

1-1 By: Zaffirini, et al. S.B. No. 12  
1-2 (In the Senate - Filed April 20, 2005; April 21, 2005, read  
1-3 first time and referred to Committee on Finance; May 11, 2005,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 10, Nays 0; May 11, 2005, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 12 By: Zaffirini

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

1-9 relating to contracting and ethics issues of state agencies;  
1-10 providing a civil penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. CHANGES TO LAW ON STATEWIDE CONTRACT MANAGEMENT

1-13 SECTION 1.01. Section 2262.001, Government Code, is amended  
1-14 by amending Subdivision (3) and adding Subdivision (3-a) to read as  
1-15 follows:

1-16 (3) "Contract manager" means a person who:

1-17 (A) is employed by a state agency; and

1-18 (B) has significant contract management duties  
1-19 for the state agency [~~as determined by the agency in consultation~~  
1-20 ~~with the state auditor~~].

1-21 (3-a) "Executive director" means the administrative  
1-22 head of a state agency.

1-23 SECTION 1.02. Subchapter A, Chapter 2262, Government Code,  
1-24 is amended by adding Section 2262.0015 to read as follows:

1-25 Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. The  
1-26 commission by rule shall establish threshold requirements that  
1-27 exclude small or routine contracts, including purchase orders, from  
1-28 the application of this chapter.

1-29 SECTION 1.03. The heading to Section 2262.053, Government  
1-30 Code, is amended to read as follows:

1-31 Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

1-32 SECTION 1.04. Section 2262.053, Government Code, is amended  
1-33 by amending Subsections (a) and (d) and adding Subsections (e) and  
1-34 (f) to read as follows:

1-35 (a) In coordination with the comptroller, Department of  
1-36 Information Resources, [~~and~~ state auditor, and Health and Human  
1-37 Services Commission, the commission shall develop [~~or administer~~] a  
1-38 training program for contract managers.

1-39 (d) The commission [~~Texas Building and Procurement~~  
1-40 ~~Commission~~] shall administer the training program under this  
1-41 section.

1-42 (e) The commission shall certify contract managers who have  
1-43 completed the contract management training required under this  
1-44 section and keep a list of those contract managers.

1-45 (f) The program developed under this section must include a  
1-46 separate class on ethics and contracting.

1-47 SECTION 1.05. Subchapter B, Chapter 2262, Government Code,  
1-48 is amended by adding Section 2262.0535 and Sections 2262.055  
1-49 through 2262.066 to read as follows:

1-50 Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The  
1-51 commission shall adapt the program developed under Section 2262.053  
1-52 to develop an abbreviated program for training the members of the  
1-53 governing bodies of state agencies. The training may be provided  
1-54 together with other required training for members of state agency  
1-55 governing bodies.

1-56 (b) All members of the governing body of a state agency  
1-57 shall complete at least one course of the training developed under  
1-58 this section. This subsection does not apply to a state agency that  
1-59 does not enter into any contracts.

1-60 Sec. 2262.055. FEES FOR TRAINING. The commission shall set  
1-61 and collect a fee from state agencies that receive training under  
1-62 this subchapter in an amount that recovers the commission's costs  
1-63 for the training.

2-1 Sec. 2262.056. STATE AGENCY REPOSITORY. Each state agency  
2-2 shall maintain in a central location all contracts for that agency.

2-3 Sec. 2262.057. CONTRACTS DATABASE. (a) The commission  
2-4 shall store in a database information on contracts provided by  
2-5 state agencies under this section.

2-6 (b) Each state agency shall periodically provide to the  
2-7 commission information regarding contracts entered into by the  
2-8 agency, including:

- 2-9 (1) the name of the contractor;
- 2-10 (2) the contract value;
- 2-11 (3) the beginning date and end date of the contract;
- 2-12 (4) a description of any amendments made to the  
2-13 contract;

- 2-14 (5) payments made or outstanding under the contract;
- 2-15 (6) key contract terms that have not yet been  
2-16 performed; and
- 2-17 (7) any other information that the commission  
2-18 considers necessary for the database created under this section.

2-19 (c) The commission shall set appropriate criteria to  
2-20 determine when and what information should be updated.

2-21 (d) The commission shall make the database available to  
2-22 state agencies and searchable by:

- 2-23 (1) contractor;
- 2-24 (2) contract value;
- 2-25 (3) state agency; and
- 2-26 (4) date, including both the beginning date and the  
2-27 end date of the contract.

