

BILL ANALYSIS

C.S.S.B. 19
By: Ratliff
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Periodically, it is necessary to update the statutes relating to the State Auditor in order to accurately reflect the functions and duties that the Legislative Audit Committee wishes the State Auditor to perform. The purposes of C.S.S.B. 19 are to update the statutes relating to the State Auditor, to provide the Legislative Auditor Committee with the flexibility to direct audit resources as it determines necessary and appropriate, and to revise related statutes.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.S.B. 19 adds the following new provisions regarding the duties and functions of the State Auditor:

- defines “audit plan” and “risk assessment”
- provides that the State Auditor shall recommend the audit plan for each year to the Legislative Audit Committee
- provides that federal audits shall be performed as often as required under federal law
- requires the classification officer to conduct a survey of certain local law enforcement departments and submit findings and an analysis to the Legislature which may be used to determine the salaries of certain law enforcement officers.

C.S.S.B. 19 provides that the following duties and functions may only be performed by the State Auditor based on a risk assessment and subject to the Legislative Audit Committee’s approval of including the duty or function in the audit’s plan:

- economy and efficiency audits
- effectiveness audits
- special audits
- assistance to the Sunset Commission under Chapter 325, Government Code
- assistance to the Comptroller in conducting the Health Care Fraud study under Section 403.028, Government Code
- audits of petty cash
- audits of property records or inventory
- audits of state records retention schedules
- participation on the Records Management Interagency Coordinating Council
- review of the annual report on the Bob Bullock Texas State History Museum Fund
- review and comment on forms, reports, and rules for the transfer, sale, or disposal of surplus and salvage property
- review of compliance audits of management controls on investments and adherence to established investment policies by state agencies

- review of fees charged by the Texas Water Development Board to recover costs incurred in administering a project under Subchapter E, Chapter 16, Water Code
- audit of the books and accounts of the Texas Water Resources Finance Authority
- review of the operational plans of certain water districts
- audit of the Texas Commission on Human Rights expenditure of fees collected for providing equal employment opportunity training
- review of the reimbursement of funds by state entities to unemployment compensation accounts maintained by the Texas Workforce Commission
- review of state entities for compliance with reimbursements to the general revenue fund for workers' compensation payments
- review of audits and reports submitted by regional planning commissions under Sections 391.0095, Local Government Code
- audit of the financial transactions of the Board of Health
- comment upon audits of certain rapid transit authorities and regional transportation authorities
- audit of the fund-raising activities by employees of the Texas Department of Parks and Wildlife on behalf of the department.

C.S.S.B. 19 provides that the following functions and duties may be performed by the state auditor subject to approval by the Legislative Audit Committee for inclusion in the audit plan:

- various duties relating to Electronic Government Program management, as specified by Chapter 2055, Government Code
- training and technical development for state agency internal auditors
- participation on a management consulting team for state agencies following a rehabilitation plan in lieu of conservatorship
- performance of a risk assessment on the expansion of investment authority of a state investing entity
- participation in the development, and periodic update of, as well as compliance with, a contract management guide for use by state agencies
- audits of the books and accounts of the Texas Department of Community Affairs
- participation in the establishment of standards and procedures for review of certain water district audits.
- audit of the Permanent School Fund, if PSF funds are invested by a nonprofit corporation under contract with the State Board of Education
- participation with the Legislative Budget Board in prescribing the form and content of performance reports by the Texas Department of Human Services and the Attorney General under Chapter 242, Health and Safety Code (Convalescent and Nursing Homes and Related Institutions)
- examination of the records and operations of the criminal justice information system
- work performed relating to state employee exit interviews under Section 651.007, Government Code
- audits of the position classification plan
- work relating to reports on the number of full-time equivalent state employees.

C.S.S.B. 19 modifies provisions in current law concerning the following functions and duties of the State Auditor:

- coordinating and maintaining a training program to assist state agencies in performing software audits
- monitoring of state agency compliance with strategic planning for increasing use of historically underutilized businesses in purchasing and public works contracting
- requirements relating to a written report issued by the State Auditor
- the procedures to be followed when a department or entity does not agree with a finding or recommendation of the State Auditor
- the provisions relating to the exit interview questionnaire to be completed by employees leaving state employment
- the classification officer's salary surveys and reports.

