

By: Delisi

H.B. No. 905

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the powers and duties of the state auditor in connection  
3 with state contracts.

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

5 SECTION 1. Section 321.020(a), Government Code, is amended  
6 to read as follows:

7 (a) Notwithstanding any other law, a state agency, or a  
8 corporation that is dedicated to the benefit of a state agency and  
9 that meets the criteria specified by Section B, Article 2.23B,  
10 Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's  
11 Texas Civil Statutes), may employ a private auditor to audit the  
12 state agency or corporation only if:

13 (1) the agency or corporation is authorized to  
14 contract with a private auditor [~~do so by law or~~] through a  
15 delegation of authority from the state auditor;

16 (2) the scope of the proposed audit has been submitted  
17 to the state auditor for review and comment; and

18 (3) the services of the private auditor are procured  
19 through a competitive selection process in a manner allowed by law.

20 SECTION 2. Section 2262.002, Government Code, is amended to  
21 read as follows:

22 Sec. 2262.002. EXEMPTIONS. (a) Except as otherwise  
23 provided, this [~~This~~] chapter does not apply to an institution of  
24 higher education as defined by Section 61.003, Education Code.

1 (b) Except as otherwise provided, this [~~This~~] chapter does  
2 not apply to contracts of the Texas Department of Transportation  
3 that relate to highway construction or highway engineering.

4 SECTION 3. Section 2262.003, Government Code, is amended by  
5 amending Subsection (a) and adding Subsection (c) to read as  
6 follows:

7 (a) Each state agency shall include in each of its contracts  
8 a term that provides that:

9 (1) the state auditor may conduct an audit or  
10 investigation of any entity receiving funds from the state directly  
11 under the contract or indirectly through a subcontract under the  
12 contract; [~~and~~]

13 (2) acceptance of funds directly under the contract or  
14 indirectly through a subcontract under the contract acts as  
15 acceptance of the authority of the state auditor, under the  
16 direction of the legislative audit committee, to conduct an audit  
17 or investigation in connection with those funds; and

18 (3) an entity that is the subject of an audit or  
19 investigation by the state auditor must provide the state auditor  
20 with access to any information the state auditor considers relevant  
21 to:

22 (A) evaluating the entity's performance under  
23 the contract or subcontract;

24 (B) determining the state's rights or remedies  
25 under the contract; or

26 (C) evaluating whether the entity has acted in  
27 the best interest of the state.

1           (c) This section applies to all state agency contracts,  
2 including contracts of:

3                   (1) an institution of higher education, as that term  
4 is defined by Section 61.003, Education Code; and

5                   (2) the Texas Department of Transportation that relate  
6 to highway construction or highway engineering.

7           SECTION 4. The change in law made by this Act to Section  
8 321.020(a), Government Code, applies only to a contract that is  
9 entered into, amended, extended, or renewed on or after the  
10 effective date of this Act.

11           SECTION 5. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2005.