

SUBJECT: Contracting for out-of-state tax audits and tax collection database

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 6 ayes — Craddick, Ramsay, Heflin, Horn, Stiles, Williamson
0 nays
5 absent — Grusendorf, Holzheuser, Oliveira, Telford, Thompson

SENATE VOTE: On final passage, March 26 — 31-0

WITNESSES: (*On House companion, HB 720*)
For — None
Against — None
On — Mike Reissig, Comptroller of Public Accounts

BACKGROUND : The Comptroller of Public Accounts identifies and collects state taxes from taxpayers residing or doing business outside the state of Texas. The comptroller maintains field offices in some other states for audit and enforcement functions.

DIGEST: CSHB 461 would allow the comptroller to contract with an appropriate vendor to develop and implement an advanced database system for tax collection and with appropriate persons to perform audits in states not covered by a field office. Initial contracts would terminate by August 31, 1999, but could be extended.

Compensation would be figured as a percentage of the tax revenue collected as a result of the system or the audits, minus administrative and judicial appeal costs. Contracts could include a maximum level of compensation; for audits, the maximum would be 12 percent. The vendor and the auditor would not exercise any of the sovereign power of the state, except as an agent of the state in the execution of the contract.

The comptroller would make payments through warrants issued or electronic transfer, and account for the compensation as a subtraction from tax collections and not as a general expense of the comptroller.

The comptroller would award both contracts through a competitive bidding process according to the Government Code and rules adopted by the General Services Commission. The comptroller would report to the Legislative Budget Board (LBB) before awarding a contract if it received three or fewer bids for the project.

The comptroller could enter into additional contracts with vendors and auditors at the same rate and under the same terms as the contract awarded through competitive bidding. Semiannually, the comptroller would report to the LBB the amount of revenue collected and the amount of compensation paid.

The comptroller could provide vendors and auditors with any confidential information necessary to the project that was not prohibited from disclosure under an agreement with another state or the federal government. A person receiving the information would be subject to the same rules and the same sanctions for improper disclosure as an employee of the comptroller.

The revenue generated by the tax audits would be appropriated to the comptroller for the fiscal biennium ending August 31, 1999. The comptroller could use the revenue to pay contract expenses and direct administrative costs associated with the contracts. If the available revenue exceeded those expenses and costs, the comptroller would transfer the excess to the general revenue fund or any dedicated or special funds to which the amount belonged.

**SUPPORTERS
SAY:**

CSSB 461 would allow greater use of audit technology and enforcement to enhance collection of state revenue and decrease the incidence of fraud. The provisions of CSSB 461 are based on recommendations from the December 1996 Texas Performance Review report, *Disturbing the Peace*.

Auditing is an essential function of the Comptroller's Office, ensuring compliance with state tax laws to maximize revenue collection. The comptroller's audit division produced \$361.4 million in audit assessments

during fiscal 1996, and the enforcement division collected \$486 in delinquent payments. The audit and enforcement divisions currently maintain offices in New York, Los Angeles, Chicago, and Tulsa, but the need for audit services in other states is growing fast. Some states may not have enough activity to warrant their own audit offices, however, so cost efficiency dictates that the comptroller contract with outside individuals or firms to conduct these out-of-state audits. This would allow Texas to collect any tax revenue it was owed without the additional overhead of establishing new out-of-state field offices.

As the state's economy becomes more diversified and complex, the need for the latest audit techniques and expanded coverage will become more pressing. This bill also would provide Texas with improved information for tax compliance strategies, giving the comptroller an important advantage in detecting entities that are not complying with state tax laws. For example, a company may appear in a Texas phone book, in trade association data, and in the files of a state licensing agency, but not in the comptroller's sales tax file. Comparing the tax file with other data sources would make it easier to locate the firm and determine whether it owed sales tax.

The competitive bidding provisions of CSSB 461 would ensure that contracts were awarded according to the highest standards of fiscal responsibility and that state interests were not compromised or misrepresented in any way. State agencies often contract with qualified individuals or firms, and this bill would simply extend this practice to the comptroller's audit and systems development duties.

The bill would provide for the cost efficiencies of contracting out appropriate services while ensuring that the state received the most for its money. The LBB estimates that the bill would result in a gain of over \$40 million to state general revenue for fiscal 1998-99.

OPPONENTS
SAY:

No apparent opposition.

NOTES: The committee substitute would require competitive bidding for awarding contracts, limit compensation for auditors to 12 percent of taxes collected, and provide for privacy of confidential taxpayer information.