

BILL ANALYSIS

C.S.H.B. 579
By: Turner
Appropriations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, there is currently no mechanism in place requiring a state agency to notify the legislature and certain state leaders if a contract has gone over budget. C.S.H.B. 579 seeks to require such notice by certain state agencies if the actual contract cost exceeds the amount of the contract by \$1 million or more.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 579 amends the Government Code to require certain state agencies, for each state agency contract to purchase services from a vendor for which the actual cost of the services exceeds the amount contracted for the services by \$1 million or more, to provide notice of the excessive cost to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board (LBB), and the state auditor's office in accordance with procedures established by the LBB. The bill requires the state agency to provide such notice not later than the 30th day after the date the actual cost exceeds the contract amount by \$1 million and requires that such notice include the amount of the excessive cost, the reason for the excessive cost, any opportunity the state agency had to lessen the excessive cost or to purchase the services from another vendor after the excessive cost was disclosed, and any other information the LBB determines relevant.

C.S.H.B. 579 authorizes the LBB to assess an enforcement mechanism against a state agency that the LBB determines has failed to provide notice as required by the bill's provisions. The bill requires the enforcement mechanism to be assessed in accordance with a schedule of enforcement mechanisms that may be assessed against a state agency that does not provide notice and authorizes the LBB to establish such a schedule. The bill authorizes the enforcement mechanisms to include enhanced monitoring of the state agency's contracts by LBB personnel, required consultation with the Contract Advisory Team or the quality assurance team before issuance of a contract by the state agency, targeted audits by the state auditor's office at LBB request, and recommended cancellation of an applicable contract.

C.S.H.B. 579 authorizes the LBB director to recommend to the LBB an enforcement mechanism to be assessed against a state agency for a violation of the bill's requirement to provide notice and authorizes the LBB to increase the severity of an enforcement mechanism assessed against a

state agency for repeated violations and to dismiss an enforcement mechanism assessed against a state agency by the LBB for a violation on successful implementation of corrective action approved by the LBB.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 579 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter F, Chapter 2261, Government Code, is amended by adding Section 2261.2555 to read as follows:

Sec. 2261.2555. NOTICE OF CERTAIN COST THAT EXCEEDS CONTRACT AMOUNT. (a) For each state agency contract to purchase services from a vendor for which the actual cost of the service exceeds the amount contracted for the service by \$1 million or more, the state agency in accordance with procedures established by the comptroller shall provide notice of the excessive cost to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives; and
- (4) each member of the legislature.

(b) The state agency must provide the notice required under Subsection (a) not later than the 30th day after the date the actual cost exceeds the contract amount by \$1 million.

The notice must include:

- (1) the amount of the excessive cost;
- (2) the reason for the excessive cost;
- (3) any opportunity the state agency had to lessen the excessive cost or to purchase the service from another vendor after the excessive cost was disclosed; and
- (4) any other information the comptroller determines relevant.

(c) The comptroller shall establish the procedures for the notice required by Subsection (a).

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter F, Chapter 2261, Government Code, is amended by adding Section 2261.2555 to read as follows:

Sec. 2261.2555. NOTICE OF CERTAIN COST THAT EXCEEDS CONTRACT AMOUNT; ENFORCEMENT. (a) For each state agency contract to purchase services from a vendor for which the actual cost of the services exceeds the amount contracted for the services by \$1 million or more, the state agency in accordance with procedures established by the Legislative Budget Board shall provide notice of the excessive cost to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) each member of the legislature;
- (5) the board; and
- (6) the state auditor's office.

(b) The state agency must provide the notice required under Subsection (a) not later than the 30th day after the date the actual cost exceeds the contract amount by \$1 million.

The notice must include:

- (1) the amount of the excessive cost;
- (2) the reason for the excessive cost;
- (3) any opportunity the state agency had to lessen the excessive cost or to purchase the services from another vendor after the excessive cost was disclosed; and
- (4) any other information the Legislative Budget Board determines relevant.

(c) The Legislative Budget Board may assess an enforcement mechanism against a state agency that the board determines has failed to provide notice as required by this section. The enforcement mechanism must be assessed in accordance with the schedule

developed under Subsection (d).

(d) The Legislative Budget Board may establish a schedule of enforcement mechanisms that may be assessed against a state agency for a violation described by Subsection (c). The enforcement mechanisms may include:

(1) enhanced monitoring of the state agency's contracts by board personnel;

(2) required consultation with the Contract Advisory Team established under Section 2262.101 or the quality assurance team established under Section 2054.158 before issuance of a contract by the state agency;

(3) targeted audits by the state auditor's office at the request of the board; and

(4) recommended cancellation of a contract to purchase services for which the actual cost of the services is determined to exceed the amount contracted for the services by \$1 million or more.

(e) The Legislative Budget Board's director may recommend to the board an enforcement mechanism to be assessed against a state agency for a violation described by Subsection (c). The board may increase the severity of an enforcement mechanism assessed against a state agency for repeated violations.

(f) The Legislative Budget Board may dismiss an enforcement mechanism assessed against a state agency by the board for a violation described by Subsection (c) on successful implementation of corrective action approved by the board.

SECTION 2. The changes in law made by this Act apply only to a contract entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.