

By: Capriglione, Zerwas, Roberts, Walle,  
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H.B. No. 18

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to oversight of and requirements applicable to state  
3 contracts and other state financial and accounting issues,  
4 including the delivery of certain Medicaid medical transportation  
5 program services; authorizing a fee.

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

7 ARTICLE 1. GENERAL STATE CONTRACTING AND OTHER FINANCIAL ISSUES

8 SECTION 1.01. Subchapter C, Chapter 316, Government Code,  
9 is amended by adding Section 316.025 to read as follows:

10 Sec. 316.025. CONTRACTS TO CONFORM WITH LIMITATIONS OF  
11 GENERAL APPROPRIATIONS ACT. Notwithstanding any other law, a  
12 contract obligation of a state agency, as defined by Section  
13 2103.001, including an institution of higher education, as defined  
14 by Section 61.003, Education Code, may be limited or amended by the  
15 General Appropriations Act.

16 SECTION 1.02. Section 321.013, Government Code, is amended  
17 by adding Subsections (m) and (n) to read as follows:

18 (m) In devising the audit plan under Subsection (c), the  
19 State Auditor shall consider the performance of audits of programs  
20 operated by health and human services agencies that:

21 (1) have not recently received audit coverage; and  
22 (2) have expenditures of less than \$100 million per  
23 year.

24 (n) In devising the audit plan under Subsection (c), the

1 State Auditor shall consider the performance of audits of programs  
2 operated by the Texas Alcoholic Beverage Commission that have not  
3 recently received audit coverage.

4 SECTION 1.03. Chapter 322, Government Code, is amended by  
5 adding Section 322.025 to read as follows:

6 Sec. 322.025. REPORT ON CONTRACT SPENDING. (a) In this  
7 section, "state agency" has the meaning assigned by Section  
8 2056.001.

9 (b) Not later than September 15 of each year, the board  
10 shall issue a report detailing how much of each state agency's  
11 budget for the previous state fiscal year was spent on contracts.

12 SECTION 1.04. Section 441.1855, Government Code, is amended  
13 to read as follows:

14 Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS  
15 BY STATE AGENCIES. Notwithstanding Section 441.185 or 441.187, a  
16 state agency:

17 (1) for each contract entered into by the agency,  
18 shall retain in its records, to the extent the documents exist,  
19 [each contract entered into by the state agency and] all contract  
20 planning, solicitation, evaluation, monitoring, modification, and  
21 closeout documents related to the contract, including at a minimum:

22 (A) a copy of all general and internal  
23 correspondence related to the contract;

24 (B) the records or minutes of all internal or  
25 external meetings related to the contract, including sign-in sheets  
26 or agendas;

27 (C) a copy of all contractor invoices provided

1 under the contract;

2 (D) any information relating to discount  
3 provisions for prompt payment under the contract and any letters  
4 related to contract price deductions or fee adjustments;

5 (E) a copy of all supporting documentation for  
6 contractor payments or progress payments under the contract;

7 (F) a copy of any audits performed involving the  
8 contract; and

9 (G) a copy of all conflict of interest  
10 documentation and forms required by law related to the contract;  
11 and

12 (2) shall retain [~~may destroy~~] the contract and  
13 documents described by Subdivision (1) until:

14 (A) [~~only after the seventh anniversary of~~] the  
15 date [~~+~~

16 [~~(A)~~] the contract is completed or expires; and  
17 [~~or~~

18 (B) if [~~all~~] issues [~~that~~] arise from any  
19 litigation, claim, negotiation, audit, open records request,  
20 administrative review, or other action involving the contract or  
21 documents, the seventh anniversary of the date the issues are  
22 resolved.

