

BILL ANALYSIS

Senate Research Center

S.B. 19
By: Ratliff
Government Organization
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Enrolled

DIGEST AND PURPOSE

Current law mandates that the State Auditor's Office perform numerous audits regularly. S.B. 19 amends current law to remove the requirement that the State Auditor's Office (SAO) perform audits and grants SAO permissive authority to perform these audits. Likewise, the bill requires SAO to perform a risk assessment and requires approval by the Legislative Audit Committee prior to work being performed. Finally, the bill deletes provisions related to task forces no longer in existence and other obsolete provisions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 320.001, Government Code, to delete the definition of "interagency work group."

SECTION 2. Amends Section 321.001, Government Code, to define "audit plan" and "risk assessment."

SECTION 3. Amends Subsection (a), Section 321.012, Government Code, to require the Legislative Audit Committee (committee) to approve the State Auditor's (SAO) appropriation requests and audit plan.

SECTION 4. Amends Section 321.013, Government Code, by amending Subsections (c) and (f) and adding Subsection (j) as follows:

(c) Requires SAO to recommend the audit plan for the state for each year, rather than fiscal year, to the committee. Requires the audit plan to provide for the auditing of federal programs at least as often as required under federal law, rather than once in each fiscal biennium.

(f) Authorizes SAO to conduct financial audits, compliance audits and investigations, and, with specific authority from the committee, other enumerated audits.

(j) Requires SAO, in devising the audit plan under Subsection (c), to perform risk assessments as required by law. Provides that the process of assessing risks to the state is the first stage of auditing, and all records of risk assessment are part of the working papers of SAO. Provides that accordingly, all documentation of risk assessments by SAO is exempt from disclosure under Section 552.116.

SECTION 5. Amends Subsections (b) and (g), Section 321.014, Government Code, as follows:

(b) Requires written reports to include recommendations for improving financial operations.

- (g) Requires the department or entity, if a department or entity does not agree with a finding or a recommendation contained in the state auditor's report, rather than implementing a change in the state auditor's report, to file a report with SAO and the persons specified by Subsection (c).
- (c). Requires the report to contain certain information.

SECTION 6. Amends Section 325.008, Government Code, by adding Subsection (c), to provide that work performed under this section by SAO is subject to approval by the committee for inclusion in the audit plan under Section 321.013(c).

SECTION 7. Amends Subsection (b), Section 325.012, Government Code, to authorize, rather than require, SAO, based on a risk assessment and subject to the committee's approval of including the examination in the audit plan under Section 321.013, to include, as part of the next approved, rather than scheduled, audit of the agency a report on whether the agency has implemented the recommendations, and if so, in what manner.

SECTION 8. Amends Subsection (d), Section 326.003, Government Code, to require the committee, not later than one month after the date of a meeting, to submit its recommendations in writing to the members of the committee.

SECTION 9. Amends Section 403.028, Government Code, by amending Subsection (a) and adding Subsection (f), as follows:

- (a) Requires the comptroller of public accounts, except as provided by Subsection (f), to conduct a study each biennium to determine certain types of fraudulent claims submitted under Medicaid.
- (f) Authorizes SAO, based on a risk assessment and subject to the committee's approval of including SAO's advisory function in the audit plan under Section 321.013, to advise the comptroller in its conduct of the study required under Subsection (a).

SECTION 10. Amends Subsection (c), Section 403.031, Government Code, to remove SAO from required work performed with the comptroller to classify receivables as uncollectible. Provides that such work is permissive and subject to SAO's risk assessment and the committee's approval.

SECTION 11. Amends Section 403.250, Government Code, to clarify that audits of agency petty cash accounts are permissive, subject to SAO risk assessment, and the committee's approval.

SECTION 12. Amends Subsection (b), Section 403.272, Government Code, to remove the SAO's involvement in the comptroller's devising of an accountability system for personal property owned by the state. Provides that SAO retains ability to audit the system, subject to SAO risk assessment and the committee's approval.

SECTION 13. Amends Subsection (h), Section 403.273, Government Code, to change from mandatory to permissive, subject to SAO risk assessment and the committee's approval, the SAO's examination of property records or inventory.

SECTION 14. Amends Subsections (c) and (d), Section 441.185, Government Code, to clarify that SAO audit of record retention schedules is permissive, subject to SAO risk assessment and the committee's approval.

SECTION 15. Amends Section 441.203, Government Code, by adding Subsection (k) to provide that participation by SAO under Subsection (a) is subject to approval by the committee for inclusion in the audit plan under Section 321.013(c).

SECTION 16. Amends Subsection (d), Section 445.012, Government Code, to change from

mandatory to permissive, subject to SAO risk assessment and the committee's approval, the SAO audit of the Bob Bullock museum fund.

