

## **BILL ANALYSIS**

C.S.H.B. 2525  
By: Callegari  
Government Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, cities, counties, school districts, universities and other agencies have several alternatives to traditional low-bid delivery of certain construction projects. These alternatives include construction manager-agent, competitive sealed proposals for construction services (or negotiated contracting), construction manager-at risk, design build, and job order contracting. Similar procedures apply to different entities but the language scattered across multiple state codes – Chapter 44, Education Code for public schools; Chapter 51, Education Code, for universities, Chapter 271, Local Government Code, for cities, counties and river authorities; and Chapter 2166, Government Code, for the state Building and Procurement Commission. In addition, under current law, the authorization to use alternative project delivery is limited to vertical, or architectural, construction – e.g., buildings.

C.S.H.B. 2525 consolidates alternate project delivery processes into a single chapter of the Government Code; expands the types of entities that may use these procedures to include hospital districts, transit authorities, and others; expands the use of certain delivery methods to all types of projects including water, wastewater, transportation, utilities and other improvements to real property; and makes cleanup and consistency changes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to governmental entities, as defined by the bill, in SECTION 2.

### **ANALYSIS**

C.S.H.B. 2525 Specifies that the Texas Building and Procurement Commission may use any method of contracting, as provided by relevant sections of the Government Code, for design and construction services. The bill creates a new Government Code chapter providing a comprehensive procurement statute for construction projects of governmental entities. C.S.H.B. 2525 clarifies which section of the Government code will govern procurement of construction contracts for school districts, and clarifies that engineering services are professional services. The bill also clarifies the applicability of the bill's newly created chapter in the Government Code to other sections of the Government Code or other codes, and makes conforming changes to codes as necessary. C.S.H.B. 2525 makes provisions for injunctive relief for violations of the relevant section of the Government Code. The bill contains repealers for existing code provisions. C.S.H.B. 2525 also clarifies that changes made apply only to contracts or projects advertised after the effective date, and that contracts or projects advertised prior to effective date will continue under the current law.

### **EFFECTIVE DATE**

September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by providing that architects or engineers must prepare construction documents for projects that are competitively bid, by providing that a construction manager-agent will be selected at the same time or after the selection of an architect or engineer, and by making statutory consistency changes.

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The substitute also modifies the original by providing certain exemptions from the newly created Chapter 2264, Government Code.

C.S.H.B. 2525 makes the following changes:

- (1) Removes the provision mandating that governmental entities publish the relative weights;
- (2) Removes the provision relating to recycled products;
- (3) Clarifies that the 45-day time clock starts after final proposals and that a construction manager-at-risk must advertise prior to self-performing in a construction manager-at-risk selection process;
- (4) Modifies definition and responsibilities of a construction manager-agent;
- (5) Removes requirement that lowest bidder not recommended under sealed competitive bidding be allowed an opportunity to show responsibility and requirement that prices be read aloud prior to ranking for competitive sealed proposals;
- (6) Substitutes construction contractor for qualified bidder;
- (7) Substitutes estimated project completion date for schedule; and
- (8) Substitutes interested person for interested party.