23 SECTION 1.05. Section 531.102, Government Code, is amended  
24 by adding Subsection (a-7) to read as follows:

25 (a-7) The inspector general shall appoint oversight  
26 personnel to audit, review, and investigate high-risk contracts and  
27 procurement and contracting processes of the commission, as

1 identified by the office of inspector general, and provide on a  
2 quarterly basis reports on the monitoring to the inspector general,  
3 attorney general, and governor. The quarterly reports must be  
4 posted on the commission's publicly accessible Internet website.  
5 The oversight personnel may work with the state auditor's office,  
6 governor's office, Legislative Budget Board, attorney general's  
7 office, quality assurance team established under Section 2054.158,  
8 and contract advisory team established under Subchapter C, Chapter  
9 2262, in performing the oversight personnel's duties under this  
10 subsection.

11 SECTION 1.06. Subchapter F, Chapter 2054, Government Code,  
12 is amended by adding Section 2054.1184 to read as follows:

13 Sec. 2054.1184. ASSESSMENT OF MAJOR INFORMATION RESOURCES  
14 PROJECT. (a) A state agency proposing to spend appropriated funds  
15 for a major information resources project must first conduct an  
16 execution capability assessment to:

17 (1) determine the agency's capability for implementing  
18 the project;

19 (2) reduce the agency's financial risk in implementing  
20 the project; and

21 (3) increase the probability of the agency's  
22 successful implementation of the project.

23 (b) A state agency shall submit to the department, the  
24 quality assurance team established under Section 2054.158, and the  
25 Legislative Budget Board a detailed report that identifies the  
26 agency's organizational strengths and any weaknesses that will be  
27 addressed before the agency initially spends appropriated funds for

1 a major information resources project.

2 (c) A state agency may contract with an independent third  
3 party to conduct the assessment under Subsection (a) and prepare  
4 the report described by Subsection (b).

5 SECTION 1.07. Section 2102.0091(c), Government Code, is  
6 amended to read as follows:

7 (c) In addition to the requirements of Subsection (a), a  
8 state agency shall file with the Governor's Office of Budget,  
9 Planning, and Policy, the state auditor, and the Legislative Budget  
10 Board an ~~any~~ action plan or other response issued by the state  
11 agency's governing board or the administrator of the state agency  
12 if the state agency does not have a governing board in response to  
13 every issue identified in the report of the state agency's internal  
14 auditor.

15 SECTION 1.08. Chapter 2115, Government Code, is amended by  
16 adding Section 2115.006 to read as follows:

17 Sec. 2115.006. OVERPAYMENTS BY STATE AGENCY. (a) If a  
18 state agency makes an overpayment to a vendor, the vendor must  
19 return the amount overpaid by the agency before the 121st calendar  
20 day after the date the vendor receives written notice of the  
21 overpayment. If the amount overpaid by the state agency is not  
22 returned before the 121st calendar day, the vendor is subject to  
23 late payment interest of 10 percent per year on the amount of the  
24 overpayment that has not been returned, which begins to accrue on  
25 the date the overpayment becomes overdue.

26 (b) If the vendor disputes that an overpayment has been made  
27 by a state agency, the vendor shall provide the state agency written

1 notice of the dispute not later than the 30th day after the receipt  
2 of the notice required in Subsection (a). On resolution of the  
3 dispute, if the vendor is required to return an overpayment to the  
4 state agency, the vendor shall return the agreed overpayment before  
5 the 121st calendar day after the date the parties resolve the  
6 dispute. If the agreed overpayment is not returned before the 121st  
7 calendar day, the vendor is subject to late payment interest of 10  
8 percent per year on the amount of the agreed overpayment that has  
9 not been returned, which begins to accrue on the date the agreed  
10 overpayment becomes overdue.

11 (c) This section does not apply to the return of any amount  
12 overpaid by a state agency to a vendor because of an incorrect  
13 contract, invoice, or other documentation.

14 SECTION 1.09. Section 2155.074(c), Government Code, is  
15 amended to read as follows:

16 (c) A state agency shall consult with and receive approval  
17 from the comptroller in an open meeting [~~commission~~] before  
18 considering factors other than price and meeting specifications  
19 when the agency procures through competitive bidding goods or  
20 services with a value that exceeds \$100 million [~~\$100,000~~]. The  
21 state agency shall retain in the agency's records a copy of the  
22 meeting minutes with the final executed contract.

