BY COMPTROLLER. (a) The
2 comptroller shall develop each training program provided by the
3 comptroller under this subchapter to meet the needs of a state
4 agency.

5 (b) On an annual basis the comptroller will assess the
6 number of employees requiring procurement or contract management
7 training and will maintain a regular schedule of classes to
8 accommodate that number.

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

11 (d) The comptroller may assess a fee for a training program
12 in an amount not to exceed the costs incurred by the comptroller to
13 provide the training program under this subchapter.

14 SECTION 3. Sections [2054.057](#), [2155.078](#), [2262.053](#), and
15 [2262.0535](#), Government Code, are transferred to Subchapter C,
16 Chapter 656, Government Code, redesignated as Sections 656.050,
17 656.051, 656.052, and 656.053, Government Code, respectively, and
18 amended to read as follows:

19 Sec. 656.050 [~~[2054.057](#)~~]. TRAINING IN CONTRACT NEGOTIATION.

20 (a) In this section:

21 (1) "Department" means the Department of Information
22 Resources.

23 (2) "Information resources technologies" has the
24 meaning assigned by Section [2054.003](#).

25 (a-1) The department, with the cooperation of the
26 comptroller and other appropriate state agencies, shall develop and
27 implement a program to train state agency personnel in effectively

1 negotiating contracts for the purchase of information resources
2 technologies.

3 (b) The department shall make the training available to
4 state agency personnel who are directly or indirectly involved in
5 contract negotiations, such as senior or operational management,
6 purchasers, users of the purchased technologies, and personnel with
7 relevant technical, legal, or financial knowledge. State agency
8 personnel directly involved in contract negotiations for the
9 purchase of information resources technologies shall complete the
10 training developed by the department.

11 (c) The department shall include in the training:

12 (1) information on developing a structured purchasing
13 method that meets an agency's needs;

14 (2) information drawn from the state's previous
15 procurement experience about what is or is not advantageous for the
16 state;

17 (3) the perspective of state agencies with oversight
18 responsibilities related to the state's procurement of information
19 resources technologies; ~~and~~

20 (4) information on how to use contracts entered into
21 by the department under Section 2157.068; and

22 (5) other information that the department considers
23 to be useful.

24 (d) The department may use its own staff or contract with
25 private entities or other state agencies to conduct the training.

26 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF
27 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The

1 comptroller [~~commission~~] shall establish and administer a system of
2 training, continuing education, and certification for state agency
3 purchasing personnel. The comptroller [~~commission~~] may establish
4 and offer appropriate training to vendors on a cost recovery basis.
5 The comptroller [~~commission~~] may adopt rules to administer this
6 section, including rules relating to monitoring a certified
7 purchaser's compliance with the continuing education requirements
8 of this section.

9 (b) Except as provided by Subsection (n), all state agency
10 purchasing personnel, including agencies exempted from the
11 purchasing authority of the comptroller [~~commission~~], must receive
12 the training and continuing education to the extent required by
13 comptroller rule [~~of the commission~~]. A state agency employee who
14 is required to receive the training may not participate in
15 purchases by the employing agency unless the employee has received
16 the required training or received equivalent training from a
17 national association recognized by the comptroller [~~commission~~].
18 The equivalent training may count, as provided by Subsection (k),
19 toward the continuing education requirements.

20 (c) The comptroller [~~commission~~] shall set and collect a fee
21 from state agencies that employ purchasing personnel. The
22 comptroller [~~commission~~] shall set the fee in an amount that
23 recovers the comptroller's [~~commission's~~] costs under this section.

24 (d) The comptroller [~~commission~~] may provide training,
25 continuing education, and certification under this section to
26 purchasing personnel employed by a political subdivision or other
27 public entity of the state. Political subdivision purchasing

1 personnel may receive, but are not required to receive, the
2 training, continuing education, or certification provided under
3 this section. The comptroller [~~commission~~] shall collect the fees
4 described by Subsection (c) for training, education, or
5 certification under this subsection.

