

By: Vaught

H.B. No. 4387

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the development of contract terms regarding
3 noncompliance by state contractors.

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

5 SECTION 1. Subchapter A, Chapter 2262, Government Code, is
6 amended by adding Section 2262.005 to read as follows:

7 Sec. 2262.005. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

8 (a) The comptroller shall develop recommendations for contract
9 terms regarding penalties for contractors that do not comply with a
10 state contract, including for:

11 (1) failure by the contractor to comply with state
12 law;

13 (2) failure by the contractor to maintain adequate
14 personnel or resources; and

15 (3) fraud by the contractor.

16 (b) The recommendations under Subsection (a) must provide
17 for:

18 (1) the recovery of money paid by a state agency for
19 services not provided by the contractor under the contract or paid
20 to another contractor to perform those services;

21 (2) the recovery of any increased operational costs
22 incurred by a state agency as a result of a contractor's
23 noncompliance;

24 (3) the imposition of penalties on a sliding scale

1 based on the contract amount, the type of noncompliance, and
2 whether damages are recoverable for the noncompliance under a
3 contract term developed under Subdivision (1) or (2); and
4 (4) excluding a contractor from the solicitation
5 process for state contracts without regard to whether the
6 contractor has been barred under Section 2155.077 from
7 participating in contracts subject to Subtitle D.

8 (c) A state agency shall include applicable recommended
9 terms developed under Subsection (a) in a contract entered into by
10 the agency.

11 SECTION 2. (a) As soon as practicable, and not later than
12 May 1, 2010, the comptroller of public accounts shall develop the
13 terms required by Section 2262.005, Government Code, as added by
14 this Act.

15 (b) A state agency is not required to comply with Section
16 2262.005, Government Code, as added by this Act, until September 1,
17 2010.

18 SECTION 3. This Act takes effect September 1, 2009.