

By: Zaffirini, et al.
(Elkins, Galindo)

S.B. No. 1638

Substitute the following for S.B. No. 1638:

By: Elkins

C.S.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. PROCUREMENT AND CONTRACT MANAGEMENT TRAINING
2 BY COMPTROLLER. (a) The comptroller shall develop training
3 programs provided by the comptroller under this subchapter to meet
4 the needs of state agencies.

5 (b) Each year a state agency shall estimate the number of
6 employees requiring procurement or contract management training
7 and report the anticipated training needs of the state agency to the
8 comptroller.

9 (c) On an annual basis the comptroller will assess the
10 number of employees requiring procurement or contract management
11 training and will maintain a regular schedule of classes to
12 accommodate that number.

13 (d) The comptroller may use its own staff or contract with
14 private entities or other state agencies to conduct the training.

15 (e) The comptroller may assess a fee for a training program
16 in an amount not to exceed the costs incurred by the comptroller to
17 provide the training program under this subchapter.

18 SECTION 3. Sections [2054.057](#), [2155.078](#), [2262.053](#), and
19 [2262.0535](#), Government Code, are transferred to Subchapter C,
20 Chapter 656, Government Code, redesignated as Sections 656.050,
21 656.051, 656.052, and 656.053, Government Code, respectively, and
22 amended to read as follows:

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

24 (a) In this section:

25 (1) "Department" means the Department of Information
26 Resources.

27 (2) "Information resources technologies" has the

1 meaning assigned by Section 2054.003.

2 (a-1) The department, with the cooperation of the
3 comptroller and other appropriate state agencies, shall develop and
4 implement a program to train state agency personnel in effectively
5 negotiating contracts for the purchase of information resources
6 technologies.

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

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

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

18 (2) information drawn from the state's previous
19 procurement experience about what is or is not advantageous for the
20 state;

21 (3) the perspective of state agencies with oversight
22 responsibilities related to the state's procurement of information
23 resources technologies; ~~and~~

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

26 (5) other information that the department considers
27 to be useful.

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

3 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF
4 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The
5 comptroller [~~commission~~] shall establish and administer a system of
6 training, continuing education, and certification for state agency
7 purchasing personnel. The comptroller [~~commission~~] may establish
8 and offer appropriate training to vendors on a cost recovery basis.
9 The comptroller [~~commission~~] may adopt rules to administer this
10 section, including rules relating to monitoring a certified
11 purchaser's compliance with the continuing education requirements
12 of this section.

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

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

1 (d) The comptroller [~~commission~~] may provide training,
2 continuing education, and certification under this section to
3 purchasing personnel employed by a political subdivision or other
4 public entity of the state. Political subdivision purchasing
5 personnel may receive, but are not required to receive, the
6 training, continuing education, or certification provided under
7 this section. The comptroller [~~commission~~] shall collect the fees
8 described by Subsection (c) for training, education, or
9 certification under this subsection.

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

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

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

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

1 purchasing training.

2 (i) The third training level must include an introduction to
3 complex negotiations, instruction in the criteria for determining
4 which product or service offers the best value for the state, and
5 instruction in any other processes and issues that the comptroller
6 [~~commission~~] considers appropriate for advanced purchasing
7 training.

8 (j) The comptroller [~~commission~~] may prescribe the
9 circumstances under which a state agency may delegate to a
10 certified purchaser signature purchasing authority to approve
11 purchase orders.

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

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

25 (m) The comptroller's [~~commission's~~] prerequisites for
26 receiving a level-three purchaser certification must include
27 completion of the second training level, passage of a written

1 examination, and a minimum of three years of purchasing experience.

2 (n) This section does not apply to an institution to which
3 Section 51.9335, Education Code, applies or to an institution to
4 which Section 73.115, Education Code, applies.

5 Sec. 656.052 [~~2262.053~~]. TRAINING AND CERTIFICATION FOR
6 CONTRACT MANAGERS. (a) In this section:

7 (1) "Contract management guide" means the guide
8 developed under Section 2262.051.

9 (2) "Contract manager" has the meaning assigned by
10 Section 2262.001.

11 (a-1) In coordination with the Department of Information
12 Resources, state auditor, and Health and Human Services Commission,
13 the comptroller shall develop a training program for contract
14 managers.

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

17 (1) fairly and objectively select and negotiate with
18 the most qualified contractor;

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

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

23 (4) monitor and enforce a contract;

24 (5) make payments consistent with the contract;

25 (6) comply with any requirements or goals contained in
26 the contract management guide; [~~and~~]

27 (7) use and apply advanced sourcing strategies,

1 techniques, and tools;

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

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

5 (10) create a plan for potential problems with the
6 contract;

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

9 (12) complete the contract and evaluate performance
10 under the contract.

11 (c) Each state agency shall ensure that the agency's
12 contract managers complete the training developed under this
13 section.

14 (d) The comptroller shall administer training under this
15 section.

16 (e) The comptroller shall certify contract managers who
17 have completed the contract management training required under this
18 section.

19 (f) A state agency may develop qualified contract manager
20 training to supplement the training required under this section.
21 The comptroller may incorporate the training developed by the
22 agency into the training program under this section.

23 (g) The comptroller shall adapt the training required under
24 this section and administer an abbreviated training program meeting
25 the relevant training requirements under this section for state
26 agency employees, other than contract managers, with contract
27 management duties.

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

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

4 (a-1) The comptroller shall adapt the program developed
5 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
6 for training the members of the governing bodies of state agencies.
7 The training may be provided together with other required training
8 for members of state agency governing bodies.

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

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

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

21 (1) a statement of the mission and goals of the state
22 agency;

23 (2) a description of the indicators developed under
24 this chapter and used to measure the output and outcome of the
25 agency;

26 (3) identification of the groups of people served by
27 the agency, including those having service priorities, or other

1 service measures established by law, and estimates of changes in
2 those groups expected during the term of the plan;

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

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

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

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

15 (8) identification of each geographic region of this
16 state, including the Texas-Louisiana border region and the
17 Texas-Mexico border region, served by the agency, and if
18 appropriate the agency's means and strategies for serving each
19 region;

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

22 (10) an analysis of the agency's expected expenditures
23 that relate to federally owned or operated military installations
24 or facilities, or communities where a federally owned or operated
25 military installation or facility is located;

26 (11) an analysis of the strategic use of information
27 resources as provided by the instructions prepared under Section

1 2054.095; and

2 (12) other information that may be required.

3 SECTION 5. Section 2262.101(a), Government Code, as amended
4 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd
5 Legislature, Regular Session, 2013, is reenacted and amended to
6 read as follows:

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

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

12 (2) reviewing any findings or recommendations made by
13 the state auditor, including those made under Section 2262.052(b),
14 regarding a state agency's compliance with the contract management
15 guide;

16 (3) providing recommendations to the comptroller
17 regarding:

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

20 (B) the training under Section 656.052
21 [~~2262.053~~];

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

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

27 (6) [~~(4)~~] developing and recommending policies and

1 procedures to improve state agency contract management practices;
2 (7) [~~(5)~~] developing and recommending procedures to
3 improve state agency contracting practices by including
4 consideration for best value; and

5 (8) [~~(6)~~] creating and periodically performing a risk
6 assessment to determine the appropriate level of management and
7 oversight of contracts by state agencies.

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

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