

1-1 By: West S.B. No. 1005  
1-2 (In the Senate - Filed March 7, 2003; March 13, 2003, read  
1-3 first time and referred to Committee on Finance; April 10, 2003,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 12, Nays 0; April 10, 2003, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1005 By: Barrientos

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to a state agency that is not complying with the  
1-10 requirement to make a good faith effort to increase the agency's use  
1-11 of historically underutilized businesses in purchasing and public  
1-12 works contracting.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (d) and (f), Section 2161.123,  
1-15 Government Code, are amended to read as follows:

1-16 (d) The commission and the state auditor shall cooperate to  
1-17 develop procedures to periodically monitor state agency compliance  
1-18 with this section. The state auditor shall report to the  
1-19 commission, the Senate Finance Committee, and the House  
1-20 Appropriations Committee a state agency that is not complying with  
1-21 this section. In determining whether a state agency is making a  
1-22 good faith effort to comply, the state auditor shall consider  
1-23 whether the agency:

1-24 (1) has adopted rules under Section 2161.003;

1-25 (2) has used the commission's directory under Section  
1-26 2161.064 and other resources to identify historically  
1-27 underutilized businesses that are able and available to contract  
1-28 with the agency;

1-29 (3) made good faith, timely efforts to contact  
1-30 identified historically underutilized businesses regarding  
1-31 contracting opportunities; and

1-32 (4) conducted its procurement program in accordance  
1-33 with the good faith effort methodology set out in commission rules.

1-34 (f) If the state auditor reports under Subsection (d) [~~to~~  
1-35 ~~the commission~~] that a state agency is not complying with this  
1-36 section:

1-37 (1) [~~7~~] the commission shall assist the agency in  
1-38 complying;

1-39 (2) the agency shall, not later than the 21st day after  
1-40 the date of the state auditor's report under Subsection (d), send to  
1-41 the state auditor, the Legislative Audit Committee, the Senate  
1-42 Finance Committee, and the House Appropriations Committee a letter  
1-43 that:

1-44 (A) outlines the actions that the agency will  
1-45 take to comply with the good faith effort requirements of this  
1-46 section, including actions to comply with the procedures specified  
1-47 under Subsection (d); and

1-48 (B) states the time by which the agency expects  
1-49 to have accomplished each of the actions it will take; and

1-50 (3) the agency shall send written notification to the  
1-51 state auditor, the Legislative Audit Committee, the Senate Finance  
1-52 Committee, and the House Appropriations Committee when the agency  
1-53 is in compliance with the good faith effort requirements of this  
1-54 section.

1-55 SECTION 2. This Act takes effect immediately if it receives  
1-56 a vote of two-thirds of all the members elected to each house, as  
1-57 provided by Section 39, Article III, Texas Constitution. If this  
1-58 Act does not receive the vote necessary for immediate effect, this  
1-59 Act takes effect September 1, 2003.

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