

## **BILL ANALYSIS**

Senate Research Center  
81R32723 E

C.S.H.B. 987  
By: Creighton (West)  
Intergovernmental Relations  
5/11/2009  
Committee Report (Substituted)

### **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.

C.S.H.B. 987 amends current law relating to competitive procurement 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 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 4. Amends Section 262.023(a), Local Government Code, to make a conforming change.

SECTION 5. 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 6. 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 7. Amends Section 271.054, Local Government Code, as follows:

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

SECTION 8. Amends Section 271.153(a), Local Government Code, to provide that the total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to certain amounts, including reasonable and necessary attorney's fees that are equitable and just. Makes a nonsubstantive change.

SECTION 9. 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 10. Amends the heading to Section 281.047, Local Government Code, to read as follows:

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

SECTION 11. 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 12. Amends Sections 351.137(b), Local Government Code, to authorize that construction contracts requiring an expenditure of more than \$50,000, rather than \$15,000, 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).

SECTION 13. 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.

SECTION 14. 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 15. Repealer: Sections 44.033 (Purchases of Personal Property Valued Between \$10,000 and \$25,000), Education Code.

SECTION 16. Repealer: Section 271.159 (No Recovery of Attorney's Fees), Local Government Code.

SECTION 17. Makes application of this Act prospective.

SECTION 18. Effective date: upon passage or September 1, 2009.