C.S.S.B. 19 deletes the following requirements from various statutes relating to the State Auditor:

- requirement to assist the Attorney General in approving standards and criteria for classification of receivables as collectable or uncollectable

- requirement that the Comptroller must consult with the State Auditor in drafting rules relating to accounting for state property
- requirement to assist the Comptroller in developing procedures for examining, and in periodically examining, travel expense records
- requirement to establish a salary schedule for employees of the Office of State-Federal relations
- requirement for biennial review of standards adopted by the Texas Department of Criminal Justice for determining eligibility for service credit as a custodial officer
- requirement to adopt rules for the manner in which a report on the number of full-time equivalent state employees must be made
- requirement that the Department of Information Resources consult with the State Auditor and other agencies before adopting rules relating to digital signatures
- requirement to assist the Building and Procurement Commission in developing a standard form for reporting on state agency use of historically underutilized businesses in purchasing and public works contracting
- requirement that the Building and Procurement Commission consult with the State Auditor to ensure that the electronic procurement system meets the needs of users of the system.
- requirement that a representative of the State Auditor serve as an ex-officio, nonvoting member of the Aircraft Pooling Board
- requirement to assist a state agency's contract monitoring efforts
- requirement that a copy of a river authority's appraisal of real property to be acquired through the exchange of bonds, notes, or other obligations must be filed with the State Auditor (substitutes Texas Commission on Environmental Quality)
- requirement that audited financial statements of insurers or other organizations issuing group health insurance for school employees must be made in accordance with rules adopted by the State Auditor (substitutes generally accepted accounting principles)
- requirement to assist the State Board of Education in developing and implementing a reporting and auditing system for compensatory education funds
- requirement to approve accounting procedures for funds disbursed by West Texas A&M University to foundations affiliated with the university
- requirement to assist the Legislative Budget Board in recommending standards for annual performance reports by junior college districts
- requirement to determine the actual expenses incurred by the Texas Commission on Human Rights in reviewing personnel policies of state agencies to determine compliance with Chapter 21, Labor Code
- requirement to assist counties in developing, promulgating, and widely distributing forms, with instruction, for cost accounting for public improvements
- requirement to assist the Legislative Budget Board and the Office of the Governor in developing performance measures that provide information on the benefits of the loan programs of the Texas Agricultural Finance Authority
- requirement to assist the Title IV-D interagency work group.

C.S.S.B. 19 amends certain provisions of law relating to the functions and duties of other state agencies:

- requires that written recommendations of the coordinating committee of the State Auditor's Office, the Legislative Budget Board, and the Sunset Advisory Commission must be submitted to the members of the Legislative Audit Committee
- assigns responsibility for administering the training program for contract managers to the Texas Building and Procurement Commission
- modifies the audit provisions relating to certain water districts by exempting districts with little or no financial activity from audit requirements
- requires contracts or subcontracts that are entered into by each state agency to include a provision that allows the State Auditor to conduct an audit or investigation of the funds that are provided as a result of the contract. The State Auditor is to provide assistance to a state agency in developing the contract provisions.

C.S.S.B. 19 repeals the following sections and subsections of the Government Code:

Section 320.002 - relating to the Unfunded Mandates Interagency Work Group

Section 481.123 - relating to the duties of the Texas Department of Economic Development's Business Permit Office

Section 552.010 - relating to reporting the number and nature of requests for information to the Texas Building and Procurement Commission

Section 659.2552 - relating to the task force to evaluate employee compensation systems

Section 751.012 - relating to interagency contracts between the Office of State-Federal Relations and other state agencies

Section 772.0031 - relating to the Human Resource Task Force

Section 2155.071 - relating to statistical information maintained by the Texas Building and Procurement Commission on the consumption and use of goods and services purchased for a state agency

Section 2170.006 - relating to records regarding the consolidated telecommunications system maintained by the Texas Building and Procurement Commission

Section 2176.108 - relating to the review and comment by the State Auditor on a cost-benefit analysis of the mail practices of state agencies located in Travis County

Section 2155.067(g) - relating to the State Auditor's review and comment on specifications and conditions of a purchase request

Section 2155.083(l) - relating to a requirement that the Texas Building and Procurement Commission send proposed rules relating to the electronic business daily to various agencies for review and comment

Section 2155.144(e) - relating to notification to the State Auditor and approval of the Health and Human Services Commission before health and human services agencies make certain purchases

C.S.S.B. 19 repeals the following other provisions of law:

Article 24.21, Insurance Code - this is an obsolete provision relating to transfer of records and funds by the State Board of Insurance

Section 302.057(d), Occupations Code - this is an obsolete provision relating to bonding the secretary-treasurer of the Board of Vocational Nurse Examiners

Article 6144cc, Vernon's Texas Civil Statutes - this is an obsolete audit provision dating from 1937

Section 17, Article 5.76-3, Insurance Code - relating to the submission of audit reports regarding audits of the Texas Mutual Insurance Company to the State Auditor.