SECTION 17. Amends Section 651.007, Government Code, by amending Subsections (b) through (e), (g), and (h) and adding Subsection (j), relating to employee exit interviews to allow employees to submit the questionnaire to either the agency or governor's office to make the questionnaire confidential to the entity chosen by the employee to receive the questionnaire and to eliminate the requirement that SAO submit a report prior to each legislative session summarizing the findings of the exit interview. Prohibits agency access to the questionnaire unless provided to the agency by the employee.

SECTION 18. Amends Section 654.037, Government Code, as follows:

- (a) Created from existing text. Changes SAO reporting requirements regarding state employee salaries from reporting recommendations for adjustments to state salary ranges to reporting only findings from their periodic studies of salary rates.
- (b) Requires the classification officer to conduct, before September 1 of each even-numbered year, a survey of local law enforcement departments that employ more than 1,000 commissioned law enforcement officers to gather information about the total compensation provided by the departments to the law enforcement officers. Requires the classification officer, before January 1 of each odd-numbered year, to analyze the findings of the most recent survey conducted in accordance with this subsection and to submit to the legislature a report on the findings of the survey and analysis. Requires the report to identify the five local law enforcement departments that provide the highest average total compensation to local law enforcement officers who have been employed by the local enforcement departments at the maximum salary level.
- (c) Authorizes the legislature, to improve the ability of the state to recruit and retain qualified law enforcement officers, to consider the report submitted under Subsection (b) in determining the salaries of all state law enforcement officers who hold a position classified under the state employee classification system and are compensated under salary Schedule C of the General Appropriations Act.

SECTION 19. Amends Section 654.041, Government Code, subjecting agency compliance with chapter on Position Classification to SAO audit to clarify that such audits are permissive, subject to SAO risk assessment and the committee's approval.

SECTION 20. Amends Subsections (b) and (c), Section 660.030, Government Code, to remove SAO from the requirement that it audit agency travel expenses. Requires such responsibility to be left to the comptroller.

SECTION 21. Amends Section 751.011, Government Code, to delete Subsection (b) from existing text and provide conforming language due to repeal of Section 751.012, requiring SAO to establish a salary schedule for state employees subject to an interagency contract.

SECTION 22. Amends Section 751.012(c), Government Code, to require a contract under this section to include provisions under which staff of the other state agency perform certain tasks.

SECTION 23. Amends Subsection (d), Section 813.506, Government Code, to repeal the requirement that SAO biennially review accuracy of the Texas Department of Criminal Justice (TDCJ) reports submitted to the retirement system.

SECTION 24. Amends Section 2052.104, Government Code, to delete the requirement that SAO adopt rules regarding the manner in which a report must be made under Section 2052.103. Changes from quarterly to annually the number of times agencies and SAO are required to report information

and requires SAO work performed to be subject to the committee's approval. Makes a conforming change.

SECTION 25. Amends Subsection (a), Section 2054.060, Government Code, to repeal the requirement that rules relating to digital signature be adopted, since that has been done, while still requiring the use of digital signatures to comply with the adopted rules.

SECTION 26. Amends Subsections (a) and (b), Section 2054.123, Government Code, to require the Texas Department of Information Resources (DIR), in consultation with the Texas Building and Procurement Commission (TBPC), SAO and the comptroller, to coordinate, as opposed to establish, training programs related to software training. Requires the 20 agencies which spend the most on software to utilize that training.

SECTION 27. Amends Subsection (b), Section 2054.253, Government Code, to require that SAO advisement of the Texas Online Authority is subject to the committee's approval.

SECTION 28. Amends Section 2055.056, Government Code, to clarify that SAO work regarding quality assurance services to monitor electronic project is subject to the committee's approval.

SECTION 29. Amends Section 2055.057, Government Code, to clarify that SAO work related to development of a model for funding the Electronic Government Program Management Office is subject to the committee's approval.

SECTION 30. Amends Section 2055.101, Government Code, by amending Subsections (a) and (c) and adding Subsection (d) to clarify that SAO work related to developing selection criteria for the type of electronic government projects that require oversight by the Electronic Government Program Management Office is subject to the committee's approval.

SECTION 31. Amends Section 2055.151, Government Code, by adding Subsection (e) to clarify that SAO hours expended participating on the Electronic Government Program Management Office Advisory Committee is subject to the committee's approval.

SECTION 32. Amends Section 2055.153, Government Code, by amending Subsection (a) and adding Subsection (c) to clarify that SAO work related to establishing a state agency reporting system for electronic government projects is subject to the committee's approval.

