



CREDIT UNION COMMISSION MEETING

Credit Union Department Building
914 East Anderson Lane
Austin, Texas

August 12, 2015

AGENDA

<u>TAB</u>		<u>PAGE</u>
A.	Call to Order (11:00 a.m.) – Chair Manny Cavazos	3
	a. Ascertain Quorum	
	b. Appoint Recording Secretary	
	c. Announce Executive Session	
	d. Invitation for Public Input for Future Consideration	
	e. Receive Requests and Motions for Excused Absences	
B.	Receive and Approve Minutes of the Commission’s Regular Meeting on June 19, 2015	6
C.	New Business	
	a. Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New Subchapter K of 7 TAC, Chapter 91 Concerning Credit Union Development Districts	21
	b. Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New 7 TAC, Section 97.206 Concerning Posting of Certain contracts and Enhanced Contract and Performance Monitoring	36
	c. Discussion, Consideration, and Possible Vote to Adopt Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker and A. John Yoggerst	69
	d. Discussion of the Chair’s Designation of a Vice Chair and Appointments to the Commission’s Two Standing Committees (Rules and Commissioner Evaluation)	73
	e. Confirm Date for Next Commission Meeting (October 16, 2015)	
D.	Executive Session – The Commission may go into Executive Session [close its meeting to the public] on any agenda item if appropriate and authorized by Section 551.074 of the Government Code	76
	Adjournment	

In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Linda Clevlen, Texas Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752, (512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- *Manuel “Manny” Cavazos, Chair*
- *Beckie Stockstill Cobb*
- *Yusuf E. Farran*
- *Steve Gilman*
- *Sherri B. Merket*
- *Allyson “Missy” Morrow*
- *Gary D. Tuma*
- *Kay Stewart*
- *Vik Vad*

Legal Counsel

- *Zindia Thomas*

Staff

- *Harold E. Feeney*
- *Robert N. Baxter*
- *Shari Shivers*
- *Isabel Velasquez*

**FUTURE CREDIT UNION
COMMISSION MEETING DATES**

Friday, October 16, 2015

Friday, February 19, 2016

Friday, June 17, 2016

**All regular scheduled meetings will begin at 8:00
a.m. unless notified differently.**

**If anyone has conflicts with the proposed dates,
please contact Isabel Velasquez at (512) 837-9236.**

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for the June 19, 2015 meeting, and the corresponding follow-up action report, are located under **Tab B**.

RECOMMENDED ACTION: The Department requests that the Commission approve the minutes as presented.

RECOMMENDED MOTION: I move that the minutes of the Commission's regular meeting of June 19, 2015 be approved as presented.

**CREDIT UNION COMMISSION
MEETING MINUTES
JUNE 19, 2015**

A. CALL TO ORDER - ASCERTAIN A QUORUM – Chairman Manuel “Manny” Cavazos declared that a quorum was present and called the meeting to order at 8:00 a.m. in the conference room of the Credit Union Department office, Austin, Texas, pursuant to Chapter 551 of the Government Code. Other members present included Allyson Morrow, Gary Janacek, Rob Kyker, Kay Stewart, Gary Tuma, and Vik Vad. Sherri Merket and John Yoggerst were absent due to family and personal medical matters, respectively. Assistant Attorney General Zindia Thomas was in attendance to serve as legal counsel. Representing the Department staff were Harold E. Feeney, Commissioner, Robert N. Baxter, Deputy Commissioner, and Stacey McLarty, Assistant Commissioner and General Counsel. Chairman Cavazos appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted (**June 9, 2015, TRD#2015003890**). Without objection, the Chair reserved the right to rearrange agenda items as necessary.

❖ **INVITATION FOR PUBLIC INPUT FOR FUTURE CONSIDERATION** – Chairman Cavazos invited public input on matters that were not scheduled items on today’s agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** – Chairman Cavazos inquired if there were any requests or motions to excuse an absence. Mr. Kyker moved to excuse Sherri Merket from the

Commission meeting on June 19, 2015. Mr. Tuma seconded the motion, and the motion was unanimously adopted.

Mr. Tuma moved to excuse John Yoggerst from the Commission meeting on June 19, 2015. Ms. Stewart seconded the motion, and the motion was unanimously adopted.

B. RECEIVE MINUTES OF PREVIOUS MEETING (February 20, 2015).

The Chairman referred the members to the draft minutes contained in the agenda packet. Mr. Kyker moved for approval of the minutes of February 20, 2015 as presented. Mr. Tuma seconded the motion, and the motion was unanimously adopted.

C. APPROVE PREVIOUSLY APPROVED COMMISSION MEETING MINUTES (October 17, 2014).

The Chairman referred the members to the draft corrected minutes contained in the agenda packet. Mr. Cavazos explained that it had not been his intention to make any formal changes to the committees, with the exception of appointing a vice chair to the Commissioner Evaluation Committee. He further indicated that once the Governor has taken action with respect to the members whose terms have expired, he does plan to make some adjustments. Ms. Morrow moved to approve the correction to the October 17, 2014 minutes as presented. Mr. Kyker seconded the motion, and the motion was unanimously adopted.

D. COMMUNICATIONS

The Chairman referred members to the correspondence contained in the agenda packet. Commissioner Feeney alerted members to the fact that NCUA has proposed some dramatic modifications to its member business lending regulation, which, if adopted, will call into question the need or advisability of retaining

Texas Administrative Code, Section 91.709. He noted that NCUA's stated intention is to move the member business lending regulation away from a system of barriers and waivers, and towards one that would instead center on credit unions developing and using sound business lending practices and policies. Mr. Feeney indicated that future action with respect to Texas Administrative Code, Section 91.709 will be dependent on the final actions taken by the NCUA.

E. COMMITTEE REPORTS

Rules Advisory Committee -- Mr. Kyker, Committee Chairman, reported on the Committee's public meeting held on June 18, 2015. He explained that the Committee had adopted six recommendations for consideration by the Commission and after describe each recommendation he planned to make one motion to adopt the recommendations in their entirety.

(1) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.802 Concerning Other Investments. Mr. Kyker noted that it was the Committee's recommendation that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.802.

(2) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.803 Concerning Investment Limits and Prohibitions. Mr. Kyker noted that it was the Committee's recommendation that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.803.

(3) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.805 Concerning Loan Participation Investments. Mr. Kyker noted that it was the

recommendation of the Committee that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.805.

(4) Discussion of and Possible Vote to Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.901 Concerning Reserve Requirements. Mr. Kyker noted that it was the recommendation of the Committee that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.901.

(5) Discussion, Consideration, and Possible Vote to Recommend that the Credit Union Commission Readopt 7 TAC Sections 91.801 (Investments in Credit Union Service Organizations), 91.804 (Custody and Safekeeping), 91.808 (Reporting Investment Activities to the Board of Directors), and 91.902 (Dividends). Mr. Kyker noted it was the recommendation of the Committee that the Commission find the reasons for initially adopting the Rules 91.801 (Investments in Credit Union Service Organizations), 91.804 (Custody and Safekeeping), 91.808 (Reporting Investment Activities to the Board of Directors), and 91.902 (Dividends) continue to exist and that these rules be readopted without change.

(6) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed Amendments to 7 TAC Section 91.401 Concerning Purchase, Lease, or Sale of Fixed Assets. Mr. Kyker noted that it was the Committee's recommendation that the Commission approve for publication and comment the proposed amendments to 7 TAC Section 91.401.

Mr. Kyker then made a motion on behalf of the Rules Committee that the Commission adopt the Committee's six delineated recommendations. A second was not needed and the motion passed unanimously.

(b) **Commissioner Evaluation Committee** – Chair Morrow briefly highlighted the Committee’s progress in developing revisions to the FY 2016 evaluation form and associated goals for the Commissioner. Mrs. Morrow also reviewed the procedures that will be used during the Commissioner’s FY 2015 performance review. No formal action was taken by the Commission.

F. UNFINISHED BUSINESS

(a) **Discussion and Consideration of the Department’s FY 2015 Financial Performance.** Commissioner Feeney reported that for the first nine months of FY 2015 operating income totaled \$3,446,579 which is \$9,527 more than the year-to-date budgeted amount. He noted that during the same period, \$2,193,739 was spent operating the Department which is approximately 90% of the year-to-date budgeted figure. Mr. Feeney also commented on two budget variances. He indicated that the unanticipated resignation of two examiners resulted in the lump sum payments of accrued leave totaling \$9,900. He also discussed the changes to the formula for determining the state-wide cost allocation, resulting in those costs exceeding the budgeted amount by approximately \$4,000. He concluded by indicating that the budget variances would be accommodated through other expense reductions and vacancy savings. After a brief discussion, no formal action was taken by the Commission.

(b) **Discussion and Consideration of Current Status of the Financial Services Market and the Effect on Credit Unions Regulated by the Department.** Deputy Commissioner Baxter highlighted various ratios and other preliminary trends from the March 31, 2015 call report data. He noted that total assets increased to \$33.5 billion, a 6% increase from the first quarter of last year. He further noted that total loans increased by 10.7%; the aggregate net worth ratio

climbed to 9.87%; up from 9.64% a year ago; and delinquency and loan loss trends remains favorable. Mr. Baxter indicated that a small percentage of credit unions (22%) reported aggregate operating losses of \$3.3 million in the first quarter. After a brief discussion, no formal action was taken by the Commission.

