

BILL ANALYSIS

C.S.H.B. 1330
By: Chisum
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It is this state's policy to ensure that a person's right to a prompt and efficient resolution of a contract claim, including a fair and impartial hearing of that claim, is not infringed upon. To protect that right, it is in the public interest and is the purpose of this chapter to require a dispute resolution system for construction claims. State and federal policy favors utilization of prompt and efficient alternative dispute resolution procedures as a method to reduce construction and claims costs. The benefits of prompt and efficient alternative dispute resolution procedures include quicker and less expensive resolution of disputes than is generally available by litigation. Such procedures have been shown to promote more competitive pricing and increased participation in the procurement process by small and disadvantaged business enterprises.

Currently, many agencies do not have effective construction dispute avoidance or resolution programs in place, leaving only a cumbersome and slow administrative remedy which ultimately cannot provide a resolution for many disputes.

CSHB 1330 requires the Texas Building and Procure Commission (TBPC) to develop programs to avoid and resolve construction contract disputes. Although the types of programs are left to the Commission and its rule making process, it is envisioned that the Commission would incorporate such processes as partnering, standing neutrals, ombudsmen, and dispute review boards as dispute avoidance programs, and mediation, facilitation, arbitration, or fast track construction-specific administrative procedures for disputes that do arise.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 1 of this bill.

ANALYSIS

Directs the Texas Building and Procurement Commission (TBPC) to develop and implement a program for use by contractors and state agencies to resolve building construction contract disputes. The bill permits TBPC to contract with a dispute resolution center or organization, an institution of higher education, or a construction dispute professional to design, implement and administer the program. State agencies will be required to include a provision in a construction project contract that will require the program to be used under certain circumstances to resolve a dispute arising under the contract.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 1330 amends the definition of "contractor."

Adds state policy concerning alternative dispute resolution procedures (ADR) and elaborates on the application of the subchapter.

CSHB 1330 clarifies the language concerning construction with other law.

C.S.H.B. 1330 79(R)

CSHB 1330 adds a statement of public policy favoring the use of ADR.

CSHB 1330 adds further details concerning the requirements of the ADR program.

The bill as filed required the commission to use an outside entity to design and implement the program; CSHB 1330 makes this permissive so that the commission can design and implement internally if it desires.

CSHB 1330 requires for all building construction contracts entered into by state agencies to include a program requiring the use of the ADR program as added by this bill, if elected.

CSHB 1330 describes the circumstances under which the ADR program as added by this bill can be elected.

CSHB 1330, like HB 1330, creates an alternate process for resolving contract claims. CSHB 1330 amends Chapter 2260 to allow for either the process in Chapter 2260 or CSHB 1330.

CSHB 1330 requires the commission to develop and implement the program by March 1, 2006.

CSHB 1330 states that the act is applicable only to contracts entered into after March 1, 2006.