EFFECTIVE DATE

September 1, 2003. The change in law made by Section 2262.003, Government Code, as added by this Act applies only in relation to a state contract entered into on or after the effective date of this Act; and does not affect any authority under other law to conduct an audit or investigation in relation to a state contract entered into before the effective date of this Act.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 19 differs from the original in that it changes the term “finding or recommendation” to simply “recommendation” in Section 321.014(g), Government Code. The substitute also provides that a report as specified in that subsection must state whether the department or entity intends to implement, rather than disregard, the recommendation.

The substitute differs from the original by amending Section 654.037, Government Code, to provide that a report under that section must 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 law enforcement departments at the maximum salary level, rather than for at least 30 years, as was specified in the original bill. The substitute also adds Subsection (c) to provide that the legislature is authorized to consider the above-mentioned report in determining the salaries of state law enforcement officers who hold certain types of positions.

The substitute differs from the original by amending Subsection (e), Section 2055.151, Government Code, to provide that participation by the State Auditor on the Electronic Government Program Management Office Advisory Committee is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c). The original bill provided that in serving on the committee, the office of the State Auditor may not exceed the number of hours for the service that the legislative audit committee approves for inclusion in the audit plan under Section 321.013(c).

The substitute differs from the original by adding Section 2262.003 to Subchapter A, Chapter 2262, Government Code, to require contracts or subcontracts that are entered into by each state agency to include a provision that allows the state auditor to conduct an audit or investigation of the funds that are provided as a result of the contract. The substitute also adds language which provides that the state auditor shall provide assistance to a state agency in developing the contract provisions.

The substitute repeals Section 17, Article 5.76-3, Insurance Code. The original did not repeal this section.

The substitute adds an application date for certain changes in law made by this Act.

BILL ANALYSIS

C.S.S.B. 19
By: Ratliff
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Periodically, it is necessary to update the statutes relating to the State Auditor in order to accurately reflect the functions and duties that the Legislative Audit Committee wishes the State Auditor to perform. The purposes of C.S.S.B. 19 are to update the statutes relating to the State Auditor, to provide the Legislative Auditor Committee with the flexibility to direct audit resources as it determines necessary and appropriate, and to revise related statutes.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.S.B. 19 adds the following new provisions regarding the duties and functions of the State Auditor:

- defines “audit plan” and “risk assessment”
- provides that the State Auditor shall recommend the audit plan for each year to the Legislative Audit Committee
- provides that federal audits shall be performed as often as required under federal law
- requires the classification officer to conduct a survey of certain local law enforcement departments and submit findings and an analysis to the Legislature which may be used to determine the salaries of certain law enforcement officers.

C.S.S.B. 19 provides that the following duties and functions may only be performed by the State Auditor based on a risk assessment and subject to the Legislative Audit Committee’s approval of including the duty or function in the audit’s plan:

- economy and efficiency audits
- effectiveness audits
- special audits
- assistance to the Sunset Commission under Chapter 325, Government Code
- assistance to the Comptroller in conducting the Health Care Fraud study under Section 403.028, Government Code
- audits of petty cash
- audits of property records or inventory
- audits of state records retention schedules
- participation on the Records Management Interagency Coordinating Council
- review of the annual report on the Bob Bullock Texas State History Museum Fund
- review and comment on forms, reports, and rules for the transfer, sale, or disposal of surplus and salvage property
- review of compliance audits of management controls on investments and adherence to established investment policies by state agencies

- review of fees charged by the Texas Water Development Board to recover costs incurred in administering a project under Subchapter E, Chapter 16, Water Code
- audit of the books and accounts of the Texas Water Resources Finance Authority
- review of the operational plans of certain water districts
- audit of the Texas Commission on Human Rights expenditure of fees collected for providing equal employment opportunity training
- review of the reimbursement of funds by state entities to unemployment compensation accounts maintained by the Texas Workforce Commission
- review of state entities for compliance with reimbursements to the general revenue fund for workers' compensation payments
- review of audits and reports submitted by regional planning commissions under Sections 391.0095, Local Government Code
- audit of the financial transactions of the Board of Health
- comment upon audits of certain rapid transit authorities and regional transportation authorities
- audit of the fund-raising activities by employees of the Texas Department of Parks and Wildlife on behalf of the department.