(c) Discussion and Consideration of Legislative Issues and Activities Relating to 84th Regular Session that May Impact the Department or Credit Unions under its Jurisdiction. Commissioner Feeney indicated that there were more than 6,200 bills filed during the 84th Regular Session, but only slightly more than 1,300 passed both chambers of the legislature and were sent to the Governor. Commissioner Feeney identified several bills that affected credit unions and/or the Department including HB 9, SB 805, SB 1032, HB 1626, HB 1628, HB 3736. He also noted that the Governor had until Sunday, June 21st to veto any of the bills passed by the Legislature. There was discussion among the members and the Commissioner addressed questions.

G. NEW BUSINESS

(a) Discussion, Consideration and Possible Vote to Approve Both the Department's Operating Plan and Budget for Fiscal Year 2016. Commissioner Feeney explained that Section 16.003 of the Finance Code provides the Commission with exclusive responsibility for approving the Department's budget. He noted that in accordance with the budget policies and guidelines approved at the Commission's last meeting, The Department was presenting for the Commission's consideration and action a proposed FY 2016 Current Service Level budget of \$3,473,931. In addition, he explained the Department was requesting additional consideration of three new initiatives: (1) \$49,707 for and

across-the-board pay increase for non-exempt staff member to minimize the impact of the change necessitated by the passage of HB 9; (2) \$69,192 to establish a pool to fund merit increases for non-exempt staff members; and (3) \$73,451 to authorize an additional entry level examiner FTE. Mr. Feeney reiterated that each initiative stood on its own merit and the Commission has the discretion to pick and choose as it deems appropriate but he encourage the Commission to approve the \$3,666,281 budget and authorize 28.5 FTEs. There was discussion among the members and the Commissioner addressed questions.

The Chair opened the floor for comments or questions from the public on the proposed budget. No public comments or questions were received.

Mr. Janacek moved that the Commission approve the proposed FY 2016 Operating Plan and Budget with a total budget of \$3,666,281 and 28.5 FTEs. Mr. Tuma seconded the motion and the motion was unanimously adopted.

H. OTHER BUSINESS – Next Commission Meeting

Chair Cavazos reminded everyone that the next regular meeting of the Commission has been tentatively scheduled for October 16, 2015 at 8:00 a.m. in Austin.

Mr. Cavazos also announced his intentions to make the following appointments at the next meeting:

1. Commission Vice Chair – Missy Morrow;
2. Chair of the Rules Committee – Vik Vad; and
3. Chair of the Commissioner Evaluation Committee – Sherri Merket

ADJOURNMENT – There being no further business for the Credit Union Commission, Chairman Cavazos adjourned the meeting at 9:13 a.m.

Manuel “Manny” Cavazos
Chair

Isabel Velasquez
Recording Secretary

Distribution:

Legislative Reference Library

DRAFT

FOLLOW-UP ACTION REPORT CREDIT UNION COMMISSION MEETINGS

MINUTES DATE AND REFERENCE/TOPIC	FOLLOW-UP ACTION REQUIRED	STATUS (As of 07-28-15)
<u>June 19, 2015</u>		
7 TAC Section 91.802 Other Investments	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.803 Investment Limits and Prohibitions	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.805 Loan Participation Investments	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.901 Reserve Requirements	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Section 91.401 Purchase, Lease, or Sale of Fixed Assets	Published in <i>Texas Register</i> with a 30 day comment period	Published in <i>Texas Register</i> on 07-03-15
7 TAC Sections 91.801 91.804, 91.808 and 91.902	Published in <i>Texas Register</i> as readopted rules	Published in <i>Texas Register</i> on 07-03-15

C

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
2. The proposed rule is presented to the commission for consideration.
3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
4. The proposed rule is adjusted by staff (if required), furnished to legal counsel and transmitted to the *Texas Register* for publication as a "proposed" rule.
5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.
7. The rule is adopted as "final" and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
8. The rule is published or announced through the Department's newsletter.

EMERGENCY RULES

Rules, which are approved by the commission for emergency adoption, are transmitted to the *Texas Register* for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days -- a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believes certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on the each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.

11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.
12. The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.
13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

NEW BUSINESS

Four (4) new items are being presented to the Commission for its consideration and possible formal action. Specifically, the Commission will have:

- (a) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New Subchapter K of 7 TAC, Chapter 91 Concerning Credit Union Development Districts.
- (b) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New 7 TAC, Section 97.206 Concerning Posting of Certain Contracts and Enhanced Contract and Performance Monitoring.
- (c) Discussion, Consideration, and Possible Vote to Adopt Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker and A. John Yoggerst.
- (d) Discussion of the Chair's Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation).

RECOMMENDED ACTION: The Department requests that the Commission take action as indicated on the documents contained in **TAB C**.

CREDIT UNION DEVELOPMENT DISTRICTS

C. (a) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New Subchapter K of 7 TAC, Chapter 91 Concerning Credit Union Development Districts.

BACKGROUND: During the recently concluded 84th Regular Session, the Legislature passed, and Governor Abbott signed, HB 1626. HB 1626 directs the Commission to administer and monitor a credit union development district program. The intent of this program is to encourage branches of credit unions to open in geographic areas where there is a demonstrated need for financial services.

HB 1626 allows a local government (municipality or county) to submit an application to the Commission for the designation of a development district. The Commission is required to make a determination whether to approve an application within 120 days of its submission, and send notification of approval to the local government, credit union, comptroller, lieutenant governor, House speaker, and Texas Economic Development and Tourism Office.

HB 1626 also provides that the Commission, in consultation with the Texas Economic Development and Tourism Office, shall adopt rules governing the designation of development districts by January 1, 2016.

RECOMMENDED ACTION: The Department recommends that the Commission approve the proposed new rules for publication and comment.

RECOMMENDED MOTION: I move that the Commission approve for publication and comment in the *Texas Register* the proposed new 7 TAC Sections 91.2000, 91.2001, 91.2002, 91.2003, 91.2004, 91.2005, and 91.2006 related to credit union development districts.

The Credit Union Commission (Commission) proposes new Subchapter K of 7 TAC, Chapter 91. The new subchapter, entitled Credit Union Development Districts, contains seven new rules which describe the procedures for establishment of credit union development districts. (A previous version of Subchapter K of 7 TAC, Chapter 91, entitled Residential Mortgage Loan Originators Employed by a Credit Union Subsidiary Organization, was repealed in October 2013 as a result of provisions enacted in the 83rd Session of the Legislature.)

The new rules are proposed in response to House Bill 1626 (HB 1626) enacted by the 84th Legislature. HB 1626 added Chapter 279 to the Texas Finance Code. HB 1626 assigned the Department the duty to administer and monitor a credit union development district program where there is a demonstrated need for services provided by a state or federal credit union, and requires the Commission to adopt rules consistent with this duty not later than January 1, 2016. HB 1626 authorizes a local government to apply for the designation of a credit union development district and authorizes a state or federal credit union to apply to open a branch in a proposed development district at the time the local government submits the application. HB 1626 states that rules regarding the criteria for the designation of credit union development districts must be made in consultation with the Texas Economic Development and Tourism Office (within the Office of the Governor).

91.2000, Purpose and Scope, explains the reason for these rules and clarifies that establishing a credit union development district does not affect requirements applicable to reinvestment zones and tax abatement agreements pursuant to the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Government Code, Chapters 311 and 312, respectively).

91.2001, Definitions, defines the terms, “credit union,” “district,” and “local government.”

91.2002, Application Requirements to Establish a District, details the application requirements for local governments seeking to establish a credit union development district in conjunction with a credit union.

91.2003, Submission and Processing of Application, details how an application will be processed and considered complete and acceptable for filing.

91.2004, Criteria for Approval of a District by the Commission, requires the Commission to consider the five, statutorily required factors in HB1626 in determining whether to approve a credit union development district: (1) the location, number, and proximity of sites where services provided by a credit union are available in the proposed credit union development district, (2) consumer needs for services provided by a credit union in the proposed district, (3) the economic viability and local credit needs of the community in the proposed district, (4) the existing commercial development in the proposed district, and (5) the impact additional services provided by a credit union would have on potential economic development in the proposed district.

91.2005, Monitoring, imposes minimal reporting requirements on the local government applicant in order to permit the Commission to monitor the program as required by HB 1626. The only required notice would inform the Department when a credit union opens or closes a branch in an approved credit union development district.

Finally, 91.2006, Rulemaking and Amendment for this Subchapter, states that the Department will develop policies with the Texas Economic Development and Tourism division of the Governor's Office regarding consultation for the adoption of rules for the designation of credit union development districts.

Harold E. Feeney, Credit Union Commissioner, has determined that for the first five year period that a local government entity could have some costs associated with the proposed new rules if the local government entity chooses to create a credit union development district. However, it is assumed that a local government would establish a credit union development district only if sufficient funds and partnership opportunities were available so that there would not be any negative fiscal impact. Therefore, no significant fiscal impact is anticipated as a result of enforcing or administering the rules.

Commissioner Feeney has also determined that for each year of the first five years the proposed new rule is in effect, the public benefits anticipated as a result of enforcing the rule will be a facilitation of the establishment of branches of a credit union in geographic areas where there is a demonstrated

need for credit union services. Additional public benefits are that the commission's rules will be more easily understood by the credit union system and local governments required to comply with the rules and the rules will be more easily enforced. There will be no effect on small or micro businesses as a result of adopting the rule. Any economic cost to the credit union system or to local governments is imposed by HB 1626 not by the rule.

Comments on the proposal may be submitted in writing to Harold Feeney, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDmail@tud.texas.gov. To be considered, a written comment must be received on or before the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The new rules are proposed under newly added Texas Finance Code §279.102, which permits the Commission to adopt rules to implement the creation of credit union development districts and the depositing of public funds in these district depositories with respect to credit union in credit union development districts.