2-28 Sec. 2262.058. REPORTING CONTRACTOR PERFORMANCE.

2-29 (a) After a contract is completed or otherwise terminated, each  
2-30 state agency shall review the contractor's performance under the  
2-31 contract.

2-32 (b) Using the forms developed by the team under Sections  
2-33 2262.104 and 2262.105, the state agency shall report to the  
2-34 commission on the results of the review regarding the contractor's  
2-35 performance under the contract.

2-36 Sec. 2262.059. CONTRACTOR PERFORMANCE DATABASE. (a) The  
2-37 commission shall store in a database contractor performance reviews  
2-38 as provided by this section.

2-39 (b) The commission shall evaluate the contractor's  
2-40 performance based on the information reported under Section  
2-41 2262.058 and criteria established by the commission.

2-42 (c) The commission shall develop a database that  
2-43 incorporates the performance reviews and aggregates the reviews for  
2-44 each contractor.

2-45 (d) A state agency may use the performance review database  
2-46 to determine whether to award a contract to a contractor reviewed in  
2-47 the database.

2-48 Sec. 2262.060. EXCLUDING CONTRACTOR FROM SOLICITATION  
2-49 PROCESS. Based on its own contractor performance reviews and on  
2-50 information in the database developed under Section 2262.059, a  
2-51 state agency may exclude a contractor from the solicitation process  
2-52 for a contract if the agency determines the contractor has  
2-53 performed poorly on a previous state contract without regard to  
2-54 whether the contractor has been barred under Section 2155.077.

2-55 Sec. 2262.061. PERFORMANCE MEASURES; REPORTS. (a) Each  
2-56 state agency shall develop a plan for incorporating performance  
2-57 measures into all contracts entered into by the agency.

2-58 (b) This includes ensuring that performance measures are  
2-59 written into each contract prior to execution.

2-60 (c) Not later than March 1 of each year, each state agency  
2-61 shall report to the team, governor, lieutenant governor, and  
2-62 speaker of the house of representatives regarding performance  
2-63 measures in the agency's contracts. The report must describe the  
2-64 agency's efforts to include performance-based provisions in the  
2-65 agency's contracts.

2-66 (d) The state agency shall make the report accessible to the  
2-67 public on the agency's website.

2-68 Sec. 2262.062. CONTRACT MANAGERS. (a) Each state agency  
2-69 that enters into contracts other than interagency contracts shall

3-1 establish a career ladder program for contract management in the  
 3-2 agency.

3-3 (b) An employee hired as a contract manager shall oversee  
 3-4 and may, as appropriate, engage in procurement planning, contract  
 3-5 solicitation, contract formation, price establishment, and other  
 3-6 contract activities.

3-7 (c) Each state agency shall determine, in consultation with  
 3-8 the state auditor, the amount and significance of contract  
 3-9 management duties sufficient for an employee to be considered a  
 3-10 contract manager under this chapter.

3-11 Sec. 2262.063. APPROVAL OF CONTRACTS. (a) Each state  
 3-12 agency shall establish formal guidelines regarding who may approve  
 3-13 a contract for the agency.

3-14 (b) The guidelines must require that at least two persons  
 3-15 approve the contract, including a supervisor and a contract manager  
 3-16 certified under Section 2262.053. This subsection applies both to  
 3-17 contracts that agency staff is authorized to enter into without  
 3-18 further approval by the governing body and to contracts that must be  
 3-19 approved by the governing body.

3-20 (c) For state agency contracts valued in excess of \$1  
 3-21 million the agency executive director must authorize a contract  
 3-22 amendment in writing.

3-23 (d) Each state agency shall annually report to the  
 3-24 commission a list of each person authorized to approve contracts at  
 3-25 the agency. The list must include the person's name, position, and  
 3-26 supervisory responsibility, if any.

3-27 Sec. 2262.064. NEGOTIATION OF CONTRACT BY SINGLE EMPLOYEE  
 3-28 PROHIBITED. A state agency may not negotiate a contract with only  
 3-29 one employee engaging in the negotiation.

3-30 Sec. 2262.065. CONSISTENT PRICING BY CONTRACTORS. (a) The  
 3-31 commission shall solicit a contract for the creation of a mechanism  
 3-32 for tracking and comparing prices that state agencies pay for  
 3-33 similar products or services.

