

BILL ANALYSIS

C.S.H.B. 3014
By: Parker
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the "pay for success" approach to privatizing the delivery of public services is a useful and innovative tool. The parties assert that such public-private partnership agreements are gaining popularity because the compensation component typically is structured in a way that the private-sector vendor receives a large portion, or in some cases all, of the agreed-to compensation only on successful delivery of the outsourced service in compliance with previously determined benchmarks. Additionally, the parties contend that this type of partnership protects taxpayers and governmental entities from being required to pay for delivered outsourced services that do not measure up to the expected quality. C.S.H.B. 3014 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3014 amends the Government Code to establish the success contract payments trust fund as a trust fund outside the state treasury from which the comptroller of public accounts, as the fund's trustee, is authorized to make success contract payments due in accordance with the contract terms without the necessity of an appropriation for such payment. The bill establishes that the trust fund consists of appropriations to the trust fund and any interest or other earnings attributable to the trust fund and prohibits the trust fund's balance from exceeding \$50 million at any time. The bill requires the comptroller to hold money credited to the trust fund for use only for payments due in accordance with success contract terms and expenses incurred in administering either the trust fund or the success contracts for which the trust fund is established. The bill authorizes the comptroller to establish one or more accounts in the trust fund to administer money for a particular success contract for which money has been credited to the trust fund.

C.S.H.B. 3014 authorizes a state agency and the comptroller to enter jointly into a success contract with any person and requires the terms to condition a majority of the contract payment on the contractor meeting or exceeding specified performance measures toward the outcome of the contract's objectives and to include both a defined objective procedure by which an independent evaluator is to determine whether the specified performance measures have been met or exceeded and a schedule of the amounts and timing of payments to be earned by the contractor during each year or other specified contract period that indicates the payment amounts

conditioned on meeting or exceeding the specified performance measures.

C.S.H.B. 3014 prohibits the comptroller and a state agency from finally executing a proposed success contract unless the comptroller and the Legislative Budget Board certify that the proposed contract is expected to result in significant performance improvements and significant budgetary savings for the state agency or agencies party to the contract if the performance targets are achieved and the legislature has appropriated for deposit to the credit of the trust fund, contingent on the execution of the contract, an amount of money necessary to administer the contract and make all payments that may become due under the contract.

C.S.H.B. 3014 requires the comptroller to make the contract payments for the success contracts only from the trust fund and only in accordance with the success contract terms. The bill requires the comptroller to deposit to the credit of the trust fund any money the comptroller recovers from a contractor for overpayment or for a penalty or other amount recoverable under the terms of a success contract and to hold the money in the trust fund in the same manner as the money held for success contract payments. The bill requires the comptroller, to the extent that any money credited to the trust fund for a particular success contract remains unpaid at the time the contract expires or is terminated, to return the unpaid amount to the state treasury fund or account from which the money was appropriated as soon after the contract expiration as is practicable.

C.S.H.B. 3014 requires the comptroller to provide to each legislature, not later than the first day of the regular legislative session, a report that provides details about the success in achieving the specified performance measures of each success contract entered into that has not expired or been terminated or that expired or was terminated since the date of the preceding report and provides details about proposed success contracts that have not been executed at the time of the report.

C.S.H.B. 3014 authorizes the comptroller to adopt rules as necessary to administer the success contract payments trust fund or success contracts entered into under the bill's provisions, including joint rules adopted with other agencies that may be party to success contracts.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3014 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.