The specific sections affected by the proposed new rules are Texas Finance Code, §279.101 et seq.

Subchapter K. Credit Union Development Districts

§91.2000. Purpose and Scope.

(a) This subchapter implements Tex. Fin. Code §279.001 et seq. regarding the establishment of credit union development districts.

(b) This subchapter does not affect or circumvent requirements under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act (Tex. Gov. Code, Chapters 311 and 312, respectively), including requirements for designation of an area as a municipal or county reinvestment zone or for authorization to enter into a tax abatement agreement.

§91.2001. Definitions.

Unless the context clearly indicates otherwise, these words and terms, when used in this subchapter, shall have the following meanings:

1. "Credit union" includes state and federal credit unions.
2. "District" means a credit union development district approved under this subchapter.
3. "Local government" means a municipality or county.

§91.2002. Application Requirements to Establish a District.

(a) Basic application. A local government, in conjunction with a credit union, may submit an application to the Commission for the designation of a proposed credit union development district, as provided by §91.2003 of this subchapter (relating to Submission and Processing of Application). The application shall contain the following items to the extent available:

1. the name of the local government, the county in which it is located and evidence of the approval of the application by its governing body;
2. identification of the participating credit union and the location of the proposed credit union or branch by street address;
3. a description of the geographic area comprising the proposed district, including a map indicating the borders of the proposed district;
4. the location, number and proximity of sites where credit union services are available in the proposed credit union development district, including branches of other financial institutions and deposit-taking ATMs other than those located at branches;

5. a compilation and description of consumer needs for credit union services in the proposed district, including population demographics included within the proposed district;

6. a compilation and description of the economic viability and local credit needs of the community in the proposed district, including economic indicators pertinent to the proposed district;

7. a compilation and description of the existing commercial development in the proposed district, including a description of the type and nature of commercial businesses located in the proposed district; and

8. a compilation and description of the impact additional credit union services would have on potential economic development in the proposed district, including significant business developments within the past three years, corporate restructurings, plant closings, other business closings, and recent or proposed business openings or expansions.

(b) Optional information. An application for designation of a credit union development district may also include:

1. a description of other local government and community initiatives proposed to be undertaken and coordinated with establishment of the proposed district;

2. indications of community support or opposition for the application, as evidenced by letters from entities such as local chambers of commerce, local businesses, community-based organizations, non-profit organizations, government officials, or community residents; and

3. such other information that the applicant believes will demonstrate that the proposed district meets the standards set forth in §91.2004 of this subchapter (relating to Criteria for Approval).

§91.2003. Submission and Processing of Application.

(a) The application must be submitted to the Commission in care of the Department, 914 East Anderson Lane, Austin, TX 78752-1699. No filing fee is required.

(b) After the initial application is submitted, the Department shall issue a written notice informing the applicant either that the application is complete and accepted for filing or that the application is deficient and specific additional information is required. The applicant must supply any additional information requested by the Department not later than the 61st day after the date the applicant received written notice from the Department that the application is deficient. Upon a finding of good and sufficient cause, the Department shall grant an applicant additional time to complete the application. Once the deficient application is

complete and accepted for filing, the Department shall issue a written notice informing the applicant that the application is complete and accepted for filing.

(c) After the issuance of written notice informing the applicant that the application is complete and accepted for filing, the Department shall evaluate the application to the extent necessary to make a written recommendation to the Commission under the criteria set forth in §91.2004 of this subchapter. The Department shall submit the completed application and the Department's recommendations to the Commission for decision at the next regularly scheduled meeting of the Commission, which must occur not later than the 120th date after the date the completed application is accepted for filing.

(d) If the Commission approves the application, the Department shall notify the interested parties as required by Tex. Fin. Code § 279.105(b).

(e) All approved districts shall be posted on the Department's web site.

§91.2004. Criteria for Approval of a District by the Commission.

In determining whether to approve an application for the designation of a credit union development district, the Commission must consider the criteria listed in Tex. Fin. Code § 279.102(b).

§91.2005. Monitoring.

(a) A local government that receives approval for a district under this subchapter shall notify the Department in writing not later than the 21st day after the date:

1. the credit union establishes a branch in the district and the address of such a branch; and

2. the credit union closes a branch in the district.

(b) On behalf of the Commission, the Department may request periodic status reports from the local government or the credit union in order to ensure that the needs of the community located in the district are being met in an appropriate manner.

§91.2006. Rulemaking and Amendment for this Subchapter.

Tex. Fin. Code §279.102(b) requires the Credit Union Department to adopt rules in consultation with the Texas Economic Development and Tourism Office within the Office of the Governor. The Department will develop policies with this office within the Governor's office, outlining the procedures for consultation.

1 AN ACT
2 relating to the designation of certain areas as banking or credit
3 union development districts to encourage the establishment of
4 branches of banks or credit unions in those areas.

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

6 SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by
7 adding Chapter 279 to read as follows:

8 CHAPTER 279. BANKING AND CREDIT UNION DEVELOPMENT DISTRICTS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 279.001. DEFINITIONS. In this chapter:

11 (1) "Credit union" means a state or federal credit
12 union.

13 (2) "Finance commission" means the Finance Commission
14 of Texas.

15 (3) "Financial institution" means a state or national
16 bank, a state or federal savings bank, or a state or federal savings
17 and loan association.

18 (4) "Local government" means a municipality or county.

19 SUBCHAPTER B. BANKING DEVELOPMENT DISTRICTS

20 Sec. 279.051. ADMINISTRATION OF PROGRAM. The finance
21 commission shall administer and monitor a banking development
22 district program under this chapter to encourage the establishment
23 of branches of a financial institution in geographic areas where
24 there is a demonstrated need for banking services.

1 Sec. 279.052. RULES. (a) Subject to Subsection (b), the
2 finance commission shall adopt rules to implement this subchapter
3 and Subchapter D with respect to financial institutions in banking
4 development districts.

5 (b) The finance commission, in consultation with the Texas
6 Economic Development and Tourism Office, shall adopt rules
7 regarding the criteria for the designation of banking development
8 districts under this subchapter. The rules must require the
9 finance commission to consider:

10 (1) the location, number, and proximity of sites where
11 banking services are available in the proposed banking development
12 district;

13 (2) consumer needs for banking services in the
14 proposed district;

15 (3) the economic viability and local credit needs of
16 the community in the proposed district;

17 (4) the existing commercial development in the
18 proposed district; and

19 (5) the impact additional banking services would have
20 on potential economic development in the proposed district.

21 Sec. 279.053. APPLICATION FOR DESIGNATION OF BANKING
22 DEVELOPMENT DISTRICT. A local government, in conjunction with a
23 financial institution, may submit an application to the finance
24 commission for the designation of a banking development district.

25 Sec. 279.054. APPLICATION BY FINANCIAL INSTITUTION TO OPEN
26 BRANCH IN DISTRICT. A financial institution may apply to open a
27 branch in the proposed banking development district at the time the

1 local government submits an application in conjunction with the
2 institution under Section 279.053.

3 Sec. 279.055. DETERMINATION BY FINANCE COMMISSION. (a)
4 Not later than the 120th day after the date an application for the
5 designation of a banking development district is submitted under
6 Section 279.053, the finance commission shall make a determination
7 regarding whether to approve the application.

8 (b) If the finance commission approves the application, the
9 finance commission shall notify the:

- 10 (1) local government;
- 11 (2) financial institution;
- 12 (3) comptroller;
- 13 (4) Texas Economic Development and Tourism Office;
- 14 (5) lieutenant governor; and
- 15 (6) speaker of the house of representatives.

16 SUBCHAPTER C. CREDIT UNION DEVELOPMENT DISTRICTS

17 Sec. 279.101. ADMINISTRATION OF PROGRAM. The Credit Union
18 Commission shall administer and monitor a credit union development
19 district program under this chapter to encourage the establishment
20 of branches of a credit union in geographic areas where there is a
21 demonstrated need for services provided by a credit union.

22 Sec. 279.102. RULES. (a) Subject to Subsection (b), the
23 Credit Union Commission shall adopt rules to implement this
24 subchapter and Subchapter D with respect to credit unions in credit
25 union development districts.

26 (b) The Credit Union Commission, in consultation with the
27 Texas Economic Development and Tourism Office, shall adopt rules

1 regarding the criteria for the designation of credit union
2 development districts under this subchapter. The rules must
3 require the Credit Union Commission to consider:

4 (1) the location, number, and proximity of sites where
5 services provided by a credit union are available in the proposed
6 credit union development district;

7 (2) consumer needs for services provided by a credit
8 union in the proposed district;

9 (3) the economic viability and local credit needs of
10 the community in the proposed district;

11 (4) the existing commercial development in the
12 proposed district; and

13 (5) the impact additional services provided by a
14 credit union would have on potential economic development in the
15 proposed district.

16 Sec. 279.103. APPLICATION FOR DESIGNATION OF CREDIT UNION
17 DEVELOPMENT DISTRICT. A local government, in conjunction with a
18 credit union, may submit an application to the Credit Union
19 Commission for the designation of a credit union development
20 district.

21 Sec. 279.104. APPLICATION BY CREDIT UNION TO OPEN BRANCH IN
22 DISTRICT. A credit union may apply to open a branch in the proposed
23 credit union development district at the time the local government
24 submits an application in conjunction with the credit union under
25 Section 279.103.

26 Sec. 279.105. DETERMINATION BY CREDIT UNION COMMISSION.
27 (a) Not later than the 120th day after the date an application for

1 the designation of a credit union development district is submitted
2 under Section 279.103, the Credit Union Commission shall make a
3 determination regarding whether to approve the application.