23 SECTION 1.10. Subchapter B, Chapter 2155, Government Code,  
24 is amended by adding Section 2155.090 to read as follows:

25 Sec. 2155.090. REPORT ON PERFORMANCE BY AGENCY FOR CERTAIN  
26 PROCUREMENTS. (a) This section applies only to a procurement for  
27 services with a value of at least \$1 million but not more than \$5

1 million.

2 (b) Before a purchase of services under this chapter, each  
3 state agency, including the comptroller, must:

4 (1) create a written report evaluating the feasibility  
5 of the agency performing the service that is the subject of the  
6 proposed purchase; and

7 (2) if the agency determines from the evaluation that  
8 it is not feasible for the agency to perform the service, provide an  
9 explanation of why the agency reached that determination.

10 (c) A report created under this section must be included in  
11 the procurement analysis for the purchase.

12 SECTION 1.11. (a) Subchapter B, Chapter 2155, Government  
13 Code, is amended by adding Section 2155.091 to read as follows:

14 Sec. 2155.091. OPERATION AND MANAGEMENT OF STATE  
15 COOPERATIVE PURCHASING PROGRAMS. (a) Notwithstanding any other  
16 law, the Department of Information Resources, the comptroller, and  
17 the five state agencies with the largest budgets on September 1,  
18 2017, shall jointly acquire from a single provider and implement a  
19 cloud-based, procure-to-pay project to operate and manage the  
20 state's cooperative purchasing programs, including the multiple  
21 award contract schedule under Subchapter I and commodity items  
22 under Section 2157.068.

23 (b) The project must:

24 (1) include procurement technology that:

25 (A) covers sourcing, contract management,  
26 contract ordering, and invoice processing;

27 (B) makes solicitations, contracts, proposals,

1 and payments viewable by the public; and

2 (C) supports the collection of transaction fees  
3 from vendors;

4 (2) include consulting and marketing services;

5 (3) include authority to charge a vendor who  
6 participates in the project a one percent transaction fee to cover  
7 the costs of the project; and

8 (4) notwithstanding any other law, allow political  
9 subdivisions and nonprofit organizations to make purchases through  
10 the project.

11 (c) The division of the governor's office having  
12 responsibility for budget and policy shall oversee the project.

13 (b) The Department of Information Resources, the  
14 comptroller of public accounts, and the five state agencies with  
15 the largest budgets on September 1, 2017, shall enter into a  
16 contract for a project to operate and manage state cooperative  
17 purchasing programs as provided by Section 2155.091, Government  
18 Code, as added by this Act, not later than October 31, 2017, and the  
19 project under that section shall be implemented not later than  
20 December 31, 2018.

21 SECTION 1.12. Subchapter D, Chapter 2156, Government Code,  
22 is amended by adding Section 2156.182 to read as follows:

23 Sec. 2156.182. OTHER INTERSTATE PURCHASES AND SALES.  
24 Subject to any limitation imposed by Section 2156.181, the  
25 commission may authorize one or more state governments, agencies of  
26 other states, or other governmental entities to purchase goods or  
27 services through the commission. The commission may charge a



1 reasonable administrative fee for a purchase of goods or services  
2 under this section.

3 SECTION 1.13. Subchapter I, Chapter 2166, Government Code,  
4 is amended by adding Section 2166.4065 to read as follows:

5 Sec. 2166.4065. ASSESSMENT AND IMPLEMENTATION OF  
6 CONTINUOUS COMMISSIONING OR EXISTING BUILDING COMMISSIONING  
7 PRACTICES. (a) In this section, "facility" means a facility with  
8 at least 100,000 gross square feet.

9 (b) A state agency with charge and control over a facility  
10 shall have a remote or on-site assessment of the facility performed  
11 by the Energy Systems Laboratory at Texas A&M Engineering  
12 Experiment Station or another qualified provider to determine  
13 whether implementation of continuous commissioning or existing  
14 building commissioning practices would result in estimated savings  
15 of at least 10 percent in utility costs for the facility. A state  
16 agency shall supply any documents necessary to perform the  
17 assessment. The state agency shall report to the Legislative  
18 Budget Board on the results of the assessment.