6 (e) The comptroller [~~commission~~] may provide training and
7 continuing education under this section using the comptroller's
8 [~~its~~] own personnel or through contracts with private entities.
9 The comptroller [~~commission~~] may also, by agreement with a public
10 entity, use the services of persons employed by the public entity to
11 provide training and continuing education under this section.

12 (f) The comptroller [~~commission~~] shall provide at least
13 three levels of training under this section.

14 (g) The basic training level must include an introduction to
15 contract purchasing methods, ethical issues affecting purchasing
16 decisions, and instruction in any other processes and issues that
17 the comptroller [~~commission~~] considers appropriate for
18 introductory purchasing training.

19 (h) The second training level must include advanced
20 instruction in formal and informal bidding methods, introduction to
21 negotiation methods, instruction in writing specifications, and
22 instruction in any other processes and issues that the comptroller
23 [~~commission~~] considers appropriate for the second level of
24 purchasing training.

25 (i) The third training level must include an introduction to
26 complex negotiations, instruction in the criteria for determining
27 which product or service offers the best value for the state, and

1 instruction in any other processes and issues that the comptroller
2 [~~commission~~] considers appropriate for advanced purchasing
3 training.

4 (j) The comptroller [~~commission~~] may prescribe the
5 circumstances under which a state agency may delegate to a
6 certified purchaser signature purchasing authority to approve
7 purchase orders.

8 (k) The comptroller [~~commission~~] shall require a reasonable
9 number of hours of continuing education to maintain a certification
10 level. The comptroller [~~commission~~] may allow attendance at
11 equivalent certification training recognized by the comptroller
12 [~~commission~~] to count toward the required number of hours.
13 Maintenance of the certification level may be by yearly renewal or
14 another reasonable renewal period comparable to nationally
15 recognized certification requirements.

16 (l) The comptroller's [~~commission's~~] prerequisites for
17 receiving a level-two purchaser certification must include
18 completion of the basic training level, passage of a written
19 examination, and a minimum number of years of purchasing experience
20 prescribed by the comptroller [~~commission~~].

21 (m) The comptroller's [~~commission's~~] prerequisites for
22 receiving a level-three purchaser certification must include
23 completion of the second training level, passage of a written
24 examination, and a minimum of three years of purchasing experience.

25 (n) This section does not apply to an institution to which
26 Section 51.9335, Education Code, applies or to an institution to
27 which Section 73.115, Education Code, applies.

1 Sec. 656.052 [~~2262.053~~]. TRAINING FOR CONTRACT MANAGERS.

2 (a) In this section:

3 (1) "Contract management guide" means the guide
4 developed under Section 2262.051.

5 (2) "Contract manager" has the meaning assigned by
6 Section 2262.001.

7 (a-1) In coordination with the Department of Information
8 Resources, state auditor, and Health and Human Services Commission,
9 the comptroller shall develop a training program for contract
10 managers.

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

13 (1) fairly and objectively select and negotiate with
14 the most qualified contractor;

15 (2) establish prices that are cost-effective and that
16 reflect the cost of providing the service;

17 (3) include provisions in a contract that hold the
18 contractor accountable for results;

19 (4) monitor and enforce a contract;

20 (5) make payments consistent with the contract;

21 (6) comply with any requirements or goals contained in
22 the contract management guide; ~~and~~

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

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

27 (9) create a risk evaluation and mitigation strategy;

1 (10) create a plan for potential problems with the
2 contract;

3 (11) develop an accurate and comprehensive statement
4 of work; and

5 (12) complete the contract and evaluate performance
6 under the contract.

7 (c) Each state agency shall ensure that the agency's
8 contract managers complete the training developed under this
9 section.

10 (d) The comptroller shall administer training under this
11 section.

12 (e) The comptroller shall certify contract managers who
13 have completed the contract management training required under this
14 section.

15 (f) A state agency may develop qualified contract manager
16 training to supplement the training required under this section.
17 The comptroller may incorporate the training developed by the
18 agency into the training program under this section.

