

By: Hall

S.B. No. 75

A BILL TO BE ENTITLED

AN ACT

relating to forensic audits of certain school district projects.

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

SECTION 1. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.0085 to read as follows:

Sec. 44.0085. FORENSIC AUDIT OF CERTAIN PROJECTS REQUIRED.

(a) In this section, "capital project" means the construction, acquisition, and equipment of a public school building that are financed by the issuance of bonds under Section 45.001(a)(1)(A).

(b) The board of trustees of a school district shall contract with an independent auditing firm to perform one or more forensic audits of each capital project in the district in accordance with this section.

(c) A forensic audit under this section must be performed:

(1) every three years if the capital project extends more than three years following the execution date of the project contract; and

(2) at the completion of the project or termination of the project contract.

(d) If multiple forensic audits are required under Subsection (c), a subsequent audit is not required to cover a period for which a previous audit was performed under this section.

(e) A forensic audit under this section must include for the audit period the following information:

1 (1) any performance metric or measurement tool used by
2 the school district to evaluate the performance of the capital
3 project;

4 (2) the district's quality assessment plan or other
5 assessment tool to measure risk;

6 (3) the district's method for monitoring of
7 deliverables, milestones, and delivery schedules under the
8 contract, including specifying whether enhanced monitoring is used
9 by the district;

10 (4) a project change order or amendment to the
11 contract;

12 (5) a decrease or increase in the quantity of work to
13 be performed or of materials, equipment, or supplies to be
14 furnished under the contract;

15 (6) a decrease or increase in the contract price of
16 more than 25 percent;

17 (7) project invoices and payments;

18 (8) contractor reports made or required, including
19 progress and financial reports;

20 (9) district reports made or required, including site
21 monitoring reports;

22 (10) the length of time between each district
23 monitoring activity;

24 (11) any assignment by the contractor of the
25 contractor's rights or duties under the contract;

26 (12) any buyout or sale of the entity with which the
27 district contracted for the project;

1 (13) any dispute resolved, including the dispute
2 resolution process used;

3 (14) any corrective action plan implemented;

4 (15) any contractor nonperformance, including any
5 contract remedy used for contractor nonperformance;

6 (16) any liquidated damages assessed or collected
7 under the contract;

8 (17) whether all or part of the contract was
9 terminated by mutual agreement, convenience, or cause;

10 (18) any internal audit of the project by the
11 district;

12 (19) a determination of compliance with:

13 (A) any financial provision under the contract;

14 and

15 (B) applicable laws, rules, and district
16 policies; and

17 (20) any identified fraud or malfeasance.

18 (f) A forensic audit under this section must be conducted in
19 accordance with generally accepted auditing standards as
20 prescribed by:

21 (1) the American Institute of Certified Public
22 Accountants;

23 (2) the Governmental Accounting Standards Board;

24 (3) the United States Government Accountability
25 Office; or

26 (4) any other professionally recognized entity that
27 prescribes auditing standards.

1 (g) A school district shall cooperate with an auditor
2 conducting a forensic audit under this section and provide
3 assistance to the auditor and access to all information necessary
4 to conduct the audit, including any confidential information.

5 (h) A contract under Subsection (b) shall require each
6 forensic audit to be filed with the school district not later than
7 the 90th day after the date the applicable audit period ends. The
8 district shall make each audit available as soon as practicable for
9 public inspection:

10 (1) on the district's Internet website; and
11 (2) at the district's central administrative building
12 during regular business hours.

13 (i) A school district shall pay for a forensic audit under
14 this section using the proceeds from the bonds issued for the
15 capital project.

16 SECTION 2. Section 44.0085, Education Code, as added by
17 this Act, applies only to a project subject to that section that is
18 financed by bonds issued on or after the effective date of this Act.

19 SECTION 3. This Act takes effect September 1, 2019.