SECTION 33. Amends Section 2102.012, Government Code, to make a conforming change.

SECTION 34. Amends Section 2104.0215, Government Code, by adding Subsection (e) to make a conforming change.

SECTION 35. Amends Section 2156.004, Government Code, to repeal the requirement that TBPC, in cooperation with SAO, establish and maintain a record of each bid deposit and its disposition as TBPC does not collect bid deposits. Provides the ability of TBPC to require a bid deposit.

SECTION 36. Amends Subsection (d), Section 2161.123, Government Code, to clarify that the requirement that SAO "periodically monitor state agency compliance" with HUB requirements does not mean annual audits and could mean random audits.

SECTION 37. Amends Subsection (b), Section 2161.124, Government Code, to remove the SAO from the requirement to work with TBPC to develop a standard form for reports submitted by agencies each fiscal year documenting progress in increasing HUB use.

SECTION 38. Amends Section 2175.061, by amending Subsection (b) and adding Subsection (c) to clarify that SAO review of TBPC procedures for dealing with surplus or salvage property is subject to

the committee's approval.

SECTION 39. Amends Section 2177.003, Government Code, to remove SAO from the Electronic Procurement Advisory Committee.

SECTION 40. Amends Subsections (a) and (c), Section 2205.004, Government Code, to remove SAO from the State Aircraft Pooling Board (SAPB).

SECTION 41. Amends Subsection (n), Section 2256.005, Government Code, to clarify that SAO compilation and review of state agency investment policies is subject to the committee's approval.

SECTION 42. Amends Section 2256.022, Government Code, to clarify that SAO work related to expansion of agency investment authority is subject to the committee's approval.

SECTION 43. Amends Section 2261.203, Government Code, to repeal the requirement that SAO assist a state agency's monitoring of contract performance.

SECTION 44. Amends Subchapter A, Chapter 2262, Government Code, by adding Section 2262.003, as follows:

Sec. 2262.003. REQUIRED CONTRACT PROVISION RELATING TO AUDITING.

(a) Requires each state agency to include in each of its contracts a term that provides for certain criteria to be met.

(b) Requires the state auditor to provide assistance to a state agency in developing the contract provisions.

SECTION 45. Amends Subsection (a), Section 2262.051, Government Code, to make a conforming change.

SECTION 46. Amends Subsection (b), Section 2262.052, Government Code, to clarify that the SAO's monitoring of compliance with the contract management guide is subject to the committee's approval.

SECTION 47. Amends Section 2262.053, Government Code, by adding Subsection (d) to move from SAO to TBPC the responsibility to administer the contract manager training program once it is established.

SECTION 48. Amends Subsection (a), Section 2306.074, Government Code, to clarify that if the Texas Department of Housing and Community Affairs (TDHCA) requests SAO to perform its annual financial audit, the committee must approve it.

SECTION 49. Amends Subsection (b), Section 16.142, Water Code, to change from mandatory to permissive, subject to SAO risk assessment and the committee's approval, the requirement that SAO audit fees charged by the Texas Water Development Board (TWDB).

SECTION 50. Amends Subsection (b), Section 20.020, Water Code, to remove the Texas Water Development Board's requirement to have an annual audit and give SAO permissive authority, subject to the SAO risk assessment and the committee's approval, to audit TWDB.

SECTION 51. Amends Subsection (b), Section 36.061, Water Code, to authorize SAO to audit the records, as opposed to the financial transactions of a groundwater conservation district.

SECTION 52. Amends Section 36.153, Water Code, to give SAO more flexibility in the scope and timing of groundwater conservation district audits, by making them permissive, subject to the SAO's

risk assessment and the committee's approval.

SECTION 53. Amends Subsections (b), (c), and (d), Section 36.302, Water Code, to require that SAO audits of groundwater conservation districts are subject to the committee's approval of their inclusion in the audit plan.

SECTION 54. Amends Section 49.195, Water Code, by amending Subsection (b) and adding Subsection (f) to make a conforming change.

SECTION 55. Amends Subsection (b), Section 152.203, Water Code, to change the requirement that a river authority file a copy of its appraisal with SAO to require it to be filed with TCEQ.

SECTION 56. Amends Subsection (h), Section 22.004, Education Code, to require an audited financial statement to be made in accordance with Generally Accepted Accounting Principles, as opposed to in accordance with rules adopted by SAO, since the SAO does not adopt rules.

SECTION 57. Amends Subsection (q), Section 42.152, Education Code, to reflect that a rule for reporting and auditing district and campus expenditures of compensatory education funds has been implemented and take out SAO involvement.

SECTION 58. Amends Subsection (e), Section 43.006, Education Code, to clarify that an annual financial audit of the PSF by the SAO is subject to the committee's approval.

