

BILL ANALYSIS

Senate Research Center
84R5409 MTB-D

S.B. 705
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many of our gravest contracting failures happen after the document has been agreed to and signed. The State Auditor's Office identified several contracts worth hundreds of millions of dollars with significant deficiencies in contract management and oversight. In addition, the executive commissioner of the Health and Human Services Commission and the commissioner of education, respectively, said that they "had no idea" the contracting issues had occurred, or that actions were taken by rogue actors within their state agencies.

The bill requires any agency with a contract that has increased in cost by more than 20 percent to submit the contract to the Comptroller's Contract Advisory Team for a full review. If the team finds that the increase in cost is warranted (for example, the legislature increased the scope of the contract midway through the contract), the advisory team does nothing. If the advisory team feels that the increase in cost is a result of malfeasance or identifies contracting deficiencies, then the Contract Advisory Team notifies the commissioner of the agency overseeing the contract, the Texas Legislature, and the Legislature Budget Board that the contract may require additional scrutiny by state leaders.

The goal is to identify potential problems, notify the appropriate persons, and remove the discretion individual offices currently have when deciding whether they want to submit their contracts for review.

As proposed, S.B. 705 amends current law relating to the review of and notifications regarding certain state contracts.

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. Reenacts Section 2262.101, Government Code, as amended by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

Sec. 262.101. CREATION; DUTIES. (a) Provides that the Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1)-(4) Makes no change to these subdivisions;

(5) Makes a nonsubstantive change;

(6) Redesignates Subdivision (4) as Subdivision (6) and makes a nonsubstantive change;

(7) and (8) Makes nonsubstantive changes to these subdivisions; and

(9) after being notified by a state agency of a contract of the agency for which a change order, contract amendment, contract renewal or extension, or other action results in a change to the monetary value of the contract by more than 20 percent, reviewing the change order, contract amendment, contract renewal or extension, or other action, as applicable, to determine whether the action is justified considering the circumstances; and if the team determines the action is not justified, forwarding the contract to the comptroller for notification under Subsection (g).

(b) Requires that the risk assessment created and performed under Subsection (a)(8) include the following criteria, rather than requiring that the risk assessment created and performed reviewed under Subsection (a)(6) include, but is not limited to, the following criteria;

(1) and (2) Makes no change to these subdivisions;

(3) Deletes a reference to citizens.

(c) Requires the comptroller to oversee the activities of the team, including ensuring that the team carries out its duties under Subsections (a)(5) and (a)(7). Makes a nonsubstantive change.

(d)-(f) Makes no change to these subsections.

(g) Requires the comptroller of public accounts of the State of Texas (comptroller) to, for each contract of a state agency forwarded under Subsection (a)(9), notify:

(1) the governing body of the agency or the single state officer who governs the agency;

(2) the Legislative Budget Board; and

(3) each member of the senate and house of representatives.

SECTION 2. Provides that Section 2262.101, Government Code, as amended by this Act, applies only to a change order, contract amendment, contract renewal or extension, or other action made on or after the effective date of this Act.

SECTION 3. Provides that to the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. Effective date: September 1, 2015.