4 (b) If the Credit Union Commission approves the
5 application, the Credit Union Commission shall notify the:

6 (1) local government;

7 (2) credit union;

8 (3) comptroller;

9 (4) Texas Economic Development and Tourism Office;

10 (5) lieutenant governor; and

11 (6) speaker of the house of representatives.

12 SUBCHAPTER D. DEPOSIT OF PUBLIC FUNDS IN DISTRICT DEPOSITORY

13 Sec. 279.151. DESIGNATION OF DISTRICT DEPOSITORY. (a) The
14 governing body of a local government in which a banking development
15 district has been designated under Subchapter B may by resolution
16 designate a financial institution located in the district as a
17 banking district depository for purposes of this subchapter.

18 (b) The governing body of a local government in which a
19 credit union development district has been designated under
20 Subchapter C may by resolution designate a credit union located in
21 the district as a credit union district depository for purposes of
22 this subchapter.

23 (c) A resolution adopted under Subsection (a) or (b) must
24 specify the maximum amount that may be kept on deposit with the
25 banking district or credit union district depository, as
26 appropriate.

27 (d) In calculating the yield under Section 2256.006,

1 Government Code, of public funds deposited in a banking district or
2 credit union district depository, the governing body of a local
3 government may consider the benefit to this state of stimulating
4 economic development.

5 Sec. 279.152. DEPOSIT OF PUBLIC FUNDS BY LOCAL GOVERNMENT.
6 (a) A local government may deposit public funds with a financial
7 institution designated as a banking district depository or a credit
8 union designated as a credit union district depository under
9 Section 279.151 regardless of whether the financial institution or
10 credit union is designated by the comptroller as a state depository
11 under Subchapter C, Chapter 404, Government Code.

12 (b) Subject to an agreement between the governing body and
13 the banking district or credit union district depository, public
14 funds deposited in the district depository may earn a fixed
15 interest rate that is at or below the financial institution's or
16 credit union's posted two-year certificate of deposit rate, as
17 appropriate. The terms of the agreement must be specified in the
18 applicable resolution adopted under Section 279.151.

19 Sec. 279.153. DEPOSIT OF PUBLIC FUNDS BY STATE. (a) If the
20 comptroller designates the financial institution as a state
21 depository under Subchapter C, Chapter 404, Government Code, the
22 comptroller may deposit public funds with a financial institution
23 designated as a banking district depository under Section
24 279.151(a).

25 (b) If the comptroller designates the credit union as a
26 state depository under Subchapter C, Chapter 404, Government Code,
27 the comptroller may deposit public funds with a credit union

1 designated as a credit union district depository under Section
2 279.151(b).

3 (c) For purposes of Subsections (a) and (b), a financial
4 institution or credit union is subject to the collateral
5 requirements of Section 404.031, Government Code.

6 (d) Subject to an agreement between the comptroller and the
7 banking district or credit union district depository, public funds
8 deposited in the district depository may earn a fixed interest rate
9 that is at or below the financial institution's or credit union's
10 posted two-year certificate of deposit rate, as appropriate.

11 (e) In calculating the yield under Section 2256.006,
12 Government Code, of public funds deposited in a banking district or
13 credit union district depository, the comptroller may consider the
14 benefit to this state of stimulating economic development.

15 SECTION 2. Not later than January 1, 2016, the Finance
16 Commission of Texas shall adopt rules governing the designation of
17 banking development districts, as required by Subchapter B, Chapter
18 279, Finance Code, as added by this Act.

19 SECTION 3. Not later than January 1, 2016, the Credit Union
20 Commission shall adopt rules governing the designation of credit
21 union development districts, as required by Subchapter C, Chapter
22 279, Finance Code, as added by this Act.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2015.

H.B. No. 1626

President of the Senate

Speaker of the House

I certify that H.B. No. 1626 was passed by the House on May 8, 2015, by the following vote: Yeas 99, Nays 40, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1626 was passed by the Senate on May 25, 2015, by the following vote: Yeas 24, Nays 6, 1 present, not voting.

Secretary of the Senate

APPROVED: _____

Date

Governor

**POSTING OF CERTAIN CONTRACTS AND ENHANCED CONTRACT
AND PERFORMANCE MONITORING**

C. (b) Discussion of and Possible Vote to Recommend that the Credit Union Commission Approve for Publication and Comment the Proposed New 7 TAC Section 97.206 Concerning Posting of Certain Contracts and Enhanced Contract and Performance Monitoring.

BACKGROUND: During the recently concluded 84th Regular Session, the Legislature passed, and Governor Abbott signed, SB 20. SB 20 amends current law relating to state agency contracting. The expressed purpose of the bill was to reform state agency contracting by clarifying accountability, increasing transparency, and ensuring a fair competitive process.

Among many things, SB 20 requires the Department to develop a risk analysis procedure and identify certain types of contracts for enhanced contract or performance monitoring. The bill also requires the Department to post online a list of the contracts the agency has entered along with the statutory authorities and request for proposals associated with the procurements.

SB 20 also specifically requires the Commission to adopt rules to establish a procedure for identifying contracts that require enhanced contract or performance monitoring and prescribe procedures for submitting information about those contracts to the Commission.

RECOMMENDED ACTION: The Department recommends that the Commission approve the proposed new rule for publication and comment.

RECOMMENDED MOTION: I move that the Commission approve for publication and comment in the *Texas Register* the proposed new 7 TAC Section 97.206 concerning enhanced contracts and performance monitoring.

The Credit Union Commission (Commission) proposes new §97.206. The new rule, entitled Posting Of Certain Contracts: Enhanced Contract And Performance Monitoring, implements procedures for contracts for the purchase of goods or services from private vendors.

The new rule is proposed in response to Senate Bill 20 (SB 20) enacted by the 84th Legislature. SB 20 requires each state agency by rule to establish a procedure to identify contracts that require enhanced contract or performance monitoring and prescribes certain reporting requirements.

Harold E. Feeney, Commissioner, has determined that for the first five year period that proposed new rule is in effect there will be no significant fiscal implications for state or local government as a result of enforcing or administering the rule.

Commissioner Feeney has also determined that for each year of the first five years the proposed new rule is in effect, the public benefits anticipated as a result of enforcing the rule will be enhanced reporting requirements, increased transparency and increased accountability. There will be no effect on small or micro businesses as a result of adopting the rule. Any economic cost to entities or to individuals is imposed by SB 20, not by the rule.

Comments on the proposal may be submitted in writing to Harold Feeney, Commissioner, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDmail@tud.texas.gov. To be considered, a written comment must be received on or before the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the Commission.

The new rule is proposed under Texas Government Code §2261.253, which requires the Commission to adopt and enforce rules providing for the commissioner to establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body.

The specific sections affected by the proposed new rule is Texas Government Code, §2261.253.

§97.206. Posting Of Certain Contracts: Enhanced Contracts And Performance Monitoring.

Pursuant to section 2261.253 of the Texas Government Code, the Department will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(a) The Department will list information pertaining to its contract with private vendors on its website. The information will include:

- (1) The name of the vendor with whom the contract is made;
- (2) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;
- (3) A link to a copy of the request for proposal for the contract, if applicable until the contract expires or is completed; and
- (4) A link to a copy of the contract with the vendor until the contract expires or is completed.

(b) Enhanced contract or performance monitoring procedure until the contract expires or is completed.

(1) For each contract whose value is greater than \$25,000, the Commissioner and the Department Procurement Director will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

- (i) Total cost of the contract.
- (ii) Risk of loss to the Department under the contract.
- (iii) Department resources available for enhanced contract or performance monitoring.

(2) After evaluation of the contract, the Commissioner will immediately report to the Commission Members:

- (i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;
- (ii) Include any serious issues or risks identified with the contract, if applicable; and
- (iii) If enhanced contract or performance monitoring is appropriate, the Department's plan for carrying out the enhanced contract or performance monitoring.

(3) Commission members may agree to convene a special commission meeting for the purposes of discussion or deciding upon matters related to enhanced contract or performance monitoring of Department contracts. This meeting would be conducted in conformity with the Texas Open Meetings Act.

(c) This rule applies only to contracts for which the request for bids or proposals is made public on or after September 1, 2015; or, if the contract is exempt from competitive bidding, where the contract is entered into on or after September 1, 2015. This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the Department.

DRAFT

AN ACT

1
2 relating to state agency contracting.

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

4 SECTION 1. Section 321.013, Government Code, is amended by
5 adding Subsections (k) and (l) to read as follows:

6 (k) In devising the audit plan under Subsection (c), the
7 State Auditor shall consider the performance of audits on contracts
8 entered into by the Health and Human Services Commission that
9 exceed \$100 million in annual value, including a contract between
10 the commission and a managed care organization. The State Auditor
11 shall collaborate with the financial managers in the Medicaid/CHIP
12 Division of the commission in performing an audit described by this
13 subsection. An audit described by this subsection:

14 (1) may be limited in scope to target an area of the
15 contract that the State Auditor determines poses the highest
16 financial risk to this state; and

17 (2) must determine whether the entity contracting with
18 the commission has spent state money in accordance with the
19 purposes authorized in the contract.

20 (l) The State Auditor may contract with a private auditor to
21 audit a contract under Subsection (k).

