

## **BILL ANALYSIS**

C.S.S.B. 1638  
By: Zaffirini  
Government Transparency & Operation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It is generally agreed that successful contract management involves four phases: planning; procurement; contract formation, rate, and price establishment; and contract oversight. It is also generally agreed that state employees involved with contracting should be knowledgeable of the state's contracting laws and policies, any special processes that support an employing entity's mission, and, perhaps most importantly, the skills to keep the contract on track and resolve problems as they arise. It has been suggested that more comprehensive training would ensure that applicable state employees are competent in contract planning, negotiation, and performance monitoring. C.S.S.B. 1638 seeks to provide for this training.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1638 amends the Government Code to require 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 submit to the Legislative Budget Board, not later than August 31 of that year, a report including a list of the employees participating in a training or education program and receiving payment from the agency, the amount spent on each employee, and the certification earned by each employee through the training or education program. The bill requires the comptroller of public accounts to develop training programs provided by the comptroller under the State Employees Training Act to meet the needs of state agencies. The bill requires a state agency, each year, to estimate the number of employees requiring procurement or contract management training and report the anticipated training needs of the state agency to the comptroller and requires the comptroller, on an annual basis, to assess the number of employees requiring procurement or contract management training and to maintain a regular schedule of classes to accommodate that number. The bill authorizes the comptroller to use its own staff or to contract with private entities or other state agencies to conduct the training and authorizes the comptroller to assess a fee for a training program in an amount not to exceed the costs incurred by the comptroller to provide the training program.

C.S.S.B. 1638 requires state agency personnel directly involved in contract negotiations for the purchase of information resources technologies to complete the contract negotiation training developed by the Department of Information Resources (DIR). The bill includes information on how to use contracts entered into by DIR under statutory provisions governing the purchase of

information technology commodity items among the information DIR is required to include in such training.

C.S.S.B. 1638 includes the following among the information with which the contract manager training program developed by the comptroller is required to provide a contract manager: how to maintain required documentation for contracting decisions, changes to a contract, and problems with a contract; how to create a risk evaluation and mitigation strategy; how to create a plan for potential problems with the contract; how to develop an accurate and comprehensive statement of work; and how to complete the contract and evaluate performance under the contract. The bill requires the comptroller to adapt the required contract manager training and administer an abbreviated training program meeting the relevant training requirements for state agency employees, other than contract managers, with contract management duties.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1638 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

#### SENATE ENGROSSED

SECTION 1. Section 656.047, Government Code, is amended.

SECTION 2. Subchapter C, Chapter 656, Government Code, is amended by adding Section 656.054 to read as follows:

Sec. 656.054. TRAINING BY COMPTROLLER.

(a) The comptroller shall develop each training program provided by the comptroller under this subchapter to meet the needs of a state agency.

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

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

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Subchapter C, Chapter 656, Government Code, is amended by adding Section 656.054 to read as follows:

Sec. 656.054. PROCUREMENT AND CONTRACT MANAGEMENT TRAINING BY COMPTROLLER.

(a) The comptroller shall develop training programs provided by the comptroller under this subchapter to meet the needs of state agencies.

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

(c) 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.

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

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

subchapter.

SECTION 3. Sections 2054.057, 2155.078, 2262.053, and 2262.0535, Government Code, are transferred to Subchapter C, Chapter 656, Government Code, redesignated as Sections 656.050, 656.051, 656.052, and 656.053, Government Code, respectively, and amended to read as follows:

Sec. 656.050 [~~2054.057~~]. TRAINING IN CONTRACT NEGOTIATION.

Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF STATE AGENCY PURCHASING PERSONNEL AND VENDORS.

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

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

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

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

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

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

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

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

(4) monitor and enforce a contract;

(5) make payments consistent with the contract;

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

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

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

(9) create a risk evaluation and mitigation strategy;

(10) create a plan for potential problems

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(10) create a plan for potential problems

with the contract;

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

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

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

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

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

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

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

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

SECTION 4. Section 2056.002(b), Government Code, is amended.

SECTION 5. 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, is reenacted and amended.

SECTION 6. 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. This Act takes effect September 1, 2015.

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

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

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Same as engrossed version.