

**SUBJECT:** Raising TxDOT contract amount for offers to second-lowest bidder

**COMMITTEE:** Transportation —favorable, without amendment

**VOTE:** 6 ayes — Krusee, Callegari, Casteel, Deshotel, Flores, Hamric  
0 nays  
3 absent — Phillips, Hill, West

**SENATE VOTE:** On final passage, March 31 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** None

**BACKGROUND:** SB 555 by Ogden, enacted by the 76th Legislature in 1999, authorizes the Texas Transportation Commission (TTC) to give a district engineer in a local area the authority to accept or reject bids and award highway contracts that are valued at less than \$300,000 to the lowest bidder.

The bill also permits district engineers to award maintenance contracts to the second-lowest bidder in the event the lowest bidder withdraws from a contract. A maintenance contract can be awarded to the second-lowest bidder if that bidder agrees to accept the price initially offered to the lowest bidder. Maintenance contracts eligible for transfer to the second-lowest bidder must be for amounts less than \$100,000.

**DIGEST:** SB 573 would allow district engineers to award maintenance contracts to the second-lowest bidder at the price offered to the lowest bidder for contracts under \$300,000, rather than \$100,000 as under current law.

The bill would take effect on September 1, 2005, and would only apply to bids for contracts solicited on or after the effective date.

**SUPPORTERS SAY:** SB 573 would increase efficiency and save TxDOT resources. Current law allows district engineers to award highway maintenance contracts to the lowest bidder for contracts that are worth up to \$300,000. Given this authority, engineers also be able to award such contracts to the second-lowest bidder in the event the lowest bidder withdrew from the contract. In

cases when the engineer does not have the authority to transfer the award, TxDOT can lose time and money. Maintenance contracts can be extremely time sensitive because often they include tasks such as mowing grass or picking up litter. When a district director is not allowed immediately to award a maintenance contract to the second-lowest bidder, grass grows taller and litter becomes more pervasive, increasing the cost of a contract over time. SB 573 would save TxDOT resources by increasing the number of maintenance contracts that quickly and efficiently could be transferred to the second-lowest bidder.

**OPPONENTS  
SAY:**

Maintenance contracts that are valued at more than \$100,000 are not simply dropped when the lowest bidder withdraws — TTC then assumes the authority of awarding the contract to the appropriate bidder. The commission has more accountability to the public than district directors in its use of state money and should retain the responsibility of awarding contracts that cost more than \$100,000 to a party other than the lowest bidder.