HOUSE
RESEARCH
ORGANIZATION bill digest 4/26/2013

HB 2439
Parker

SUBJECT: Establishing qualitative review of major contracts by the state auditor.

COMMITTEE: Government Efficiency and Reform — favorable, without amendment

VOTE: 7 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Taylor, Scott Turner, Vo

0 nays

WITNESSES: For — John Colyandro, Texas Conservative Coalition; (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Leslie Wolfe, Maximus Inc.)

Against — None

On — Lynn Magee, State Auditor's Office; (*Registered, but did not testify*: Adam Jones, Weaver, LLP)

BACKGROUND: Government Code, ch. 321 requires the State Auditor's Office to devise an audit plan for the state each year and recommend the plan to the legislative audit committee. In devising the audit plan, the state auditor is required to perform risk assessments. This is a qualitative and quantitative process of identifying potential risks to the state in the various programs and contracts of state agencies.

DIGEST: HB 2439 would require the state auditor to review at least three major contracts per year as part of the annual audit. The bill would add Government Code, sec. 321.0139 to specify that a state agency contract valued at $1 million or more and providing services to residents of the state would qualify as a major contract. The three or more major contracts reviewed would be identified based on the state auditor's risk assessment. The review of these contracts would be limited to an analysis of the efficiency and effectiveness of each in providing services.

The bill would take effect September 1, 2013, and would apply only to audit plans devised on or after that date.

SUPPORTERS SAY: HB 2439 would include in the annual state audit process qualitative measures focusing on how well contract services were delivered to

Texans. Under current practices, the success of a procurement project is measured based on the ability of the participant in the project to follow all state procurement rules under the erroneous assumption that if all rules and processes are followed, this will ensure that citizens receive the best value. In reality, the success of a procurement project is more dependent on the skills and abilities of employees working on the particular contract and how effectively and efficiently the constituents are served at the end of the contract.

HB 2439 would help to refocus the state and contract professionals on achieving best value with these major contracts by requiring the State Auditor's Office to analyze the efficiency and effectiveness of three or more major contracts per year. By requiring that only three contracts be reviewed annually, the bill would serve as a reasonable first step in the process of placing a greater emphasis on the productivity of a procurement project. This, in turn, would lead to better delivery of necessary public services by state contractors.

In the end, HB 2439 would save taxpayers enough money to more than offset the cost found in the fiscal note. While the Legislative Budget Board (LBB) can estimate how much it would cost to conduct the qualitative review of contracts, data are not yet available to calculate savings stemming from gains in efficiency and effectiveness resulting from the bill. As an example of the amount of money involved in state contracting, the LBB reported that the state had more than 4,500 open contracts worth $1 million dollars or more at the close of fiscal 2010.

OPPONENTS SAY:

The bill would not represent much of a departure from current practice. The State Auditor's Office often audits state contracts in the process of reviewing state agencies each year.

According to the fiscal note, performing the contract reviews required by HB 2439 would cost about $2.4 million in fiscal 2014-15. While the aim of the bill would be commendable, there is no guarantee this investment would prevent enough waste in the state contracting process to recoup these costs or result in actual savings over time.

NOTES:

According to the fiscal note, conducting the contract reviews required by HB 2439 would result in a negative impact of about $2.4 million in fiscal 2014-15 due to costs associated with additional staff — including salaries, travel, and benefits — and other operating expenses.