22 SECTION 2. Subchapter B, Chapter 403, Government Code, is
23 amended by adding Section 403.03057 to read as follows:

24 Sec. 403.03057. CENTRALIZED STATE PURCHASING STUDY.

1 (a) The comptroller, in cooperation with the governor's budget and
2 policy staff, shall conduct a study examining the feasibility and
3 practicality of consolidating state purchasing functions into
4 fewer state agencies or one state agency. The study must examine
5 the cost savings to this state that may be achieved through:

6 (1) abolishing offices or departments of state
7 agencies that have a dedicated office or department for purchasing;
8 and

9 (2) consolidating or reducing the number of vendors
10 authorized to contract with this state to allow this state to better
11 leverage its purchasing power.

12 (b) The comptroller shall prepare and deliver to the
13 governor, the lieutenant governor, and each member of the
14 legislature a report on the findings of the study conducted under
15 Subsection (a), including:

16 (1) a detailed projection of expected savings or costs
17 to this state in consolidating state purchasing;

18 (2) a report on the process for the legislature or the
19 executive branch to implement the consolidation of state
20 purchasing;

21 (3) a list of state agencies, including dedicated
22 offices or departments in those agencies, with purchasing
23 responsibilities; and

24 (4) the total cost to this state of the purchasing
25 responsibilities for each state agency, including the dedicated
26 office or department in the agency with purchasing responsibility.

27 (c) The comptroller shall prepare, deliver, and post on the

1 comptroller's Internet website the report required by this section
2 not later than December 31, 2016.

3 (d) The comptroller may contract with a public or private
4 entity to conduct the study required by this section.

5 (e) This section expires January 1, 2018.

6 SECTION 3. Subchapter L, Chapter 441, Government Code, is
7 amended by adding Section 441.1855 to read as follows:

8 Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS
9 BY STATE AGENCIES. Notwithstanding Section 441.185 or 441.187, a
10 state agency:

11 (1) shall retain in its records each contract entered
12 into by the state agency and all contract solicitation documents
13 related to the contract; and

14 (2) may destroy the contract and documents only after
15 the seventh anniversary of the date:

16 (A) the contract is completed or expires; or

17 (B) all issues that arise from any litigation,
18 claim, negotiation, audit, open records request, administrative
19 review, or other action involving the contract or documents are
20 resolved.

21 SECTION 4. Subchapter C, Chapter 572, Government Code, is
22 amended by adding Section 572.069 to read as follows:

23 Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER
24 OR EMPLOYEE RESTRICTED. A former state officer or employee of a
25 state agency who during the period of state service or employment
26 participated on behalf of a state agency in a procurement or
27 contract negotiation involving a person may not accept employment

1 from that person before the second anniversary of the date the
2 officer's or employee's service or employment with the state agency
3 ceased.

4 SECTION 5. Subchapter C, Chapter 2054, Government Code, is
5 amended by adding Section 2054.067 to read as follows:

6 Sec. 2054.067. POSTING OF CERTAIN DOCUMENTS RELATING TO
7 CONTRACT SOLICITATIONS. (a) The department shall post all
8 solicitation documents related to a contract of the department,
9 including contracts under Chapter 2157, to the centralized
10 accounting and payroll system authorized under Sections 2101.035
11 and 2101.036, or any successor system used to implement the
12 enterprise resource planning component of the uniform statewide
13 accounting project.

14 (b) The documents posted under Subsection (a) must include
15 documents showing the criteria by which the department evaluated
16 each vendor responding to the contract solicitation and, if
17 applicable, an explanation of why the vendor was selected by the
18 department under Section 2157.068(b).

19 SECTION 6. Section 2101.001(1), Government Code, is amended
20 to read as follows:

21 (1) "Enterprise resource planning" includes the
22 administration of a state agency's:

- 23 (A) general ledger;
24 (B) accounts payable;
25 (C) accounts receivable;
26 (D) budgeting;
27 (E) inventory;

- 1 (F) asset management;
- 2 (G) billing;
- 3 (H) payroll;
- 4 (I) projects;
- 5 (J) grants;
- 6 (K) human resources, including administration of
- 7 performance measures, time spent on tasks, and other personnel and
- 8 labor issues; and
- 9 (L) purchasing, including solicitations and
- 10 contracting.

11 SECTION 7. Section 2101.035, Government Code, is amended by
12 adding Subsection (i) to read as follows:

13 (i) State agencies shall report contract and purchasing
14 information in the uniform manner required by the comptroller.

15 SECTION 8. Section 2101.036, Government Code, is amended by
16 adding Subsection (e) to read as follows:

17 (e) Notwithstanding Subsection (d), a state agency in the
18 legislative branch may elect to participate in the enterprise
19 resource planning system developed under this section.

20 SECTION 9. Subchapter C, Chapter 2101, Government Code, is
21 amended by adding Section 2101.041 to read as follows:

22 Sec. 2101.041. STATE AGENCY REPORTING OF CONTRACTING
23 INFORMATION. (a) The comptroller by rule shall determine the
24 contracting information that state agencies must report or provide
25 using the centralized accounting and payroll system, or any
26 successor system used to implement the enterprise resource planning
27 component of the uniform statewide accounting project, developed

1 under Sections 2101.035 and 2101.036.

2 (b) In making the determination required by this section,
3 the comptroller shall consider requiring a state agency to report
4 or provide:

5 (1) a brief summary of each contract that is quickly
6 and easily searchable, including the contract's purpose, timeline,
7 and deliverables;

8 (2) contract planning and solicitation documents;

9 (3) the criteria used to determine the vendor awarded
10 the contract;

11 (4) if the contract was awarded based on best value to
12 the state:

13 (A) a list of the factors considered in
14 determining best value with the weight given each factor; and

15 (B) a statement regarding how the vendor awarded
16 the contract provides the best value to the state in relation to
17 other vendors who bid or otherwise responded to the contract
18 solicitation;

19 (5) any statements of work and work orders prepared
20 for or under the contract;

21 (6) the proposed budget for the contract;

22 (7) any conflict of interest documents signed by state
23 agency purchasing personnel participating in the planning,
24 soliciting, or monitoring of the contract;

25 (8) criteria used or to be used by the state agency in
26 monitoring the contract and vendor performance under the contract;

27 (9) a justification for each change order, contract

1 amendment, contract renewal or extension, or other proposed action
2 that would result in an increase in the monetary value of a contract
3 with an initial value exceeding \$10 million; and
4 (10) additional supporting documentation and
5 justification for a change order, contract amendment, contract
6 renewal or extension, or other proposed action of a contract
7 described by Subdivision (9) that would result in an increase in the
8 contract's monetary value by more than 20 percent.

9 SECTION 10. Subchapter B, Chapter 2155, Government Code, is
10 amended by adding Section 2155.0755 to read as follows:

11 Sec. 2155.0755. VERIFICATION OF USE OF BEST VALUE STANDARD.

12 (a) The contract manager or procurement director of each state
13 agency shall:

14 (1) approve each state agency contract for which the
15 agency is required to purchase goods or services using the best
16 value standard;

17 (2) ensure that, for each contract, the agency
18 documents the best value standard used for the contract; and

19 (3) acknowledge in writing that the agency complied
20 with the agency's and comptroller's contract management guide in
21 the purchase.

22 (b) For each purchase of goods or services for which a state
23 agency is required to use the best value standard, the comptroller
24 shall ensure that the agency includes in the vendor performance
25 tracking system established under Section 2262.055 information on
26 whether the vendor satisfied that standard.

27 SECTION 11. Section 2155.077, Government Code, is amended

1 by amending Subsections (a) and (b) and adding Subsection (a-2) to
2 read as follows:

3 (a) The commission may bar a vendor from participating in
4 state contracts that are subject to this subtitle, including
5 contracts for which purchasing authority is delegated to a state
6 agency, for:

7 (1) substandard performance under a contract with the
8 state or a state agency;

9 (2) material misrepresentations in a bid or proposal
10 to the state or a state agency or during the course of performing a
11 contract with the state or a state agency;

12 (3) fraud; [~~or~~]

13 (4) breaching a contract with the state or a state
14 agency; or

15 (5) repeated unfavorable performance reviews under
16 Section 2155.089 or repeated unfavorable classifications received
17 by the vendor under Section 2262.055 after considering the
18 following factors:

19 (A) the severity of the substandard performance
20 by the vendor;

21 (B) the impact to the state of the substandard
22 performance;

23 (C) any recommendations by a contracting state
24 agency that provides an unfavorable performance review;

25 (D) whether debarment of the vendor is in the
26 best interest of the state; and

27 (E) any other factor that the comptroller

1 considers relevant, as specified by comptroller rule.

2 (a-2) The comptroller may bar a vendor from participating in
3 state contracts that are subject to this subtitle, including
4 contracts for which purchasing authority is delegated to a state
5 agency, if more than two contracts between the vendor and the state
6 have been terminated by the state for unsatisfactory vendor
7 performance during the preceding three years.

8 (b) Except as provided by Subsection (d), the commission
9 shall bar a vendor from participating in state contracts under
10 Subsection (a) or (a-2) for a period that is commensurate with the
11 seriousness of the vendor's action and the damage to the state's
12 interests.

13 SECTION 12. Section 2155.078, Government Code, is amended
14 by amending Subsections (a) and (b) and adding Subsection (a-1) to
15 read as follows:

16 (a) The commission shall establish and administer a system
17 of training, continuing education, and certification for state
18 agency purchasing personnel. The training and continuing education
19 for state agency purchasing personnel must include ethics training.
20 The commission may establish and offer appropriate training to
21 vendors on a cost recovery basis. The commission may adopt rules to
22 administer this section, including rules relating to monitoring a
23 certified purchaser's compliance with the continuing education
24 requirements of this section.

25 (a-1) The training, continuing education, and certification
26 required under Subsection (a) must include:

27 (1) training on the selection of an appropriate

1 procurement method by project type; and
2 (2) training conducted by the Department of
3 Information Resources on purchasing technologies.