3-34 (b) On behalf of the state, a contractor awarded a contract  
 3-35 under Subsection (a) may renegotiate state agency contracts for  
 3-36 products or services to obtain the best value for the state when the  
 3-37 tracking and comparing mechanism shows a disparity in the price  
 3-38 paid for similar products or services. A contract under Subsection  
 3-39 (a) may allow the selected contractor to keep a percentage of the  
 3-40 savings obtained in the renegotiated contracts.

3-41 (c) A state agency shall give a contractor selected under  
 3-42 Subsection (a) the information the contractor requires for the  
 3-43 purpose of tracking and comparing prices that state agencies pay  
 3-44 for similar products and services.

3-45 (d) A contractor selected under Subsection (a) may not sell  
 3-46 information it receives under Subsection (c) or otherwise make use  
 3-47 of the information for a purpose other than performing its contract  
 3-48 with the state.

3-49 Sec. 2262.066. EXCEPTION TO RENEGOTIATION REQUIREMENT.  
 3-50 (a) A state agency may exclude a contract from the application of  
 3-51 Section 2262.065 if it determines that renegotiation of the  
 3-52 contract under that section will affect the state negatively. The  
 3-53 state agency must notify the commission, lieutenant governor, and  
 3-54 speaker of the house of representatives regarding this  
 3-55 determination and explain why renegotiation of the contract is  
 3-56 contrary to the state's overall interest.

3-57 (b) The commission may overrule the determination. The  
 3-58 commission must notify the lieutenant governor and speaker of the  
 3-59 house of representatives if it overrules the determination.

3-60 (c) The commission shall adopt rules and procedures to  
 3-61 document this process, including a requirement that the executive  
 3-62 directors of the commission and the state agency making the  
 3-63 determination formally approve the determination by signature or  
 3-64 other appropriate method.

3-65 SECTION 1.06. Subchapter C, Chapter 2262, Government Code,  
 3-66 is amended by adding Sections 2262.104 and 2262.105 to read as  
 3-67 follows:

3-68 Sec. 2262.104. UNIFORM DEFINITIONS AND FORMS. (a) The  
 3-69 team shall develop and publish a uniform set of definitions for use

4-1 as applicable in state contracts.  
4-2 (b) The team shall develop and publish a uniform and  
4-3 automated set of forms that a state agency may use in the different  
4-4 stages of the contracting process.

4-5 Sec. 2262.105. FORMS FOR REPORTING CONTRACTOR PERFORMANCE.  
4-6 As part of the uniform forms published under Section 2262.104, the  
4-7 team shall develop forms for use by state agencies in reporting a  
4-8 contractor's performance under Section 2262.058.

4-9 SECTION 1.07. Chapter 2262, Government Code, is amended by  
4-10 adding Subchapters D, E, and F to read as follows:

4-11 SUBCHAPTER D. CONTRACT PROVISIONS

4-12 Sec. 2262.151. USE OF UNIFORM FORMS. A state agency may use  
4-13 the forms developed under Section 2262.104 as templates, guides, or  
4-14 samples for contracts entered into by the agency.

4-15 Sec. 2262.152. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

4-16 (a) The team shall develop recommendations for contract terms  
4-17 regarding penalties for contractors who do not comply with a  
4-18 contract, including penalties for contractors who do not disclose  
4-19 conflicts of interest under Section 2262.201. The team may develop  
4-20 recommended contract terms that are generally applicable to state  
4-21 contracts and terms that are applicable to important types of state  
4-22 contracts.

4-23 (b) A state agency may include applicable recommended terms  
4-24 in a contract entered into by the agency.

4-25 Sec. 2262.153. REQUIRED PROVISION RELATING TO  
4-26 SUBCONTRACTOR COMPLIANCE. Each state agency contract must require  
4-27 that each contractor provide a list of all subcontractors and  
4-28 include a provision that:

4-29 (1) holds the contractor responsible for the conduct  
4-30 of all subcontractors in complying with the contractor's contract  
4-31 with the state agency; and

4-32 (2) requires each subcontractor to disclose all  
4-33 potential conflicts of interest to the state agency, according to  
4-34 guidelines developed under Section 2262.201(b), when the  
4-35 subcontractor contracts with or is otherwise hired by the  
4-36 contractor.