19 (c) If the results of an assessment performed under  
20 Subsection (b) show estimated utility cost savings of at least 10  
21 percent, the state agency shall have the Energy Systems Laboratory  
22 at Texas A&M Engineering Experiment Station or another qualified  
23 provider prepare a plan for implementation of continuous  
24 commissioning or existing building commissioning practices and  
25 monitoring of the implementation for the state agency.

26 (d) If appropriated funds are unavailable for this purpose,  
27 a state agency may enter into a contract for the implementation of

1 continuous commissioning or existing building commissioning  
2 practices for a facility to be paid for from the estimated savings  
3 in utility costs resulting from the implementation of the  
4 practices.

5 SECTION 1.14. Subchapter B, Chapter 2251, Government Code,  
6 is amended by adding Section 2251.031 to read as follows:

7 Sec. 2251.031. PAYMENT TO VENDOR. (a) A state agency may  
8 not:

9 (1) pay an invoice from a vendor unless the invoice  
10 directly correlates to a corresponding contract with the vendor; or

11 (2) make a payment to a vendor more than once per month  
12 under a contract, unless the contract specifically requires more  
13 than one payment per month.

14 (b) A payment by a state agency to a vendor under a contract  
15 must receive:

16 (1) the approval and signature of two employees of the  
17 state agency; or

18 (2) if a contract manager, as defined by Section  
19 2262.001, has been assigned to the contract by the state agency, the  
20 approval and signature of the contract manager and one other  
21 employee of the state agency.

22 (c) If a finding is made that a payment was made without the  
23 signatures required under Subsection (b), the state agency may  
24 revoke the payment at any time but remains obligated to pay the  
25 vendor all amounts due under and as required by the contract  
26 regardless of whether the state agency complied with Subsection  
27 (b).

1 SECTION 1.15. Subchapter C, Chapter 2261, Government Code,  
2 is amended by adding Section 2261.103 to read as follows:

3 Sec. 2261.103. REQUIRED CONTRACT PROVISIONS. (a) An  
4 attorney representing a state agency shall assist in the drafting  
5 of a contract to be entered into by the agency in order to include at  
6 a minimum the provisions listed in Subsection (b) and other  
7 applicable provisions recommended in the contract management guide  
8 developed under Section 2262.051.

9 (b) The following are required provisions in each contract  
10 to which the provisions are applicable:

- 11 (1) amendments;
- 12 (2) antitrust;
- 13 (3) applicable law and venue;
- 14 (4) applicable law and conforming amendments;
- 15 (5) assignments;
- 16 (6) confidentiality and public information act;
- 17 (7) equal opportunity;
- 18 (8) federal, state, and local law requirements;
- 19 (9) felony criminal convictions;
- 20 (10) financial interests and gifts;
- 21 (11) immigration;
- 22 (12) no conflicts; and
- 23 (13) right to audit.

24 SECTION 1.16. Subchapter D, Chapter 2261, Government Code,  
25 is amended by adding Section 2261.152 to read as follows:

26 Sec. 2261.152. DOCUMENTATION REQUIRED FOR PAYMENT. (a) A  
27 state agency may not make a payment to a vendor without a contract,

1 invoice, or other documentation that clearly demonstrates the  
2 agency's obligation to make a payment.

3 (b) This section does not apply to the return of any amount  
4 overpaid by a state agency to a vendor because of an incorrect  
5 contract, invoice, or other documentation.

6 SECTION 1.17. Section 2261.252, Government Code, is amended  
7 by adding Subsection (e) to read as follows:

8 (e) A state agency may not knowingly enter into a contract  
9 for the purchase of goods or services with a vendor who is related,  
10 a vendor whose governing board or executive officers include a  
11 person who is related, a vendor who employs a person directly  
12 involved in the bid submission process who is related, or who  
13 employs or subcontracts to a person directly performing the  
14 contracted work who is related, within the third degree by  
15 consanguinity or affinity, as determined under Chapter 573, to an  
16 employee of the state agency who has decision-making authority in  
17 any matter related to the contract.

