

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1294  
By: Davis  
Transportation  
4/3/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Transportation (TxDOT) has a long history of outsourcing a wide variety of services and functions to the private sector, namely, construction, maintenance, and highway improvement services.

C.S.S.B. 1294 amends Subchapter B (Contract Provision), Chapter 223 (Bids and Contracts for Highway Projects), Transportation Code, by adding Section 223.050. This new section requires TxDOT to give preference to a private sector provider if that preference serves to create a positive economic impact on job growth and job retention in this state. Taxes paid to the state by Texans should be in-kind funneled back into the local economy to benefit in-state businesses rather than other states' businesses or foreign entities.

This bill only applies to contracts relating to transportation projects for which the entire funding comes from state funds, local funds, or a combination of state and local funds. In efforts to avoid any concerns raised by the Interstate Commerce Clause in the United States Constitution, the private sector provider must also meet certain conditions regarding price for the contract.

C.S.S.B. 1294 amends current law relating to the awarding of contracts by the Texas Department of Transportation to private sector providers.

### **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 Subchapter B, Chapter 223, Transportation Code, by adding Section 223.050, as follows:

Sec. 223.050. PREFERENCE FOR CERTAIN PROVIDERS. (a) Requires the Texas Department of Transportation (TxDOT), in awarding a contract to a private sector provider, to give preference to a private sector provider if the preference serves to create a positive economic impact on job growth and job retention in this state; the transportation project for which the contract is being awarded is funded entirely from state funds, local funds, or a combination of state and local funds; and in procuring the contract, the amount of the bid or proposal of the provider does not exceed the amount equal to 105 percent of the lowest bid or proposal received by TxDOT for the procurement.

(b) Authorizes TxDOT, in determining whether the preference under Subsection (a) serves to create a positive economic impact on job growth and job retention in this state, to consider a private sector provider's employment presence and business establishments in this state.

(c) Provides that this section does not apply to the procurement of professional services under Subchapter A (Professional Services), Chapter 2254, Government Code.

SECTION 2. Effective date: upon passage September 1, 2013.