4-37 Sec. 2262.154. REQUIRED CONTRACTOR DISCLOSURE STATEMENT;  
4-38 STATE AGENCY EMPLOYEES. (a) The team shall develop a standard  
4-39 contract provision requiring a contractor and subcontractor to  
4-40 disclose each employee:

4-41 (1) who was employed by:  
4-42 (A) the state at any time during the two years  
4-43 before the date of the disclosure and is now employed by the  
4-44 contractor; and

4-45 (B) the contractor at any time during the year  
4-46 before the date of the disclosure and is now employed by the state;  
4-47 and

4-48 (2) who is:

4-49 (A) materially involved in the development of the  
4-50 contract terms or the management of the contract; or

4-51 (B) employed at the executive level with the  
4-52 contractor.

4-53 (b) A state agency shall include the provision in a contract  
4-54 entered into by the agency.

4-55 Sec. 2262.155. REQUIRED CONTRACTOR DISCLOSURE STATEMENT;  
4-56 OUTSOURCING. (a) Each contract entered into by a state agency  
4-57 must include a provision requiring disclosure of any services  
4-58 materially necessary to fulfill the contract, including services  
4-59 performed by a subcontractor, that will be or are performed in a  
4-60 country other than the United States. This section does not apply  
4-61 to services that are incidental to fulfilling the contract.

4-62 (b) The contract must include a provision allowing the state  
4-63 agency to terminate the contract and solicit a new contract if:

4-64 (1) the contractor or a subcontractor of the  
4-65 contractor performs a service materially necessary to fulfill the  
4-66 contract in a country other than the United States; and

4-67 (2) the contractor did not disclose in the contract at  
4-68 the time the contract was originally entered into that the service  
4-69 would be performed in a country other than the United States.

5-1 (c) A state agency that decides not to solicit a new  
5-2 contract under circumstances in which the agency is authorized to  
5-3 do so under a contract provision required by Subsection (b) shall  
5-4 report this decision to:

- 5-5 (1) the governor;
- 5-6 (2) the lieutenant governor;
- 5-7 (3) the speaker of the house of representatives; and
- 5-8 (4) the team.

5-9 [Sections 2262.157-2262.200 reserved for expansion]

5-10 SUBCHAPTER E. ETHICS; CONFLICT OF INTEREST

5-11 Sec. 2262.201. CONTRACTOR CONFLICTS OF INTEREST. (a) Each  
5-12 contractor who responds to a state agency's contract solicitation  
5-13 shall disclose in its response all potential conflicts of interest  
5-14 to the agency.

5-15 (b) The team shall develop guidelines to aid contractors and  
5-16 state agencies in identifying potential conflicts of interest.

5-17 Sec. 2262.202. EXECUTIVE DIRECTORS; ETHICS IN CONTRACTING  
5-18 CLASS. Each executive director of a state agency shall annually  
5-19 complete the ethics and contracting class developed under Section  
5-20 2262.053. This section does not apply to a state agency that does  
5-21 not enter into any contracts.

5-22 [Sections 2262.203-2262.250 reserved for expansion]

5-23 SUBCHAPTER F. CHANGES TO CONTRACTS

5-24 Sec. 2262.251. CONTRACT AMENDMENTS AND CHANGE ORDERS.

5-25 (a) An amendment to a contract, including a change order, is  
5-26 subject to the same approval processes as the original contract.

5-27 (b) A state agency may not amend a contract unless:

5-28 (1) the agency complies with the same approval  
5-29 processes for the amendment as required for the original contract;  
5-30 and

5-31 (2) a contract manager for the agency states in  
5-32 writing why the amendment is necessary.

5-33 (c) This section does not require a new solicitation for a  
5-34 new contract.

5-35 Sec. 2262.252. LARGE CHANGE IN CONTRACT VALUE. If a  
5-36 proposed contract amendment or extension changes the monetary value  
5-37 of a contract by more than 10 percent, the state agency must obtain  
5-38 review and approval from the team and the agency's executive  
5-39 director before the agency amends or extends the contract.

5-40 SECTION 1.08. Section 2262.003, Government Code, is  
5-41 transferred to Subchapter D, Chapter 2262, Government Code, as  
5-42 added by this Act, is redesignated as Section 2262.156, Government  
5-43 Code, and is amended to read as follows:

5-44 Sec. 2262.156 [~~2262.003~~]. REQUIRED [~~CONTRACT~~] PROVISION  
5-45 RELATING TO AUDITING. (a) Each state agency shall include in each  
5-46 of its contracts a term that provides that:

5-47 (1) the state auditor may conduct an audit or  
5-48 investigation of any entity receiving funds from the state directly  
5-49 under the contract or indirectly through a subcontract under the  
5-50 contract; and

5-51 (2) acceptance of funds directly under the contract or  
5-52 indirectly through a subcontract under the contract acts as  
5-53 acceptance of the authority of the state auditor, under the  
5-54 direction of the legislative audit committee, to conduct an audit  
5-55 or investigation in connection with those funds.

