

By: Shaheen

H.B. No. 1943

A BILL TO BE ENTITLED

AN ACT

relating to the review and oversight of state agency contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 322, Government Code, is amended by adding Sections 322.021, 322.0211, and 322.0212 to read as follows:

Sec. 322.021. STATE AGENCY CONTRACT OVERSIGHT. (a) In this section:

(1) "Board" means the Legislative Budget Board.

(2) "State agency" has the meaning assigned by Section 2054.003.

(b) The board may review state agency contracts to determine compliance with the contract management guide developed under Section 2054.554, the comptroller's procurement policy manuals, and each applicable state contracting law, rule, policy, and procedure. The authority to review a state agency contract under this subsection applies regardless of the source of funds or method of financing for the contract and includes a contract funded only with nonappropriated funds.

(c) Board staff may request, and are entitled to obtain, any document related to a contract reviewed under this section or to a purchase under the contract.

(d) Each state agency shall cooperate with the board in conducting a contract review under this section and in resolving any issue resulting from the contract review.

1       Sec. 322.0211. NOTICE OF VIOLATION OF STATE CONTRACTING  
2 LAW; CORRECTIVE ACTION PLAN. (a) If the Legislative Budget Board  
3 determines under Section 322.021 that a state agency contract  
4 violates the contract management guide, the comptroller's  
5 procurement policy manuals, or a state contracting law, rule,  
6 policy, or procedure, the board's director may provide to the board  
7 and the state agency, comptroller, and governor written notice of  
8 the violation. A notice provided under this section must:

9               (1) detail the specific provision violated by the  
10 contract;

11               (2) recommend actions to be taken to address the  
12 violation and any identified risks related to the contract;

13               (3) list potential remedies for the violation; and

14               (4) state any enforcement mechanism that may be  
15 assessed under Section 322.0212 for the violation.

16       (b) A state agency that receives notice of a violation under  
17 Subsection (a) shall develop a written corrective action plan  
18 consistent with the board's recommendations and provide the plan to  
19 the board not later than the 30th calendar day after the date the  
20 agency receives the notice.

21       (c) The board may monitor a state agency's implementation of  
22 the corrective action plan.

23       Sec. 322.0212. ENFORCEMENT. (a) The Legislative Budget  
24 Board may assess an enforcement mechanism against a state agency  
25 that the board determines under Section 322.021 is in violation of  
26 the contract management guide, the comptroller's procurement  
27 policy manuals, or a state contracting law, rule, policy, or

1 procedure. The enforcement mechanism must be assessed in  
2 accordance with the schedule developed under Subsection (b).

3 (b) The board may establish a schedule of enforcement  
4 mechanisms that may be assessed against a state agency for a  
5 violation described by Subsection (a). The enforcement mechanisms  
6 may include:

7 (1) enhanced monitoring of the state agency's  
8 contracts by board personnel;

9 (2) required consultation with the Contract Advisory  
10 Team established under Section 2262.101 or the quality assurance  
11 team established under Section 2054.158 before issuance of a  
12 contract by the state agency;

13 (3) targeted audits by the State Auditor's Office at  
14 the request of the board; and

15 (4) recommended cancellation of a contract determined  
16 to contain a violation described by Section 322.0211(a).

17 (c) The board's director may recommend to the board an  
18 enforcement mechanism to be assessed against a state agency for a  
19 contract violation.

20 (d) The board may increase the severity of an enforcement  
21 mechanism assessed against a state agency for repeated contract  
22 violations described by Section 322.0211(a).

23 (e) The board may dismiss an enforcement mechanism assessed  
24 against a state agency by the board for a contract violation  
25 described by Section 322.0211(a) on successful implementation of a  
26 corrective action plan by the agency under Section 322.0211(b).

27 SECTION 2. Section 2262.101, Government Code, is amended by

adding Subsection (g) to read as follows:

(g) The team shall provide to the Legislative Budget Board a copy of:

(1) each recommendation made under Subsection (a)(1) on a solicitation or contract document not later than the 10th calendar day after the date the team makes the recommendation; and

(2) any written explanation submitted by a state agency under Subsection (d)(2) stating the reason a recommendation is not applicable to the contract under review not later than the 10th calendar day after the date the team receives the explanation.

SECTION 3. This Act takes effect September 1, 2017.