C.S.S.B. 19 provides that the following functions and duties may be performed by the state auditor subject to approval by the Legislative Audit Committee for inclusion in the audit plan:

- various duties relating to Electronic Government Program management, as specified by Chapter 2055, Government Code
- training and technical development for state agency internal auditors
- participation on a management consulting team for state agencies following a rehabilitation plan in lieu of conservatorship
- performance of a risk assessment on the expansion of investment authority of a state investing entity
- participation in the development, and periodic update of, as well as compliance with, a contract management guide for use by state agencies
- audits of the books and accounts of the Texas Department of Community Affairs
- participation in the establishment of standards and procedures for review of certain water district audits.
- audit of the Permanent School Fund, if PSF funds are invested by a nonprofit corporation under contract with the State Board of Education
- participation with the Legislative Budget Board in prescribing the form and content of performance reports by the Texas Department of Human Services and the Attorney General under Chapter 242, Health and Safety Code (Convalescent and Nursing Homes and Related Institutions)
- examination of the records and operations of the criminal justice information system
- work performed relating to state employee exit interviews under Section 651.007, Government Code
- audits of the position classification plan
- work relating to reports on the number of full-time equivalent state employees.

C.S.S.B. 19 modifies provisions in current law concerning the following functions and duties of the State Auditor:

- coordinating and maintaining a training program to assist state agencies in performing software audits
- monitoring of state agency compliance with strategic planning for increasing use of historically underutilized businesses in purchasing and public works contracting
- requirements relating to a written report issued by the State Auditor
- the procedures to be followed when a department or entity does not agree with a finding or recommendation of the State Auditor
- the provisions relating to the exit interview questionnaire to be completed by employees leaving state employment
- the classification officer's salary surveys and reports.

C.S.S.B. 19 deletes the following requirements from various statutes relating to the State Auditor:

- requirement to assist the Attorney General in approving standards and criteria for classification of receivables as collectable or uncollectable

- requirement that the Comptroller must consult with the State Auditor in drafting rules relating to accounting for state property
- requirement to assist the Comptroller in developing procedures for examining, and in periodically examining, travel expense records
- requirement to establish a salary schedule for employees of the Office of State-Federal relations
- requirement for biennial review of standards adopted by the Texas Department of Criminal Justice for determining eligibility for service credit as a custodial officer
- requirement to adopt rules for the manner in which a report on the number of full-time equivalent state employees must be made
- requirement that the Department of Information Resources consult with the State Auditor and other agencies before adopting rules relating to digital signatures
- requirement to assist the Building and Procurement Commission in developing a standard form for reporting on state agency use of historically underutilized businesses in purchasing and public works contracting
- requirement that the Building and Procurement Commission consult with the State Auditor to ensure that the electronic procurement system meets the needs of users of the system.
- requirement that a representative of the State Auditor serve as an ex-officio, nonvoting member of the Aircraft Pooling Board
- requirement to assist a state agency's contract monitoring efforts
- requirement that a copy of a river authority's appraisal of real property to be acquired through the exchange of bonds, notes, or other obligations must be filed with the State Auditor (substitutes Texas Commission on Environmental Quality)
- requirement that audited financial statements of insurers or other organizations issuing group health insurance for school employees must be made in accordance with rules adopted by the State Auditor (substitutes generally accepted accounting principles)
- requirement to assist the State Board of Education in developing and implementing a reporting and auditing system for compensatory education funds
- requirement to approve accounting procedures for funds disbursed by West Texas A&M University to foundations affiliated with the university
- requirement to assist the Legislative Budget Board in recommending standards for annual performance reports by junior college districts
- requirement to determine the actual expenses incurred by the Texas Commission on Human Rights in reviewing personnel policies of state agencies to determine compliance with Chapter 21, Labor Code
- requirement to assist counties in developing, promulgating, and widely distributing forms, with instruction, for cost accounting for public improvements
- requirement to assist the Legislative Budget Board and the Office of the Governor in developing performance measures that provide information on the benefits of the loan programs of the Texas Agricultural Finance Authority
- requirement to assist the Title IV-D interagency work group.