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

16 SECTION 13. Subchapter B, Chapter 2155, Government Code, is
17 amended by adding Section 2155.089 to read as follows:

18 Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a
19 contract is completed or otherwise terminated, each state agency
20 shall review the vendor's performance under the contract.

21 (b) The state agency shall report to the comptroller, using
22 the tracking system established by Section 2262.055, on the results
23 of the review regarding a vendor's performance under a contract.

24 (c) This section does not apply to:

25 (1) an enrollment contract described by 1 T.A.C.
26 Section 391.183 as that section existed on September 1, 2015; or

27 (2) a contract of the Employees Retirement System of

1 Texas or the Teacher Retirement System of Texas except for a
2 contract with a nongovernmental entity for claims administration of
3 a group health benefit plan under Subtitle H, Title 8, Insurance
4 Code.

5 SECTION 14. Section 2156.181(a), Government Code, is
6 amended to read as follows:

7 (a) The commission may enter into one or more compacts,
8 interagency agreements, or cooperative purchasing agreements
9 directly with one or more state governments, agencies of other
10 states, or other governmental entities or may participate in,
11 sponsor, or administer a cooperative purchasing agreement through
12 an entity that facilitates those agreements for the purchase of
13 goods or services if the commission determines that the [entering
14 into an] agreement would be in the best interest of the state.

15 SECTION 15. Section 2157.068, Government Code, is amended
16 by adding Subsections (e-1) and (e-2) to read as follows:

17 (e-1) A state agency contracting to purchase a commodity
18 item shall use the list maintained as required by Subsection (e) as
19 follows:

20 (1) for a contract with a value of \$50,000 or less, the
21 agency may directly award the contract to a vendor included on the
22 list without submission of a request for pricing to other vendors on
23 the list;

24 (2) for a contract with a value of more than \$50,000
25 but not more than \$150,000, the agency must submit a request for
26 pricing to at least three vendors included on the list in the
27 category to which the contract relates; and

1 (3) for a contract with a value of more than \$150,000
2 but not more than \$1 million, the agency must submit a request for
3 pricing to at least six vendors included on the list in the category
4 to which the contract relates or all vendors on the schedule if the
5 category has fewer than six vendors.

6 (e-2) A state agency may not enter into a contract to
7 purchase a commodity item if the value of the contract exceeds \$1
8 million.

9 SECTION 16. Subchapter B, Chapter 2157, Government Code, is
10 amended by adding Section 2157.0685 to read as follows:

11 Sec. 2157.0685. CONTRACT REQUIREMENTS FOR CERTAIN
12 SERVICES. (a) In this section, "statement of work" means a
13 document that states the requirements for a contract, including
14 deliverables, performance specifications, and other requirements,
15 specific to the vendor under that contract that are not specified in
16 a contract awarded by the department under Section 2157.068 for
17 contracts more than \$50,000.

18 (b) For a contract awarded by the department under Section
19 2157.068 that requires a state agency to develop and execute a
20 statement of work to initiate services under the contract, the
21 state agency must:

22 (1) consult with the department before submission of
23 the statement of work to a vendor; and

24 (2) post each statement of work entered into by the
25 agency on the agency's Internet website in the manner required by
26 department rule.

27 (c) A statement of work executed by a state agency under a

1 contract awarded by the department under Section 2157.068 is not
2 valid and money may not be paid to the vendor under the terms of the
3 statement of work unless the department first signs the statement
4 of work.

5 SECTION 17. Section 2261.001(a), Government Code, is
6 amended to read as follows:

7 (a) This chapter, other than Subchapter F, applies only to
8 each procurement of goods or services made by a state agency that is
9 neither made by the comptroller nor made under purchasing authority
10 delegated to the agency by or under Section 51.9335 or 73.115,
11 Education Code, or Section 2155.131 or 2155.132.

12 SECTION 18. Chapter 2261, Government Code, is amended by
13 adding Subchapter F to read as follows:

14 SUBCHAPTER F. ETHICS, REPORTING, AND APPROVAL REQUIREMENTS FOR
15 CERTAIN CONTRACTS

16 Sec. 2261.251. APPLICABILITY OF SUBCHAPTER.

17 (a) Notwithstanding Section 2261.001, this subchapter applies to
18 the Texas Department of Transportation and to an institution of
19 higher education acquiring goods or services under Section 51.9335
20 or 73.115, Education Code.

21 (b) This subchapter does not apply to a contract of the
22 Employees Retirement System of Texas or the Teacher Retirement
23 System of Texas except for a contract with a nongovernmental entity
24 for claims administration of a group health benefit plan under
25 Subtitle H, Title 8, Insurance Code.

26 Sec. 2261.252. DISCLOSURE OF POTENTIAL CONFLICTS OF
27 INTEREST; CERTAIN CONTRACTS PROHIBITED. (a) Each state agency

1 employee or official who is involved in procurement or in contract
2 management for a state agency shall disclose to the agency any
3 potential conflict of interest specified by state law or agency
4 policy that is known by the employee or official with respect to any
5 contract with a private vendor or bid for the purchase of goods or
6 services from a private vendor by the agency.

7 (b) A state agency may not enter into a contract for the
8 purchase of goods or services with a private vendor with whom any of
9 the following agency employees or officials have a financial
10 interest:

11 (1) a member of the agency's governing body;

12 (2) the governing official, executive director,
13 general counsel, chief procurement officer, or procurement
14 director of the agency; or

15 (3) a family member related to an employee or official
16 described by Subdivision (1) or (2) within the second degree by
17 affinity or consanguinity.

18 (c) A state agency employee or official has a financial
19 interest in a person if the employee or official:

20 (1) owns or controls, directly or indirectly, an
21 ownership interest of at least one percent in the person, including
22 the right to share in profits, proceeds, or capital gains; or

23 (2) could reasonably foresee that a contract with the
24 person could result in a financial benefit to the employee or
25 official.

26 (d) A financial interest prohibited by this section does not
27 include a retirement plan, a blind trust, insurance coverage, or an

1 ownership interest of less than one percent in a corporation.

2 Sec. 2261.253. REQUIRED POSTING OF CERTAIN CONTRACTS;
3 ENHANCED CONTRACT AND PERFORMANCE MONITORING. (a) For each
4 contract for the purchase of goods or services from a private
5 vendor, each state agency shall post on its Internet website:

6 (1) each contract the agency enters into, including
7 contracts entered into without inviting, advertising for, or
8 otherwise requiring competitive bidding before selection of the
9 contractor, until the contract expires or is completed;

10 (2) the statutory or other authority under which a
11 contract that is not competitively bid under Subdivision (1) is
12 entered into without compliance with competitive bidding
13 procedures; and

14 (3) the request for proposals related to a
15 competitively bid contract included under Subdivision (1) until the
16 contract expires or is completed.

17 (b) A state agency monthly may post contracts described by
18 Subsection (a) that are valued at less than \$15,000.

19 (c) Each state agency by rule shall establish a procedure to
20 identify each contract that requires enhanced contract or
21 performance monitoring and submit information on the contract to
22 the agency's governing body or, if the agency is not governed by a
23 multimember governing body, the officer who governs the agency.
24 The agency's contract management office or procurement director
25 shall immediately notify the agency's governing body or governing
26 official, as appropriate, of any serious issue or risk that is
27 identified with respect to a contract monitored under this

1 subsection.

2 (d) This section does not apply to a memorandum of
3 understanding, interagency contract, interlocal agreement, or
4 contract for which there is not a cost.

5 Sec. 2261.254. CONTRACTS WITH VALUE EXCEEDING \$1 MILLION.

6 (a) For each contract for the purchase of goods or services that
7 has a value exceeding \$1 million, a state agency shall develop and
8 implement contract reporting requirements that provide information
9 on:

10 (1) compliance with financial provisions and delivery
11 schedules under the contract;

12 (2) corrective action plans required under the
13 contract and the status of any active corrective action plan; and

14 (3) any liquidated damages assessed or collected under
15 the contract.

16 (b) Each state agency shall verify:

17 (1) the accuracy of any information reported under
18 Subsection (a) that is based on information provided by a
19 contractor; and

20 (2) the delivery time of goods or services scheduled
21 for delivery under the contract.

22 (c) Except as provided by Subsection (d), a state agency may
23 enter into a contract for the purchase of goods or services that has
24 a value exceeding \$1 million only if:

25 (1) the governing body of the state agency approves
26 the contract and the approved contract is signed by the presiding
27 officer of the governing body; or

1 (2) for a state agency that is not governed by a
2 multimember governing body, the officer who governs the agency
3 approves and signs the contract.

4 (d) The governing body or governing official of a state
5 agency, as appropriate, may delegate to the executive director of
6 the agency the approval and signature authority under Subsection
7 (c).

8 (e) A highway construction, engineering services, or
9 maintenance contract that is in compliance with all applicable laws
10 related to procuring engineering services or construction bidding
11 and that is awarded by the Texas Department of Transportation under
12 Subchapter A, Chapter 223, Transportation Code, is not required to
13 be signed by a member of the Texas Transportation Commission or the
14 executive director of the department. This exception does not
15 apply to expedited highway improvement contracts under Subchapter
16 C, Chapter 223, Transportation Code, a comprehensive development
17 agreement entered into under Subchapter E, Chapter 223,
18 Transportation Code, a design-build contract entered into under
19 Subchapter F, Chapter 223, Transportation Code, or any other
20 contract entered into by the Texas Department of Transportation.