19 (g) The comptroller shall develop and administer an
20 abbreviated training program meeting the relevant training
21 requirements under this section for state agency employees, other
22 than contract managers, with contract management duties.

23 Sec. 656.053 [~~2262.0535~~]. TRAINING FOR GOVERNING BODIES.

24 (a) In this section, "state agency" has the meaning assigned by
25 Section 2056.001.

26 (a-1) The comptroller shall adapt the program developed
27 under Section 656.052 [~~2262.053~~] to provide an abbreviated program

1 for training the members of the governing bodies of state agencies.
2 The training may be provided together with other required training
3 for members of state agency governing bodies.

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

8 SECTION 4. Section 2056.002(b), Government Code, is amended
9 to read as follows:

10 (b) The Legislative Budget Board and the Governor's Office
11 of Budget, Policy, and Planning shall determine the elements
12 required to be included in each agency's strategic plan. Unless
13 modified by the Legislative Budget Board and the Governor's Office
14 of Budget, Policy, and Planning, and except as provided by
15 Subsection (c), a plan must include:

16 (1) a statement of the mission and goals of the state
17 agency;

18 (2) a description of the indicators developed under
19 this chapter and used to measure the output and outcome of the
20 agency;

21 (3) identification of the groups of people served by
22 the agency, including those having service priorities, or other
23 service measures established by law, and estimates of changes in
24 those groups expected during the term of the plan;

25 (4) an analysis of the use of the agency's resources to
26 meet the agency's needs, including future needs, and an estimate of
27 additional resources that may be necessary to meet future needs;

1 (5) an analysis of expected changes in the services
2 provided by the agency because of changes in state or federal law;

3 (6) a description of the means and strategies for
4 meeting the agency's needs, including future needs, and achieving
5 the goals established under Section 2056.006 for each area of state
6 government for which the agency provides services;

7 (7) a description of the capital improvement needs of
8 the agency during the term of the plan and a statement, if
9 appropriate, of the priority of those needs;

10 (8) identification of each geographic region of this
11 state, including the Texas-Louisiana border region and the
12 Texas-Mexico border region, served by the agency, and if
13 appropriate the agency's means and strategies for serving each
14 region;

15 (9) a description of the training of the agency's
16 contract managers under Section 656.052 [~~2262.053~~];

17 (10) an analysis of the agency's expected expenditures
18 that relate to federally owned or operated military installations
19 or facilities, or communities where a federally owned or operated
20 military installation or facility is located;

21 (11) an analysis of the strategic use of information
22 resources as provided by the instructions prepared under Section
23 2054.095; and

24 (12) other information that may be required.

25 SECTION 5. Section 2262.101(a), Government Code, as amended
26 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd
27 Legislature, Regular Session, 2013, is reenacted and amended to

1 read as follows:

2 (a) The Contract Advisory Team is created to assist state
3 agencies in improving contract management practices by:

4 (1) reviewing and making recommendations on the
5 solicitation documents and contract documents for contracts of
6 state agencies that have a value of at least \$10 million;

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

11 (3) providing recommendations to the comptroller
12 regarding:

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

15 (B) the training under Section [656.052](#)
16 [~~[2262.053](#)~~];

17 (4) providing recommendations and assistance to state
18 agency personnel throughout the contract management process;

19 (5) coordinating and consulting with the quality
20 assurance team established under Section [2054.158](#) on all contracts
21 relating to a major information resources project; ~~and~~

22 (6) [~~(4)~~] developing and recommending policies and
23 procedures to improve state agency contract management practices;

24 (7) [~~(5)~~] developing and recommending procedures to
25 improve state agency contracting practices by including
26 consideration for best value; and

27 (8) [~~(6)~~] creating and periodically performing a risk

1 assessment to determine the appropriate level of management and
2 oversight of contracts by state agencies.

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

7 SECTION 7. This Act takes effect September 1, 2015.