

BILL ANALYSIS

Senate Research Center
88R7188 KBB-F

S.B. 987
By: Kolkhorst
Finance
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2005, the 79th Legislature passed a law requiring the Comptroller's office, on a biennial basis, to contract for the audit and recovery of certain state agency overpayments.

The Patient Protection and Affordable Care Act (PPACA) enacted in 2011 contained a provision requiring states to establish a recovery audit contractor (RAC) program for Medicaid providers, which eliminated these providers from consideration in the statewide recovery audit program. This drastically decreased the number of payments subject to the audit and made it difficult for the Comptroller to attract vendors to carry out the program. In 2019, the 86th Legislature passed S.B. 1571 which decreased the total amount of biennial expenditures that made an agency subject to a recovery audit. The bill also provided the Comptroller with the authority to determine when to enter these engagements, rather than requiring the Comptroller to contract with a vendor every two years to carry out a recovery audit.

Although the changes from the 86th Legislature were helpful, the PPACA provision also effectively reduced the statewide vendor recovery audit to a single phase with one report by the consultant. Conforming changes are needed in Section 2115.005 of the Government Code, which sets out reporting requirements related to the statewide recovery audit program, to align the current statewide recovery audit program with statute.

Section 2115.005(a) and (b), Government Code, currently requires the Comptroller to forward the consultant's reports to leadership within 15 days of receipt. These same reports are incorporated into a summary report that the Comptroller must submit to leadership per Section 2115.005(c), resulting in unnecessary reporting redundancies.

Section 2115.005(c), Government Code, currently requires the Comptroller to issue a report to leadership even if no auditing activity has occurred, which is not an effective use of staff resources and produces a report that is of little use to leadership.

S.B. 987 will eliminate the requirement to forward the consultant's reports to the oversight agencies. Instead, the Comptroller's office will summarize all audit activity in one comprehensive report sent to leadership by February 1 of each year following the year a recovery audit is completed.

The legislation was brought to Senator Kolkhorst by the Comptroller of Public Accounts. We do not anticipate any opposition.

As proposed, S.B. 987 amends current law relating to reporting requirements regarding recovery audits of payments made to vendors by state agencies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2115.005, Government Code, as follows:

Sec. 2115.005. New heading: BIENNIAL REPORT. (a) Requires the Comptroller of Public Accounts of the State of Texas (comptroller), subject to Subsection (b), not later than February 1 of each odd-numbered year, to issue to the legislature, governor, Office of the State Auditor (SAO), and Legislative Budget Board (LBB) a report summarizing the activities conducted by a consultant pursuant to a recovery audit under Chapter 2115 (Recovery of Certain State Agency Overpayments) during the preceding state fiscal biennium, rather than during the state fiscal biennium ending August 31 of the previous year. Deletes existing text requiring the comptroller to provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002 (Contract Consultants for Recovery Audits for Certain Overpayments) to the governor, SAO, and LBB. Makes nonsubstantive changes.

(b) Provides that the comptroller is required to issue a report under Subsection (a) only if a recovery audit was completed under this chapter during the preceding state fiscal biennium. Deletes existing text requiring the comptroller to provide the copies required by Subsection (a) not later than the 15th day after the date the comptroller receives the consultant's report.

SECTION 2. Effective date: September 1, 2023.