

BILL ANALYSIS

Senate Research Center
83R8578 MCK-D

C.S.S.B. 176
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Open Government
2/26/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows state agencies to contract with outside consultants to benefit from expertise that agencies may not possess. These contractors may submit their work in the form of reports, and these reports may be copyrighted or otherwise have limitations on their distribution. Such limitations unreasonably impede the public's access to information.

The comptroller of public accounts maintains a statewide Contract Management Guide. Appendix 9 of the guide recommends the inclusion of "work made for hire" provisions in contracts to specify that work performed pursuant to a contract becomes the exclusive property of the agency, but there is no requirement in current law that this or similar provisions be included in a contract. If a work is made for hire, the employer or other person for whom the work was prepared is the initial owner of the copyright unless both parties involved have signed a written agreement to the contrary.

C.S.S.B. 176 requires an agency or the legislature to include a provision in consulting services contracts allowing the agency or the legislature, at the contracting agency's discretion, to distribute the report and post the report on the Internet.

C.S.S.B. 176 amends current law relating to the distribution of certain consultants' reports.

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 2254, Government Code, by adding Section 2254.041, as follows:

Sec. 2254.041. DISTRIBUTION OF CONSULTANT REPORTS. (a) Requires that a consulting services contract include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature.

(b) Provides that this section does not affect the application of Chapter 552 (Public Information) to a consultant's report.

SECTION 2. Makes application of Section 2254.041, Government Code, prospective.

SECTION 3. Effective date: upon passage or September 1, 2013.