5-56 (b) The state auditor shall provide assistance to a state  
5-57 agency in developing the contract provisions.

5-58 SECTION 1.09. (a) Section 2262.064, Government Code, as  
5-59 added by this article, applies only to a contract for which a state  
5-60 agency first advertises or otherwise solicits bids, proposals,  
5-61 offers, or qualifications on or after the effective date of this  
5-62 Act.

5-63 (b) Subsection (a), Section 2262.201, Government Code, as  
5-64 added by this article, applies only in relation to a contract for  
5-65 which a state agency first solicits bids, proposals, offers, or  
5-66 qualifications on or after the date that the Contract Advisory  
5-67 Team's guidelines regarding potential conflicts of interest take  
5-68 effect.

5-69 SECTION 1.10. Not later than March 1, 2006, the Texas

6-1 Building and Procurement Commission shall develop the training  
6-2 program, including the ethics and contracting class, required by  
6-3 Section 2262.053, Government Code, as amended by this article, and  
6-4 Section 2262.0535, Government Code, as added by this article.

6-5 SECTION 1.11. A member of a governing body of a state agency  
6-6 is not required to complete the training developed under Section  
6-7 2262.0535, Government Code, as added by this article, until  
6-8 September 1, 2007.

6-9 SECTION 1.12. An executive director of a state agency is not  
6-10 required to comply with Section 2262.202, Government Code, as added  
6-11 by this article, until September 1, 2007.

6-12 SECTION 1.13. A contract manager is not required to be  
6-13 certified under Chapter 2262, Government Code, as amended by this  
6-14 article, until September 1, 2007.

6-15 SECTION 1.14. (a) As soon as practicable, and not later  
6-16 than March 1, 2006, the Contract Advisory Team shall develop the  
6-17 forms, criteria, recommendations, and provisions required by this  
6-18 article, including Sections 2262.104, 2262.105, 2262.152, and  
6-19 2262.154 and Subsection (b), Section 2262.201, Government Code, as  
6-20 added by this article.

6-21 (b) A state agency is not required to comply with Sections  
6-22 2262.056 through 2262.063 and Sections 2262.153, 2262.154, and  
6-23 2262.155, Government Code, as added by this article, until  
6-24 September 1, 2007. A state agency may comply earlier if the forms,  
6-25 electronic requirements, database, or other items are available  
6-26 before that date.

6-27 ARTICLE 2. CHANGES TO LAW ON PERSONAL FINANCIAL DISCLOSURE,  
6-28 STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST

6-29 SECTION 2.01. Subchapter C, Chapter 572, Government Code,  
6-30 is amended by adding Section 572.060 to read as follows:

6-31 Sec. 572.060. CONFLICT OF INTEREST OF STATE OFFICER OR  
6-32 EMPLOYEE OR LEGISLATIVE CONSULTANT; CIVIL PENALTY. (a) In this  
6-33 section:

6-34 (1) "Legislative consultant" means:

6-35 (A) a person providing services under contract as  
6-36 a consultant to the senate, the house of representatives, or a  
6-37 member or committee of either house; or

6-38 (B) a person providing services under contract as  
6-39 a consultant to a state agency in connection with legislation or  
6-40 communications with members of the legislature or legislative  
6-41 employees.

6-42 (2) "Legislative employee" means a person employed by:

6-43 (A) the senate, the house of representatives, or  
6-44 a committee of either house; or

6-45 (B) a member of the legislature acting in the  
6-46 member's official capacity.

6-47 (3) "Member of the governor's executive staff" means a  
6-48 person employed by the governor acting in the governor's official  
6-49 capacity whose regular job duties include:

6-50 (A) the formulation of policy or testifying  
6-51 before and meeting with members of the legislature; or

6-52 (B) supervising other employees in the  
6-53 governor's office whose regular job duties include those described  
6-54 by Paragraph (A).