SECTION 59. Amends Section 102.52, Education Code, to remove a requirement that the disbursement of funds by the West Texas State University Foundation be subject to accounting procedures approved by SAO, to remove conflict if SAO later audits those disbursements.

SECTION 60. Amends Subsection (c), Section 130.0035, Education Code, to remove the requirement that SAO consult in the development of standards for reports relating to junior college districts and changes requirement that the Legislative Budget Board (LBB) "develop" standards to "be responsible for recommending" standards.

SECTION 61. Amends Subsection (a), Section 21.455, Labor Code, to repeal the requirement that SAO determine the actual expenses incurred by the Texas Workforce Commission in conducting a review of personnel policies.

SECTION 62. Amends Subsection (e), Section 21.556, Labor Code, to eliminate the requirement that SAO assist the Human Rights Commission (HRC) in determining and approving HRC's cost of providing a training program and gives SAO permissive authority, subject to the SAO risk assessment and the committee's approval, to audit the cost charged.

SECTION 63. Amends Subsection (d), Section 205.019, Labor Code, to change from mandatory to permissive, subject to the SAO risk assessment and the committee's approval, SAO's authority to review agency compliance with reimbursement requirements and ties the authority to the funds, as opposed to the entities.

SECTION 64. Amends Subsection (d), Section 506.002, Labor Code, to change from mandatory to permissive, subject to the SAO risk assessment and the committee's approval, the SAO's authority to review agency compliance with reimbursement requirements and ties the authority to the funds, as opposed to the entities.

SECTION 65. Amends Subsection (a), Section 140.007, Local Government Code, to remove SAO from participation in promulgation of forms and instructions for cost accounting for public improvements.

SECTION 66. Amends Subsection (e), Section 391.0095, Local Government Code, to clarify that SAO audit of regional planning commissions is permissive, subject to SAO risk assessment and the committee's approval.

SECTION 67. Amends Subsection (b), Section 11.017, Health and Safety Code, to change from mandatory to permissive, subject to SAO risk assessment and the committee's approval, the requirement that SAO audit the financial transactions of the Texas Board of Health.

SECTION 68. Amends Subsection (b), Section 242.005, Health and Safety Code, to require LBB to prescribe the form and contents of performance reports required of the Texas Department of Health and the attorney general. Provides that SAO participation is permissive, subject to the committee's approval.

SECTION 69. Amends Subsection (b), Section 451.452, Transportation Code, to clarify that SAO's authority to review and comment on audits submitted by rapid transit authorities is permissive, subject to SAO risk assessment and the committee's approval.

SECTION 70. Amends Subsection (b), Section 452.452, Transportation Code, to clarify that SAO's authority to comment on audits submitted by regional transportation authorities is permissive rather than mandatory, subject to SAO risk assessment and the committee's approval.

SECTION 71. Amends Section 58.017, Agriculture Code, to remove SAO from the requirement to assist the Board of the Texas Agricultural Finance Authority to develop performance measures regarding its loan programs.

SECTION 72. Amends Article 60.02, Code of Criminal Procedure, by adding Subsection (m), to clarify that SAO's authority to audit the Criminal Justice Policy Council is permissive, subject to SAO risk assessment and the committee's approval.

SECTION 73. Amends Subsection (d), Section 231.011, Family Code, as added by Chapter 556, Acts of the 76th Legislature, Regular Session, 1999, to remove SAO and the State Council on Competitive Governments and require the agencies to comply in identifying child support services that are within their core competency and require the work group to develop strategies to obtain child support services from the agencies.

SECTION 74. Amends Subsection (d), Section 11.0182, Parks and Wildlife Code, to change from mandatory to permissive, subject to SAO risk assessment and the committee's approval, the requirement that SAO biennially audit the fund-raising activities of the Parks and Wildlife Department.

SECTION 75. Repeals the following laws:

- (1) Sections 320.002, 481.123, 552.010, 659.2552, 751.012, 772.0031, 2155.071, 2170.006, and 2176.108, Government Code;
- (2) Subsection (g), Section 2155.067, Subsection (l), Section 2155.083, and Subsection (e), Section 2155.144, Government Code;
- (3) Article 24.21, Insurance Code;
- (4) Subsection (d), Section 302.057, Occupations Code; and
- (5) Section 4, Chapter 314, Acts of the 45th Legislature, Regular Session, 1937 (Article 6144cc, Vernon's Texas Civil Statutes).

SECTION 76. Makes application of the change in law made by Section 2262.003, Government

Code, as added by this Act prospective.

SECTION 77. Effective date: September 1, 2003.