21 Sec. 2261.255. CONTRACTS WITH VALUE EXCEEDING \$5 MILLION.
22 For each state agency contract for the purchase of goods or services
23 that has a value exceeding \$5 million, the contract management
24 office or procurement director of the agency must:

25 (1) verify in writing that the solicitation and
26 purchasing methods and contractor selection process comply with
27 state law and agency policy; and

1 (2) submit to the governing body of the agency, or
2 governing official of the agency if the agency is not governed by a
3 multimember governing body, information on any potential issue that
4 may arise in the solicitation, purchasing, or contractor selection
5 process.

6 Sec. 2261.256. ACCOUNTABILITY AND RISK ANALYSIS PROCEDURE;
7 CONTRACT MANAGEMENT HANDBOOK. (a) Each state agency shall develop
8 and comply with a purchasing accountability and risk analysis
9 procedure. The procedure must provide for:

10 (1) assessing the risk of fraud, abuse, or waste in the
11 contractor selection process, contract provisions, and payment and
12 reimbursement rates and methods for the different types of goods
13 and services for which the agency contracts;

14 (2) identifying contracts that require enhanced
15 contract monitoring or the immediate attention of contract
16 management staff; and

17 (3) establishing clear levels of purchasing
18 accountability and staff responsibilities related to purchasing.

19 (b) Each state agency shall publish a contract management
20 handbook that establishes consistent contracting policies and
21 practices to be followed by the agency and that is consistent with
22 the comptroller's contract management guide. The agency's handbook
23 may include standard contract provisions and formats for the agency
24 to incorporate in contracts.

25 (c) Each state agency shall post on the agency's Internet
26 website the procedures described by Subsections (a)(2) and (3) and
27 submit to the comptroller a link to the web page that includes the

1 procedures. The comptroller shall post on the comptroller's
2 Internet website the web page link submitted by each state agency.

3 Sec. 2261.257. CONTRACT DATABASE. (a) Each state agency
4 that becomes a participant in the centralized accounting and
5 payroll systems as authorized by Sections 2101.035 and 2101.036
6 shall use the system to identify and record each contract entered
7 into by the agency as specified by the rules, policies, or
8 procedures developed by the comptroller.

9 (b) The comptroller shall provide as necessary information
10 and state agency contract data contained in the centralized
11 accounting and payroll systems to other state agencies with
12 oversight duties, including the Legislative Budget Board, the state
13 auditor's office, and the Department of Information Resources.

14 SECTION 19. Section 2262.053(d), Government Code, is
15 amended to read as follows:

16 (d) The comptroller shall administer training under this
17 section and may assess a fee for the training in an amount
18 sufficient to recover the comptroller's costs under this section.

19 SECTION 20. Section 2262.0535, Government Code, is amended
20 by adding Subsection (c) to read as follows:

21 (c) The comptroller may assess a fee for the training
22 provided under this section in an amount sufficient to recover the
23 comptroller's costs under this section.

24 SECTION 21. Section 2262.055, Government Code, is amended
25 by amending Subsections (a) and (b) and adding Subsections (d) and
26 (e) to read as follows:

27 (a) The comptroller shall evaluate the vendor's performance

1 based on information reported by state agencies under Section
2 2155.089 and criteria established by the comptroller.

3 (b) The comptroller by rule shall establish an evaluation
4 process that:

5 (1) rates vendors on an A through F scale, with A being
6 the highest grade; and

7 (2) allows vendors who receive a grade lower than a C
8 [an unfavorable performance review] to protest any classification
9 given by the comptroller.

10 (d) A state agency shall use the vendor performance tracking
11 system to determine whether to award a contract to a vendor reviewed
12 in the tracking system. The comptroller by rule shall establish the
13 manner in which the rating scale established under Subsection (b)
14 affects a vendor's eligibility for state contracts and the grades
15 on the scale that disqualify a vendor from state contracting.

16 (e) The comptroller shall make the vendor performance
17 tracking system accessible to the public on the comptroller's
18 Internet website.

19 SECTION 22. Section 51.9335(d), Education Code, is amended
20 to read as follows:

21 (d) Subject to Section 51.9337, Subtitle D, Title 10,
22 Government Code, and Subchapter B, Chapter 2254, Government Code,
23 do not apply to the acquisition of goods and services under this
24 section, except that an institution of higher education must comply
25 with any provision of those laws, or a rule adopted under a
26 provision of those laws, relating to contracting with historically
27 underutilized businesses or relating to the procurement of goods

1 and services from persons with disabilities. An institution of
2 higher education may, but is not required to, acquire goods or
3 services as provided by Subtitle D, Title 10, Government Code.

4 SECTION 23. Subchapter Z, Chapter 51, Education Code, is
5 amended by adding Section 51.9337 to read as follows:

6 Sec. 51.9337. PURCHASING AUTHORITY CONDITIONAL; REQUIRED
7 STANDARDS. (a) An institution of higher education may not
8 exercise the acquisition authority granted by Section 51.9335 or
9 73.115 unless the institution complies with this section. An
10 institution that is determined under Subsection (j) to not be in
11 compliance with this section is subject to the laws governing
12 acquisition of goods and services by state agencies, including
13 Subtitle D, Title 10, Government Code, and Chapter 2254, Government
14 Code.

15 (b) The board of regents of an institution of higher
16 education by rule shall establish for each institution under the
17 management and control of the board:

18 (1) a code of ethics for the institution's officers and
19 employees, including provisions governing officers and employees
20 authorized to execute contracts for the institution or to exercise
21 discretion in awarding contracts, subject to Subsection (c);

22 (2) policies for the internal investigation of
23 suspected defalcation, misappropriation, and other fiscal
24 irregularities and an institutional or systemwide compliance
25 program designed to promote ethical behavior and ensure compliance
26 with all applicable policies, laws, and rules governing higher
27 education, including research and health care to the extent

1 applicable;

2 (3) a contract management handbook that provides
3 consistent contracting policies and practices and contract review
4 procedures, including a risk analysis procedure, subject to
5 Subsection (d);

6 (4) contracting delegation guidelines, subject to
7 Subsections (e) and (f);

8 (5) training for officers and employees authorized to
9 execute contracts for the institution or to exercise discretion in
10 awarding contracts, including training in ethics, selection of
11 appropriate procurement methods, and information resources
12 purchasing technologies; and

13 (6) internal audit protocols, subject to Subsection
14 (g).

15 (c) The code of ethics governing an institution of higher
16 education must include:

17 (1) general standards of conduct and a statement that
18 each officer or employee is expected to obey all federal, state, and
19 local laws and is subject to disciplinary action for a violation of
20 those laws;

21 (2) policies governing conflicts of interest,
22 conflicts of commitment, and outside activities, ensuring that the
23 primary responsibility of officers and employees is to accomplish
24 the duties and responsibilities assigned to that position;

25 (3) a conflict of interest policy that prohibits
26 employees from having a direct or indirect financial or other
27 interest, engaging in a business transaction or professional

1 activity, or incurring any obligation that is in substantial
2 conflict with the proper discharge of the employee's duties related
3 to the public interest;

4 (4) a conflict of commitment policy that prohibits an
5 employee's activities outside the institution from interfering
6 with the employee's duties and responsibilities to the institution;

7 (5) a policy governing an officer's or employee's
8 outside activities, including compensated employment and board
9 service, that clearly delineates the nature and amount of
10 permissible outside activities and that includes processes for
11 disclosing the outside activities and for obtaining and documenting
12 institutional approval to perform the activities;

13 (6) a policy that prohibits an officer or employee
14 from acting as an agent for another person in the negotiation of the
15 terms of an agreement relating to the provision of money, services,
16 or property to the institution;

17 (7) a policy governing the use of institutional
18 resources; and

19 (8) a policy providing for the regular training of
20 officers and employees on the policies described by this
21 subsection.

22 (d) An institution of higher education shall establish
23 contract review procedures and a contract review checklist that
24 must be reviewed and approved by the institution's legal counsel
25 before implementation. The review procedures and checklist must
26 include:

27 (1) a description of each step of the procedure that an

1 institution must use to evaluate and process contracts;

2 (2) a checklist that describes each process that must
3 be completed before contract execution; and

4 (3) a value threshold that initiates the required
5 review by the institution's legal counsel unless the contract is a
6 standard contract previously approved by the counsel.

7 (e) An institution of higher education's policies governing
8 contracting authority must clearly specify the types and values of
9 contracts that must be approved by the board of regents and the
10 types and values of contracts for which contracting authority is
11 delegated by the board to the chief executive officer and by the
12 chief executive officer to other officers and employees of the
13 institution. An officer or employee may not execute a document for
14 the board unless the officer or employee has authority to act for
15 the board and the authority is exercised in compliance with
16 applicable conditions and restrictions.

17 (f) An institution of higher education may not enter into a
18 contract with a value of more than \$1 million, including any
19 amendment, extension, or renewal of the contract that increases the
20 value of the original contract to more than \$1 million, unless the
21 institution's board of regents approves the contract, expressly
22 delegates authority to exceed that amount, or expressly adopts an
23 exception for that contract. The board must approve any amendment,
24 extension, or renewal of a contract with a value that exceeds 25
25 percent of the value of the original contract approved by the board
26 unless the authority to exceed the approved amount is expressly
27 delegated by the board or an exception is expressly adopted by the

1 board for that contract.

2 (g) The board of regents of an institution of higher
3 education shall adopt standards for internal audits conducted by
4 the institution to provide a systematic, disciplined approach to
5 evaluate and improve the effectiveness of the institution's risk
6 management, control, and governance processes related to contracts
7 and to require risk-based testing of contract administration. The
8 internal auditor must have full and unrestricted access to all
9 institutional property, personnel, and records. An internal
10 auditor must report directly to the board of regents in accordance
11 with Chapter 2102, Government Code.

