

BILL ANALYSIS

Senate Research Center

C.S.S.B. 514
By: Ogden
State Affairs
3/26/1999
Committee Report (Substituted)

DIGEST

Currently, the Texas Department of Transportation (TxDOT) may establish an electronic bidding system which eliminates the need for contractors to manually deliver their bids. Electronic bidding is expected to reduce errors in the bids, thereby reducing the number of disqualified bids, and increasing the choices TxDOT is able to consider.

The required submission of an actual bid guaranty check before the bid deadline is a hindrance to the successful initiation of an electronic bidding system. TxDOT needs statutory authorization to allow the submission of the accompanying bid guaranty in an electronic format. This bill would create rules and provisions for the deposit and investment of bid guaranties for a state highway improvement contract.

PURPOSE

As proposed, C.S.S.B. 514 sets forth requirements for the Texas Transportation Commission and the Texas Department of Transportation regarding the deposit and investment of bid guaranties.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Transportation Commission in SECTION 1 (Section 223.014(a), Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 223A, Transportation Code, by adding Sections 223.014 and 223.015, as follows:

Sec. 223.014. **BID GUARANTY.** Requires the Texas Transportation Commission (TTC), by rule, to provide a method by which a bidder submits a bid guaranty. Authorizes the rules to authorize the utilization of various financial transfer options. Authorizes the Texas Department of Transportation (TxDOT) to require certain payments for the use of a credit card. Authorizes TxDOT to establish multiple escrow accounts in the state highway fund for prepayment of bid guaranties. Requires the bid guaranties and fees related to this subsection to be administered in accordance with a TxDOT-approved agreement. Requires TxDOT to deposit administrative fees to the credit of the state highway fund, and limits the purposes for which the state highway fund fees may be appropriated.

Sec. 223.015. **DEPOSIT AND INVESTMENT OF BID GUARANTY.** Authorizes TxDOT to authorize the use of a trust account to provide a required bid guaranty. Requires the guaranty to be deposited in accordance with a trust agreement with a Texas institution. Requires TxDOT to prescribe a trust agreement that protects Texas' interests. Requires interest from the trust agreement to be paid to the bidder. Provides that the financial institution is responsible for guaranty amounts until released by the trust agreement. Requires payment responsibilities of the bidder. Prohibits the expenses from being included in the bid or from being the state's responsibility. Sets forth requirements and provisions under which the financial institution makes certain investments. Requires the trust agreement to specify the method for the financial institution to provide required information.

SECTION 2. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Sections 223.014(a) and (b), Transportation Code, to require TTC, by rule, to provide a certain method, rather than authorize TTC to adopt rules. Provides that the rules may authorize the use of the bidder's retainage escrow account. Authorizes state highway fund monies to be appropriated for TTC administration of this subsection.

Amends Sections 223.015(b)-(h), Transportation Code, to make nonsubstantive and conforming changes.