

- SUBJECT:** Audits of state agency expenditures, overpayments and lost discounts
- COMMITTEE:** Government Reform — favorable, without amendment
- VOTE:** 7 ayes — Uresti, Otto, Davis, Frost, Gonzales, Hunter, Veasey
0 nays
- WITNESSES:** For — None
Against — None
On — (*Registered, but did not testify:* Hayden Childs, Legislative Budget Board)
- BACKGROUND:** Government Code, Title 10, subtitle C, regulates state accounting and fiscal management and productivity.

Recovery auditing is the practice of reviewing information on expenditures for overpayments, lost discounts, and noncompliance with contracts over a specified period of time. Recovery audit firms look for erroneous invoices, discounts offered but not received, improper late penalties, incorrect shipping costs, goods and services not received, and multiple payments for single invoices.
- DIGEST:** HB 2801 would add ch. 2115 to the Government Code directing the Comptroller of Public Accounts to contract with one or more consultants to conduct recovery audits of payments made by the state to vendors and to recommend improved state agency accounting operations. Agencies with total expenditures exceeding \$100 million in a biennium would be subject to the recovery audits. The bill would outline what the contracts could provide for or authorize, including authorizing a consultant to pursue judicial action to recover an overpaid amount. It would direct agencies to pay contractors from the money recovered. Any federal money recovered would have to be returned to the federal government. Agencies would have to provide all the information necessary to conduct the audit. The comptroller could exempt some agencies by rule and could adopt necessary rules to begin contracting with a consultant.

The recovery audit consultant would be subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with audits. Anyone who disclosed confidential information would be subject to the same sanctions and penalties as the comptroller or state agency.

The comptroller would provide the consultant's reports to the governor, the State Auditor's Office and the Legislative Budget Board and would have seven days from receipt of the report in which to submit it. By January 1 of each odd-numbered year, the comptroller would issue to the Legislature a summary of all the consultant's reports received during the fiscal biennium ending August 31 of the previous year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 2801 would implement a recommendation in the LBB's Staff Performance Report, State Government Efficiency and Operations submitted to the 79th Legislature. According to the LBB, the bill would have a positive impact of \$9,600,000 in general revenue related funds through fiscal 2006-07.

The federal government and other states have benefited from wide scale recovery audits, but Texas has not required state entities to use recovery auditing on a wide scale. In fiscal 2004-05, 45 state entities had expenditures exceeding \$100 million and spent more than \$19 billion annually on goods and services from vendors. Recovery audits typically recover 0.1 percent of total expenditures in private industry and between 0.03 and 0.05 percent in the public sector. It is estimated that Texas loses up to \$9 million annually because of overpayments, lost discounts, and noncompliance with contracts. The bill would target areas known to have potential for problems because of the amount of money expended by some agencies.

The comptroller is the appropriate entity to oversee recovery audits. Recovery audits are a very specific sub-set of audits and similar to audits the comptroller routinely performs. Although the State Auditor's Office does not usually perform this type of audit, the bill would not prevent the State Auditor from auditing vendor payments, if appropriate, as it routinely oversees contract management.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The companion bill, SB 1569 by Williams, passed the Senate on the Local and Uncontested Calendar on April 28 and has been referred to the House Government Reform Committee.

The House version of SB 1, the proposed general appropriations bill for fiscal 2006-07 includes a rider in Article 9, sec. 8.03 for the comptroller to deposit half of the recovered funds in the state treasury. The other half would be appropriated to the agency to pay the recovery auditor. The agency could keep the remainder as a new appropriation with the same purpose as the original appropriation.