12 (h) The chief auditor of an institution of higher education
13 shall annually assess whether the institution has adopted the rules
14 and policies required by this section and shall submit a report of
15 findings to the state auditor. In auditing the purchase of goods
16 and services by the institution, the state auditor shall determine
17 whether an institution has adopted the required rules and policies.

18 (i) If the state auditor determines that an institution of
19 higher education has failed to adopt the required rules and
20 policies, the auditor shall report that failure to the legislature
21 and to the institution's board of regents and shall, in
22 consultation with the institution, adopt a remediation plan to
23 bring the institution into compliance. If the institution fails to
24 comply within the time established by the state auditor, the
25 auditor shall find the institution to be in noncompliance and
26 report that finding to the legislature and comptroller.

27 (j) In accordance with a schedule adopted by the state

1 auditor in consultation with the comptroller, the authority of an
2 institution of higher education to acquire goods and services as
3 provided by Section 51.9335 or 73.115 is suspended if the
4 institution fails to comply with the remediation plan under
5 Subsection (i) within the time established by the state auditor. As
6 a result of the suspension, the laws, including Subtitle D, Title
7 10, Government Code, and Chapter 2254, Government Code, governing
8 acquisition of goods and services by state agencies from which the
9 institution is otherwise exempt, shall apply to the institution's
10 acquisition of goods and services.

11 SECTION 24. Subchapter Z, Chapter 51, Education Code, is
12 amended by adding Section 51.954 to read as follows:

13 Sec. 51.954. DISCLOSURE OF SPONSORS OF CONTRACTED RESEARCH
14 IN PUBLIC COMMUNICATIONS. (a) In any public communication the
15 content of which is based on the results of sponsored research, a
16 faculty member or other employee or appointee of an institution of
17 higher education who conducted or participated in conducting the
18 research shall conspicuously disclose the identity of each sponsor
19 of the research.

20 (b) In this section:

21 (1) "Institution of higher education" has the meaning
22 assigned by Section 61.003.

23 (2) "Public communication" means oral or written
24 communication intended for public consumption or distribution,
25 including:

26 (A) testimony in a public administrative,
27 legislative, regulatory, or judicial proceeding;

1 (B) printed matter including a magazine,
2 journal, newsletter, newspaper, pamphlet, or report; or

3 (C) posting of information on a website or
4 similar Internet host for information.

5 (3) "Sponsor" means an entity that contracts for or
6 provides money or materials for research.

7 (4) "Sponsored research" means research:

8 (A) that is conducted under a contract with, or
9 that is conducted under a grant awarded by and pursuant to a written
10 agreement with, an individual or entity other than the institution
11 conducting the research; and

12 (B) in which payments received or the value of
13 materials received under that contract or grant, or under a
14 combination of more than one such contract or grant, constitutes at
15 least 50 percent of the cost of conducting the research.

16 SECTION 25. Sections 73.115(e) and (f), Education Code, are
17 amended to read as follows:

18 (e) To the extent of any conflict, this section prevails
19 over any other law relating to the purchasing of goods and services
20 other than Section 51.9337 and ~~except~~ a law relating to
21 contracting with historically underutilized businesses.

22 (f) Except as otherwise provided by this section and Section
23 51.9337, Subtitle D, Title 10, Government Code, and Chapter 2254,
24 Government Code, do not apply to purchases of goods and services
25 made under this section.

26 SECTION 26. Section 2155.502(d), Government Code, is
27 repealed.

1 SECTION 27. Section 572.069, Government Code, as added by
2 this Act, applies only to a state officer or employee whose service
3 or employment with a state agency ceases on or after the effective
4 date of this Act.

5 SECTION 28. As soon as is practicable after the effective
6 date of this Act, the comptroller of public accounts, and each
7 affected state agency as necessary, shall adopt the rules,
8 processes, and procedures and take the actions necessary to
9 implement the changes in law made by this Act.

10 SECTION 29. Section 2262.055(d), Government Code, as added
11 by this Act, applies only in relation to a contract for which the
12 request for bids or proposals or other applicable expression of
13 interest is made public on or after October 1, 2015.

14 SECTION 30. The changes in law made by this Act apply only
15 to a contract entered into on or after the effective date of this
16 Act. A contract entered into before that date is governed by the
17 law in effect immediately before the effective date of this Act, and
18 the former law is continued in effect for that purpose.

19 SECTION 31. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 20 passed the Senate on March 31, 2015, by the following vote: Yeas 30, Nays 0; May 20, 2015, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 24, 2015, House granted request of the Senate; May 30, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 20 passed the House, with amendments, on May 19, 2015, by the following vote: Yeas 143, Nays 0, one present not voting; May 24, 2015, House granted request of the Senate for appointment of Conference Committee; May 31, 2015, House adopted Conference Committee Report by the following vote: Yeas 140, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

RESOLUTIONS OF APPRECIATION

C. (c) Discussion of and Possible Vote to Adopt Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker, and A. John Yoggerst.

BACKGROUND: In accordance with Section VII of the Commission's Policies Manual, the Commission shall adopt a resolution of appreciation to recognize the service of members upon the completion of their term of office. Accordingly, Staff has drafted the attached resolutions for your consideration.

RECOMMENDED MOTION: I move that we approve the Resolutions of Appreciation for Outgoing Commission Members Gary L. Janacek, Rob Kyker, and A. John Yoggerst as presented and that a copy of the appropriate resolutions be given to them as a token of our appreciation.



RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

GARY L. JANACEK

WHEREAS, on August 26, 2003, Governor Rick Perry appointed Gary L. Janacek of Temple, Texas to the Credit Union Commission; and

WHEREAS, Gary L. Janacek served as an Industry Member of the Commission with honor and distinction through July 15, 2015; and

WHEREAS, he has with great competence served as Chairman of the Commission from March 9, 2005 through April 5, 2011; and

WHEREAS, as a Commission Member, he dedicated his time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, Gary L. Janacek has been diligent in his duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that Gary L. Janacek provided during his tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Gary L. Janacek as a token of the Commission's gratitude, and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this twelfth day of August 2015.

Manuel "Manny" Cavazos, Chairman



RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

ROB KYKER

WHEREAS, on September 9, 2009, Governor Rick Perry appointed Rob Kyker of Richardson, Texas to the Credit Union Commission; and

WHEREAS, Rob Kyker served as a Public Member of the Commission with honor and distinction through July 15, 2015; and

WHEREAS, as a Commission Member, he dedicated his time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, Rob Kyker has been diligent in his duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that Rob Kyker provided during his tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to Rob Kyker as a token of the Commission's gratitude, and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this twelfth day of August 2015.

Manuel "Manny" Cavazos, Chairman



RESOLUTION

The Credit Union Commission, State of Texas, hereby publicly proclaims its appreciation for devoted service performed in the interest of Texas credit unions and the people of Texas by

A. JOHN YOGGERST

WHEREAS, on March 17, 2009, Governor Rick Perry appointed A. John Yoggerst of San Antonio, Texas to the Credit Union Commission; and

WHEREAS, A. John Yoggerst served as a Public Member of the Commission with honor and distinction through July 15, 2015; and

WHEREAS, as a Commission Member, he dedicated his time and energies working to assure that the Commission and the Credit Union Department fulfilled their responsibilities while remaining sensitive to the needs of Texas credit unions and their members; and

WHEREAS, A. John Yoggerst has been diligent in his duty as a member of the Commission providing worthy leadership and guidance to the Credit Union Department.

NOW THEREFORE, BE IT RESOLVED, that the Credit Union Commission expresses its sincere appreciation for the leadership that A. John Yoggerst provided during his tenure as a Commission member; and

BE IT FURTHER RESOLVED, that this Resolution be conveyed to A. John Yoggerst as a token of the Commission's gratitude, and entered in the minutes of the Commission's meeting.

READ, ADOPTED, AND APPROVED, unanimously by the Credit Union Commission, State of Texas, this twelfth day of August 2015.

Manuel "Manny" Cavazos, Chairman

COMMITTEE APPOINTMENTS

C. (d) Discussion of the Chair's Designation of a Vice Chair and Appointments to the Commission's Two Standing Committees (Rules and Commissioner Evaluation).

BACKGROUND: As required by Commission Policy, the Chair must appoint members to those committees established by the Commission. Currently, the Commission has two standing committees:

1. Commissioner Evaluation Committee
 - **Members.** The Commission Chair shall appoint a Commissioner Evaluation Committee of at least three members, and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.
 - **Purpose.** The purpose of the Committee shall be to coordinate the annual evaluation of the Commissioner's performance and to oversee the development and maintenance of a Commissioner succession plan.

2. Rules Committee
 - **Members.** The Commission Chair shall appoint a Rules Committee of at least three members, and shall designate one member as Chair. The Commission Chair will serve as an ex-officio member of this committee.
 - **Purpose.** The purpose of the Committee is to conduct thorough deliberations and scrutiny of proposed rulemaking and assigned projects, and to bring to the Commission the results of its deliberations and its recommendation for Commission action.

The Chair will announce his appointments to the two committees at the meeting.

NEW BUSINESS

C. (d) Next Commission Meeting - The next regular meeting of the Commission has been tentatively scheduled for October 16, 2015.

D

EXECUTIVE SESSION

(closed to public)

D. The Credit Union Commission may go into Executive Session [close its meeting to the public] on any agenda item if appropriate and authorized by 551.074 of the Government Code.

Adjournment