1-1 By: Delisi (Senate Sponsor - Williams)   H.B. No. 905
1-2   (In the Senate - Received from the House May 5, 2005;
1-3   May 8, 2005, read first time and referred to Committee on Finance;
1-4   May 18, 2005, reported favorably by the following vote: Yeas 12,
1-5   Nays 0; May 18, 2005, sent to printer.)

1-6   A BILL TO BE ENTITLED
1-7   AN ACT

1-8   relating to the powers and duties of the state auditor in connection
1-9   with state contracts.
1-10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-11   SECTION 1. Section 321.020(a), Government Code, is amended
1-12 to read as follows:
1-13   (a) Notwithstanding any other law, a state agency, or a
1-14 corporation that is dedicated to the benefit of a state agency and
1-15 that meets the criteria specified by Section B, Article 2.23B,
1-16 Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's
1-17 Texas Civil Statutes), may employ a private auditor to audit the
1-18 state agency or corporation only if:
1-19   (1) the agency or corporation is authorized to
1-20 contract with a private auditor [do so by law or] through a
1-21 delegation of authority from the state auditor;
1-22   (2)   the scope of the proposed audit has been submitted
1-23 to the state auditor for review and comment; and
1-24   (3)   the services of the private auditor are procured
1-25 through a competitive selection process in a manner allowed by law.
1-26   SECTION 2. Section 2262.002, Government Code, is amended to
1-27 read as follows:
1-28   Sec. 2262.002. EXEMPTIONS.   (a)   Except as otherwise
1-29 provided, this [This] chapter does not apply to an institution of
1-30 higher education as defined by Section 61.003, Education Code.
1-31   (b) Except as otherwise provided, this [This] chapter does
1-32 not apply to contracts of the Texas Department of Transportation
1-33 that relate to highway construction or highway engineering.
1-34   SECTION 3. Section 2262.003, Government Code, is amended by
1-35 amending Subsection (a) and adding Subsection (c) to read as
1-36 follows:
1-37   (a) Each state agency shall include in each of its contracts
1-38 a term that provides that:
1-39   (1) the state auditor may conduct an audit or
1-40 investigation of any entity receiving funds from the state directly
1-41 under the contract or indirectly through a subcontract under the
1-42 contract; [and]
1-43   (2)   acceptance of funds directly under the contract or
1-44 indirectly through a subcontract under the contract acts as
1-45 acceptance of the authority of the state auditor, under the
1-46 direction of the legislative audit committee, to conduct an audit
1-47 or investigation in connection with those funds; and
1-48   (3)   an entity that is the subject of an audit or
1-49 investigation by the state auditor must provide the state auditor
1-50 with access to any information the state auditor considers relevant
1-51 to:
1-52   (A)   evaluating the entity's performance under
1-53 the contract or subcontract;
1-54   (B)   determining the state's rights or remedies
1-55 under the contract; or
1-56   (C)   evaluating whether the entity has acted in
1-57 the best interest of the state.
1-58   (c) This section applies to all state agency contracts,
1-59 including contracts of:
1-60   (1)   an institution of higher education, as that term
1-61 is defined by Section 61.003, Education Code; and
1-62   (2)   the Texas Department of Transportation that relate
1-63 to highway construction or highway engineering.
1-64   SECTION 4. The change in law made by this Act to Section

2-1   321.020(a), Government Code, applies only to a contract that is
2-2   entered into, amended, extended, or renewed on or after the
2-3   effective date of this Act.
2-4   SECTION 5. This Act takes effect immediately if it receives
2-5   a vote of two-thirds of all the members elected to each house, as
2-6   provided by Section 39, Article III, Texas Constitution. If this
2-7   Act does not receive the vote necessary for immediate effect, this
2-8   Act takes effect September 1, 2005.

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