18 SECTION 1.18. Subchapter F, Chapter 2261, Government Code,  
19 is amended by adding Section 2261.258 to read as follows:

20 Sec. 2261.258. REPORTING OF CONTRACT VIOLATION. (a) A  
21 state employee or member of the public may report to the comptroller  
22 a state contracting violation. The comptroller shall investigate a  
23 report made under this subsection.

24 (b) A state agency may not suspend or terminate the  
25 employment of, or take other adverse personnel action against, a  
26 state employee who in good faith reports a violation to the  
27 comptroller under this section.

1        (c) If, as a result of an investigation under this section  
2 of a state contracting violation that occurred before March 8,  
3 2017, savings to the state are realized, the comptroller shall  
4 verify the amount of savings and an amount equal to 30 percent of  
5 the savings may be appropriated to the comptroller only for  
6 distribution to the state employee who reported the violation that  
7 initiated the investigation.

8        SECTION 1.19. Section 2262.005, Government Code, is amended  
9 to read as follows:

10        Sec. 2262.005. CONSULTATION WITH INTERESTED PARTIES [~~STATE~~  
11 ~~AGENCIES~~]. The comptroller shall consult with state agencies,  
12 vendors, and other interested parties in developing rules, forms,  
13 contract terms, guides, manuals, and criteria required under this  
14 chapter.

15        SECTION 1.20. Section 2262.051, Government Code, is amended  
16 by amending Subsections (a), (b), (c), (d), and (g) and adding  
17 Subsections (i) and (j) to read as follows:

18        (a) In consultation with the attorney general, the  
19 Department of Information Resources, the [~~comptroller, and the~~  
20 state auditor, and state agencies that award major contracts, the  
21 comptroller [~~commission~~] shall develop and [~~or~~] periodically  
22 update a contract management guide for use by state  
23 agencies. Participation by the state auditor under this  
24 subsection is subject to approval by the legislative audit  
25 committee for inclusion in the audit plan under Section 321.013(c).

26        (b) The comptroller [~~commission~~] may adopt rules necessary  
27 to develop or update the guide.

1 (c) The guide must provide information regarding the  
2 primary duties of a contract manager, including how to:

- 3 (1) develop and negotiate a contract;  
4 (2) select a contractor; ~~and~~  
5 (3) monitor contractor and subcontractor performance  
6 under a contract; and  
7 (4) encourage competition for goods and services  
8 purchased by this state.

9 (d) The guide must include model provisions for state agency  
10 contracts. The guide must:

11 (1) distinguish between essential provisions that a  
12 state agency must include in a contract to protect the interests of  
13 this state and recommended provisions that a state agency may  
14 include in a contract;

15 (2) recognize the unique contracting needs of an  
16 individual state agency or program based on the size, nature, and  
17 type of goods or services purchased by the state agency or program  
18 and provide sufficient flexibility to accommodate those needs,  
19 consistent with protecting the interests of this state;

20 (3) include maximum contract periods under which a new  
21 competitive solicitation is not necessary; and

22 (4) include the model contract management process  
23 developed under Section 2262.104 and recommendations on the  
24 appropriate use of the model.

25 (g) The guide must establish procedures under which a state  
26 agency is required to:

27 (1) solicit explanations from qualified potential

1 respondents who did not respond to a competitive solicitation for a  
2 contract on which fewer than two qualified bids were received by the  
3 agency; and

4 (2) develop and implement improved procurement  
5 practices.