6-55 (4) "State agency legislative liaison" means an  
6-56 employee of a state agency who serves as a legislative liaison or  
6-57 government affairs officer or acts in a similar capacity or whose  
6-58 regular job duties include testifying before and meeting with  
6-59 members of the legislature.

6-60 (5) "State agency procurement agent" means an employee  
6-61 of a state agency whose regular job duties include soliciting,  
6-62 evaluating, or awarding bids, proposals, or contracts for the  
6-63 procurement by the state agency of property or services.

6-64 (b) This section applies to an appointed officer, executive  
6-65 head of a state agency, member of the governor's executive staff,  
6-66 legislative employee, state agency legislative liaison, state  
6-67 agency procurement agent, or legislative consultant.

6-68 (c) For purposes of this section, a person to whom this  
6-69 section applies has a conflict of interest if the person has a

7-1 personal financial or other interest in the subject matter of a  
7-2 governmental decision or action that compromises or has the  
7-3 appearance of compromising the person's professional judgment or  
7-4 integrity.

7-5 (d) A person to whom this section applies who has a conflict  
7-6 of interest with respect to a governmental decision or action  
7-7 shall:

7-8 (1) disclose the conflict in writing delivered to the  
7-9 state officer or state agency employing or contracting with the  
7-10 person; and

7-11 (2) abstain from further participation in the  
7-12 governmental decision or action.

7-13 (e) A person who violates this section is liable for a civil  
7-14 penalty of not less than \$500 and not more than the value of a  
7-15 monetary gain the person receives because of the governmental  
7-16 decision or action.

7-17 (f) Subsection (e) does not prohibit:

7-18 (1) the imposition of a civil penalty under Chapter  
7-19 571; or

7-20 (2) removal of an appointed officer under Section  
7-21 572.058 for conduct that violates both this section and Section  
7-22 572.058.

7-23 SECTION 2.02. Section 572.060, Government Code, as added by  
7-24 this article, applies only to participation in a governmental  
7-25 decision made or action taken on or after September 1, 2005.  
7-26 Participation in a governmental decision made or action taken  
7-27 before September 1, 2005, is governed by the law in effect on the  
7-28 date the decision is made or the action is taken, and the former law  
7-29 is continued in effect for that purpose.

7-30 ARTICLE 3. CHANGES RELATED TO STATE AUDIT CONTRACTS

7-31 SECTION 3.01. Subsection (a), Section 321.020, Government  
7-32 Code, is amended to read as follows:

7-33 (a) Notwithstanding any other law, a state agency, or a  
7-34 corporation that is dedicated to the benefit of a state agency and  
7-35 that meets the criteria specified by Section B, Article 2.23B,  
7-36 Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's  
7-37 Texas Civil Statutes), may employ a private auditor to audit the  
7-38 state agency or corporation only if:

7-39 (1) the agency or corporation is authorized to  
7-40 contract with a private auditor [~~do so by law or~~] through a  
7-41 delegation of authority from the state auditor;

7-42 (2) the scope of the proposed audit has been submitted  
7-43 to the state auditor for review and comment; and

7-44 (3) the services of the private auditor are procured  
7-45 through a competitive selection process in a manner allowed by law.

7-46 SECTION 3.02. Subsection (a), Section 2113.102, Government  
7-47 Code, is amended to read as follows:

7-48 (a) A state agency may not use appropriated money to  
7-49 contract with a person to audit [~~the financial records or accounts~~  
7-50 ~~of~~] the agency except:

7-51 (1) as provided by [+

7-52 [~~(1)~~] Subsections (b), (c), and (d); and

7-53 (2) in accordance with Section 321.020 [~~Chapter 466,~~  
7-54 ~~pertaining to the state lottery,~~

7-55 [~~(3) Chapter 2306, pertaining to the Texas Department~~  
7-56 ~~of Housing and Community Affairs; and~~

7-57 [~~(4) Chapter 361, Transportation Code, pertaining to~~  
7-58 ~~the Texas Turnpike Authority division of the Texas Department of~~  
7-59 ~~Transportation].~~

7-60 SECTION 3.03. Subsection (a), Section 321.020, Government  
7-61 Code, as amended by this article, applies only to a contract that is  
7-62 entered into, amended, extended, or renewed on or after the  
7-63 effective date of this Act.

7-64 ARTICLE 4. EFFECTIVE DATE

7-65 SECTION 4.01. This Act takes effect September 1, 2005.

7-66 \* \* \* \* \*