C.S.S.B. 19 amends certain provisions of law relating to the functions and duties of other state agencies:

- requires that written recommendations of the coordinating committee of the State Auditor's Office, the Legislative Budget Board, and the Sunset Advisory Commission must be submitted to the members of the Legislative Audit Committee
- assigns responsibility for administering the training program for contract managers to the Texas Building and Procurement Commission
- modifies the audit provisions relating to certain water districts by exempting districts with little or no financial activity from audit requirements
- requires contracts or subcontracts that are entered into by each state agency to include a provision that allows the State Auditor to conduct an audit or investigation of the funds that are provided as a result of the contract. The State Auditor is to provide assistance to a state agency in developing the contract provisions.

C.S.S.B. 19 repeals the following sections and subsections of the Government Code:

Section 320.002 - relating to the Unfunded Mandates Interagency Work Group

Section 481.123 - relating to the duties of the Texas Department of Economic Development's Business Permit Office

Section 552.010 - relating to reporting the number and nature of requests for information to the Texas Building and Procurement Commission

Section 659.2552 - relating to the task force to evaluate employee compensation systems

Section 751.012 - relating to interagency contracts between the Office of State-Federal Relations and other state agencies

Section 772.0031 - relating to the Human Resource Task Force

Section 2155.071 - relating to statistical information maintained by the Texas Building and Procurement Commission on the consumption and use of goods and services purchased for a state agency

Section 2170.006 - relating to records regarding the consolidated telecommunications system maintained by the Texas Building and Procurement Commission

Section 2176.108 - relating to the review and comment by the State Auditor on a cost-benefit analysis of the mail practices of state agencies located in Travis County

Section 2155.067(g) - relating to the State Auditor's review and comment on specifications and conditions of a purchase request

Section 2155.083(l) - relating to a requirement that the Texas Building and Procurement Commission send proposed rules relating to the electronic business daily to various agencies for review and comment

Section 2155.144(e) - relating to notification to the State Auditor and approval of the Health and Human Services Commission before health and human services agencies make certain purchases

C.S.S.B. 19 repeals the following other provisions of law:

Article 24.21, Insurance Code - this is an obsolete provision relating to transfer of records and funds by the State Board of Insurance

Section 302.057(d), Occupations Code - this is an obsolete provision relating to bonding the secretary-treasurer of the Board of Vocational Nurse Examiners

Article 6144cc, Vernon's Texas Civil Statutes - this is an obsolete audit provision dating from 1937

Section 17, Article 5.76-3, Insurance Code - relating to the submission of audit reports regarding audits of the Texas Mutual Insurance Company to the State Auditor.

EFFECTIVE DATE

September 1, 2003. The change in law made by Section 2262.003, Government Code, as added by this Act applies only in relation to a state contract entered into on or after the effective date of this Act; and does not affect any authority under other law to conduct an audit or investigation in relation to a state contract entered into before the effective date of this Act.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 19 differs from the original in that it changes the term “finding or recommendation” to simply “recommendation” in Section 321.014(g), Government Code. The substitute also provides that a report as specified in that subsection must state whether the department or entity intends to implement, rather than disregard, the recommendation.

The substitute differs from the original by amending Section 654.037, Government Code, to provide that a report under that section must 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 law enforcement departments at the maximum salary level, rather than for at least 30 years, as was specified in the original bill. The substitute also adds Subsection (c) to provide that the legislature is authorized to consider the above-mentioned report in determining the salaries of state law enforcement officers who hold certain types of positions.

The substitute differs from the original by amending Subsection (e), Section 2055.151, Government Code, to provide that participation by the State Auditor on the Electronic Government Program Management Office Advisory Committee is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c). The original bill provided that in serving on the committee, the office of the State Auditor may not exceed the number of hours for the service that the legislative audit committee approves for inclusion in the audit plan under Section 321.013(c).

The substitute differs from the original by adding Section 2262.003 to Subchapter A, Chapter 2262, Government Code, to require contracts or subcontracts that are entered into by each state agency to include a provision that allows the state auditor to conduct an audit or investigation of the funds that are provided as a result of the contract. The substitute also adds language which provides that the state auditor shall provide assistance to a state agency in developing the contract provisions.

The substitute repeals Section 17, Article 5.76-3, Insurance Code. The original did not repeal this section.

The substitute adds an application date for certain changes in law made by this Act.