6 (i) The guide must suggest best practices related to  
7 procurement metrics used by a state agency to measure and monitor  
8 the effectiveness of the state agency's procurement methods,  
9 including the:

10 (1) number and value of procurements made by the state  
11 agency;

12 (2) number of canceled procurements by the state  
13 agency;

14 (3) reasons for canceled procurements;

15 (4) common exceptions to the state agency's terms and  
16 conditions by a respondent;

17 (5) number of responses per competitive solicitation;  
18 and

19 (6) average length of time for each phase of the state  
20 agency's procurement processes, including the length of time:

21 (A) between the date the state agency issues the  
22 competitive solicitation and the date the state agency begins  
23 receiving responses to the solicitation;

24 (B) for the evaluation of responses to a  
25 competitive solicitation;

26 (C) of the negotiation between the state agency  
27 and a vendor; and

1           (D) between the date the state agency issues the  
2 competitive solicitation and the date the state agency awards a  
3 contract to a vendor.

4           (j) The guide may include references to procurement  
5 maturity models and procurement readiness assessments used by other  
6 large public and private enterprises.

7           SECTION 1.21. Subchapter B, Chapter 2262, Government Code,  
8 is amended by adding Section 2262.056 to read as follows:

9           Sec. 2262.056. CONTRACT MANAGERS REQUIRED FOR MAJOR  
10 CONTRACTS. A state agency, at a minimum, shall assign a contract  
11 manager for each major contract of the agency to manage the  
12 oversight of the contract.

13           SECTION 1.22. Chapter 2262, Government Code, is amended by  
14 adding Subchapter E to read as follows:

15           SUBCHAPTER E. CONTRACT OUTSIDE TACTICAL TEAM

16           Sec. 2262.201. DEFINITIONS. In this subchapter:

17           (1) "Information resources" has the meaning assigned  
18 by Section 2054.003.

19           (2) "Team" means a contract outside tactical team  
20 established under authority provided by this subchapter.

21           Sec. 2262.202. CONTRACT OUTSIDE TACTICAL TEAM. (a) From  
22 appropriated funds, a state agency shall enter into a contract with  
23 a team for assistance in improving information resources contract  
24 management practices for contracts that have a value of at least  
25 \$100 million. The team shall review and make recommendations on the  
26 solicitation documents, contract documents, scope of work, project  
27 timeline and management, documentation requirements, audit



1 schedule and audit scope, and technical issues for the contract.

2 (b) A team consists of the following members selected by the  
3 state agency:

4 (1) outside legal counsel; or

5 (2) providers of professional consulting services  
6 with expertise in the subject matter of the contract.

7 (c) A state agency may not select a provider of professional  
8 consulting services or a group or association of providers or award  
9 a contract for the services on the basis of competitive bids  
10 submitted for the contract or for the services, but shall make the  
11 selection and award:

12 (1) on the basis of demonstrated competence and  
13 qualifications to perform the services; and

14 (2) for a fair and reasonable price.

15 (d) A state agency shall:

16 (1) comply with a recommendation made under Subsection  
17 (a); or

18 (2) submit a written explanation regarding why the  
19 recommendation is not applicable to the contract under review.

20 SECTION 1.23. (a) The comptroller of public accounts shall  
21 conduct an interim study on the effectiveness of the process of  
22 barring vendors from participation in state contracts under Section  
23 [2155.077](#), Government Code. The study must include an evaluation of  
24 the risk to the state posed by vendors who receive low performance  
25 grades under Section [2262.055](#), Government Code, but who are not  
26 barred under Section [2155.077](#), Government Code.

27 (b) Not later than December 1, 2018, the comptroller of

1 public accounts shall submit a report on the findings of the study  
2 to the governor, lieutenant governor, and members of the  
3 legislature.

4 ARTICLE 2. DELIVERY OF MEDICAID MEDICAL TRANSPORTATION PROGRAM  
5 SERVICES

6 SECTION 2.01. Section 531.0057(b), Government Code, is  
7 amended to read as follows:

8 (b) Subject to Section 531.024141, the ~~[The]~~ commission may  
9 contract with any public or private transportation provider or with  
10 any regional transportation broker for the provision of public  
11 transportation services.

