

BILL ANALYSIS

S.B. 1569
By: Williams
Government Reform
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The State of Texas has never required state agencies to use recovery audits on a wide scale. While the comptroller of public accounts (comptroller) conducts post-payment audits, and the Texas Building and Procurement Commission conducts procurement audits, these audits may be insufficient, leaving millions of dollars on the table that could be recovered.

As proposed, S.B. 1569 requires the comptroller to enter into contracts with private consultants to conduct recovery audits designed to detect and return overpayments to vendors. The bill requires recovery audits of agencies with expenditures in excess of \$100 million during a biennium, but allows the comptroller to exempt agencies with a low proportion of expenditures made to vendors.

S.B. 1569 requires state agencies to pay the consultants from the amounts recovered as a result of their work and requires that copies of these reports go to the legislature, state auditor's office, Legislative Budget Board (LBB), and governor. This bill also requires the comptroller to provide a report summarizing the audit reports to the legislature.

The federal government, other states, and the private sector have all benefited from the use of recovery audits. The LBB, which recommended this legislation, estimates savings of \$9.6 million in the 2006-2007 biennium. The savings have been assumed in S.B. 1.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

SECTION 1. Amends Subtitle C, Title 10, Government Code, by adding Chapter 2115, as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. Defines "overpayment" and "state agency."

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) Requires the comptroller of public accounts (comptroller) to contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. Requires the audits to be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) Sets forth certain provisions of a contract under this section.

(c) Authorizes the comptroller, or a state agency whose payments are being audited, to provide a person acting under a contract authorized by this section with certain confidential information, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state agency or the federal government. Provides that a contractor and its employees or agents are subject to the same prohibitions against the disclosure of

certain confidential information as the comptroller or applicable state agency and their employees. Provides that a contractor, its employees, and agents are subject to the same sanctions and penalties for disclosing certain confidential information as the comptroller, applicable state agency, and applicable employees.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY. (a) Requires the comptroller to require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds \$100 million. Requires each state agency described by this subsection to provide the recovery audit consultant with all information necessary for the audit.

(b) Authorizes the comptroller to exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts, by rule, after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. Requires a state agency to pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor. Requires a state agency to expend, or return to the federal government, any federal money that is recovered through a recovery audit conducted under this chapter, in accordance with the rule of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. Requires the comptroller to provide copies of any reports received from a consultant contracting under Section 2115.002 to the governor, the state auditor's office, and the Legislative Budget Board, by a certain date. Requires the comptroller, not later than January 1 of each odd-numbered year, to issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION 2. Requires the comptroller to adopt rules under Chapter 2115, Government Code, as added by this Act, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

SECTION 3. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005