

BILL ANALYSIS

Senate Research Center

H.B. 987
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Cities, counties, school districts, and a variety of other governmental entities throughout Texas are each responsible for purchasing items and services. Multiple statutes govern each type of purchasing entity and the various types of procurement procedures that can be used. Under current law, cities have a limit of \$50,000 for procurement through the sealed bid method.

This bill brings other governmental entities up to the same \$50,000 level to standardize requirements and to account for the devaluation of local dollars. The bill also allows governmental entities to designate one person to be in charge of change orders for work within an original contract that costs less than \$50,000.

H.B. 987 amends current law relating to competitive procurement and change order requirements for local governments.

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. Amends Section 44.031(a), Education Code, to require all school district contracts, except contracts for the purpose of produce or vehicle fuel, valued at \$50,000, rather than \$25,000, or more in the aggregate for each 12-month period to be made by a certain method that provides the best value for the district.

SECTION 2. Amends Subchapter B, Chapter 44, Education Code, by adding Section 44.0313, as follows:

Sec. 44.0313. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS. (a) Authorizes a school district to receive bids or proposals under this chapter through electronic transmission if the board of trustees of the school district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Provides that an electronic bid or proposal, notwithstanding any other provision of this chapter, is not required to be sealed. Provides that a provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

SECTION 3. Amends Section 252.048, Local Government Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Authorizes the governing body, if a change order involves a decrease or an increase of \$50,000 or less and is for work within the original bid, to grant general authority to an administrative official of the municipality to approve the change orders. Makes a conforming change.

(e) Prohibits compensation for a contract awarded on a unit price basis from exceeding the actual quantity of items supplied or services provided.

SECTION 4. Amends Section 262.003(a), Local Government Code, to provide that any law that requires a county to follow a competitive procurement, rather than bidding, procedure in making a purchase requiring the expenditure of \$50,000 or less does not apply to the purchase of an item available for purchase from only one supplier. Makes a conforming change.

SECTION 5. Amends Section 262.023(a), Local Government Code, to make a conforming change.

SECTION 6. Amends Section 262.0245, Local Government Code, as follows:

Sec. 262.0245. New heading: COMPETITIVE PROCUREMENT PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS. Requires a county purchasing agent to adopt procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement, rather than requires a county purchasing agent to adopt procedures that provide for competitive bidding, to the extent practicable under the circumstances, for the county purchase of an item under a contract that is not subject to competitive procurement bidding under Section 262.023 (Competitive Requirements for Certain Purchases).

SECTION 7. Amends Section 262.025(d), Local Government Code, as follows:

(d) Authorizes a county and any district or authority, rather than in a county with a population of 3.3 million or more, created under Article XVI, Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), of the Texas Constitution of which the governing body is the commissioners court to require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

SECTION 8. Amends Section 271.024, Local Government Code, as follows:

Sec. 271.024. New heading: COMPETITIVE PROCUREMENT PROCEDURE APPLICABLE TO CONTRACT. Makes a conforming change.

SECTION 9. Amends Section 271.054, Local Government Code, as follows:

Sec. 271.054. New heading: COMPETITIVE PROCUREMENT REQUIREMENT. Makes conforming changes.

SECTION 10. Amends Section 271.060, Local Government Code, by adding Subsection (c), to authorize a governing body to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that is within the scope of the original contract and involves \$50,000 or less.

SECTION 11. Amends Section 271.9051(b), Local Government Code, to authorize the municipality, in purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, to enter into a contract for an expenditure of less than \$100,000 with the lowest bidder; or the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

SECTION 12. Amends Section 281.046, Local Government Code, by adding Subsection (f), to authorize the board of directors of a civic center authority to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that is within the scope of the original contract and involves \$50,000 or less.

SECTION 13. Amends the heading to Section 281.047, Local Government Code, to read as follows:

Sec. 281.047. CONTRACTS OVER \$50,000.

SECTION 14. Amends Section 281.047(a), Local Government Code, to provide that this section applies to a contract that is for materials for, or construction of, facilities and that is for an amount greater than \$50,000, rather than \$10,000.

SECTION 15. Amends Section 325.040, Local Government Code, to authorize the board of directors of the sports facility district to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that is within the scope of the original contract and involves \$50,000 or less.

SECTION 16. Amends Sections 351.137(b) and (c), Local Government Code, as follows:

(b) Authorizes construction contracts requiring an expenditure of more than \$50,000, rather than \$15,000, to be made only after competitive bidding as provided by Subchapter B (Competitive Bidding on Certain Public Works Contracts), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments).

(c) Authorizes the board of directors of the jail district to grant authority to an official or employee responsible for purchasing or administering a contract to approve a change order that is within the scope of the original contract and involves \$50,000 or less.

SECTION 17. Amends Section 375.221, Local Government Code, as follows:

Sec. 375.221. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Requires the first publication of notice be not later than the 14th, rather than the 15th, day before the date set for receiving bids. Makes a conforming change.

(b) Requires that competitive sealed proposals, rather than bids, if a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is for an estimated amount of more than \$50,000, rather than more than \$15,000 but less than \$25,000, or for a duration of more than two years, be asked from at least three persons.

(c) Authorizes the board of directors of a management district created by special law to by resolution elect to contract, in accordance with the resolution, for services for the construction of improvements or for the purchase of equipment, materials, machinery, supplies, and components of plants, works, facilities, or improvements of the district, notwithstanding a conflicting provision in the district's special law.

SECTION 18. Amends Section 1433.025(a), Government Code, to authorize that a contract for construction or purchase under this chapter involving the expenditure of more than \$50,000, rather than \$2,000, be made only after advertising in the manner provided by Chapter 252 (Purchasing and Contracting Authority of Municipalities), Local Government Code, or Subchapter C (Competitive Bidding in General), Chapter 262 (Purchasing and Contracting Authority of Counties), Local Government Code, as applicable.

SECTION 19. Amends Section 54.054(a), Transportation Code, to authorize the board of trustees of a governing body, except as otherwise provided by this chapter, to award a contract involving the expenditure of funds by a municipality under Section 252.021(a) (relating to

requiring an expenditure of more than \$50,000 from one or more municipal funds), Local Government Code, rather than more than \$25,000, only by competitive bidding.

SECTION 20. Repealer: Sections 44.031(k) (relating to certain exceptions not applying to mainframe data-processing equipment and peripheral attachments) and 44.033 (Purchases of Personal Property Valued Between \$10,000 and \$25,000), Education Code.

SECTION 21. Effective date: upon passage or September 1, 2009.