12 SECTION 2.02. Section 531.02412, Government Code, is  
13 amended by adding Subsection (b) to read as follows:

14 (b) As part of the quality review assessment of the Medicaid  
15 medical transportation program under Subsection (a)(3), the  
16 commission shall hire a single independent vendor with appropriate  
17 expertise to conduct surveys of:

18 (1) the satisfaction rates of Medicaid recipients who  
19 are receiving medical transportation program services; and

20 (2) the unmet transportation needs of Medicaid  
21 recipients who are not receiving medical transportation program  
22 services and who are having difficulty obtaining transportation to  
23 health care appointments.

24 SECTION 2.03. Sections 531.02414(c) and (d), Government  
25 Code, are amended to read as follows:

26 (c) Except as provided by Section 531.024142 and  
27 notwithstanding ~~[Notwithstanding]~~ any other law, the commission

1 may not delegate the commission's duty to supervise the medical  
2 transportation program to any other person, including through a  
3 contract with the Texas Department of Transportation for the  
4 department to assume any of the commission's responsibilities  
5 relating to the provision of services through that program.

6 (d) Subject to Sections 531.024141 and ~~[Section]~~ 533.00257,  
7 the commission may contract with a public transportation provider,  
8 as defined by Section 461.002, Transportation Code, a private  
9 transportation provider, or a regional transportation broker for  
10 the provision of public transportation services, as defined by  
11 Section 461.002, Transportation Code, under the medical  
12 transportation program.

13 SECTION 2.04. Subchapter B, Chapter 531, Government Code,  
14 is amended by adding Sections 531.024141 and 531.024142 to read as  
15 follows:

16 Sec. 531.024141. DELIVERY OF MEDICAID MEDICAL  
17 TRANSPORTATION PROGRAM SERVICES. (a) In this section:

18 (1) "Managed transportation organization" has the  
19 meaning assigned by Section 533.00257.

20 (2) "Medical transportation program" has the meaning  
21 assigned by Section 531.02414.

22 (b) Notwithstanding any other law, the commission shall use  
23 the most cost-effective delivery model for the provision of medical  
24 transportation program services throughout the state. In  
25 determining the most cost-effective delivery model, the commission  
26 shall, on a regional basis, consider using:

27 (1) a managed transportation delivery model in which

1 managed transportation organizations and providers operate under a  
2 capitated rate system in accordance with Section 533.00257;

3 (2) a fee-for-service delivery model; or

4 (3) other delivery models deemed appropriate by the  
5 commission.

6 (c) Before soliciting bids for the provision of medical  
7 transportation program services in a region through a managed  
8 transportation delivery model or another selected delivery model  
9 deemed appropriate by the commission under Subsection (b)(3), the  
10 commission must conduct an assessment to determine if the  
11 applicable model is more cost-effective than a fee-for-service  
12 delivery model. If the commission determines that the managed  
13 transportation delivery model or other selected delivery model is  
14 potentially more cost-effective than a fee-for-service delivery  
15 model, the commission shall establish a cost threshold for  
16 accepting bids for the provision of medical transportation program  
17 services in the region through a managed transportation delivery  
18 model or the other selected delivery model.

19 (d) A cost threshold established under Subsection (c) must  
20 be:

21 (1) expressed as a cost per unit, such as a cost per  
22 recipient or a cost per trip; and

23 (2) based on historical data for the provision of  
24 medical transportation program services through a fee-for-service  
25 delivery model in the region.

26 (e) If the commission receives bids at or below the cost  
27 threshold established under Subsection (c) from qualified managed

1 transportation organizations or qualified vendors seeking to  
2 provide services under the other selected delivery model, the  
3 commission shall provide medical transportation program services  
4 in the region through a managed transportation delivery model or  
5 the other selected delivery model, as applicable, and shall award  
6 contracts to managed transportation organizations or vendors based  
7 on the price and quality of the services to be provided by the  
8 organization or vendor.

9 (f) If the commission is unable to solicit bids from  
10 qualified managed transportation organizations or vendors at or  
11 below the cost threshold established under Subsection (c), the  
12 commission shall provide medical transportation program services  
13 through a fee-for-service delivery model in the region.

14 (g) For purposes of this section, a delivery model's  
15 cost-effectiveness is based on the price and quality of the  
16 services delivered through the model, in addition to any other  
17 requirements established by applicable state and federal  
18 procurement laws.

19 Sec. 531.024142. OVERSIGHT OF MEDICAID MEDICAL  
20 TRANSPORTATION PROGRAM SERVICES. (a) In this section, "medical  
21 transportation program" has the meaning assigned by Section  
22 [531.02414.](#)

23 (b) Regardless of the delivery model selected by the  
24 commission under Section 531.024141 for the delivery of medical  
25 transportation program services, the commission shall:

26 (1) contract with a person to oversee the delivery of  
27 those services through the selected delivery model; and

1           (2) pay for the contract from the anticipated cost  
2 savings realized under the contract.

3           (c) In contracting for the oversight of medical  
4 transportation program services, the commission shall provide  
5 contracting opportunities to persons who employ veterans or other  
6 persons with disabilities whose services are available under  
7 Chapter 122, Human Resources Code.

8           (d) The person contracted under Subsection (b) shall  
9 maintain a record of each service provided under the medical  
10 transportation program, including the cost of mileage for the  
11 service, the cost of the service, and the cost of any software  
12 licensing support used to meet the requirements of this section. A  
13 managed transportation organization or vendor through which  
14 medical transportation program services are provided shall provide  
15 to the person contracted under Subsection (b) the information  
16 necessary for that person to comply with this subsection.

17           (e) Not later than December 1, 2018, the commission shall  
18 evaluate the oversight of medical transportation program services  
19 under this section for not more than a 90-day period to determine:

20                   (1) the viability of continuing to contract with a  
21 person to oversee the services;

22                   (2) the economic return on investment from contracting  
23 with a person to oversee the services; and

24                   (3) route efficiency and reasonableness in the  
25 provision of the services.

26           (f) Subsection (e) and this subsection expire September 1,  
27 2019.

1 SECTION 2.05. Sections 533.00257(b) and (c), Government  
2 Code, are amended to read as follows:

3 (b) If [~~Subject to Subsection (i),~~] the commission provides  
4 [~~shall provide~~] medical transportation program services [~~on a~~  
5 ~~regional basis~~] through a managed transportation delivery model in  
6 accordance with Section 531.024141, the commission shall use  
7 [~~using~~] managed transportation organizations and providers, as  
8 appropriate, that:

9 (1) operate under a capitated rate system;

10 (2) assume financial responsibility under a full-risk  
11 model;

12 (3) operate a call center;

13 (4) use fixed routes when available and appropriate;

14 and

15 (5) agree to provide data to the commission if the  
16 commission determines that the data is required to receive federal  
17 matching funds.

18 (c) Subject to Section 531.024141, the [~~The~~] commission  
19 shall procure managed transportation organizations [~~under the~~  
20 ~~medical transportation program~~] through a competitive bidding  
21 process [~~for each managed transportation region as determined by~~  
22 ~~the commission~~].

23 SECTION 2.06. Sections 533.00257(i) and (j), Government  
24 Code, are repealed.

25 SECTION 2.07. Section 531.024141, Government Code, as added  
26 by this article, applies to a contract entered into or renewed on or  
27 after the effective date of this Act. A contract entered into or

1 renewed before that date is governed by the law in effect  
2 immediately before the effective date of this Act, and that law is  
3 continued in effect for that purpose.

4 SECTION 2.08. If before implementing any provision of this  
5 article a state agency determines that a waiver or authorization  
6 from a federal agency is necessary for implementation of that  
7 provision, the agency affected by the provision shall request the  
8 waiver or authorization and may delay implementing that provision  
9 until the waiver or authorization is granted.

10 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

11 SECTION 3.01. Except as otherwise provided by this Act,  
12 this Act applies only in relation to a contract for which a state  
13 agency first advertises or otherwise solicits bids, proposals,  
14 offers, or qualifications on or after the effective date of this  
15 Act, and to a payment made under a contract described by this  
16 section.

17 SECTION 3.02. This Act takes effect September 1, 2017.