

BILL ANALYSIS

C.S.H.B. 1033
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Districts providing water-related and water quality related projects and services must follow certain procedures specified by statute prior to awarding contracts for construction, repair or renovation of district facilities or for the purchase of equipment, materials, machinery and other items constituting the plant, works or facilities of the district. These procedures include minimum bidding requirements and bid bond amounts that are based on the price of the contract. Under current law, for projects of \$25,000 or more, a district must publish notice once per week for three consecutive weeks. For projects of \$15,000 or more, but less than \$25,000, a district must solicit competitive bids.

The competitive bid requirements can raise project costs and cause delays in project implementation. The competitive bid thresholds have remained unchanged since at least 1987 for most water districts. During the intervening years, project costs have increased in price dramatically without any corresponding adjustments to the competitive bid thresholds.

In addition, some districts created by special law operate under competitive bid requirements established at the time those districts were created, requiring an act of the Texas Legislature to update the competitive bid thresholds.

C.S.H.B. 1033 revises the threshold contract amounts triggering competitive bid requirements to levels appropriate for current projects and purchases by districts. Additionally, C.S.H.B. 1033 allows a district created by special law that is limited to competitive bid requirements established in the district's enabling legislation to award contracts under the competitive bid thresholds established in general law through an appropriate resolution of the district's board.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 49.271(c), Water Code, by changing the contract amount from \$25,000 to \$50,000, for construction contracts that the district shall require a person who bids to submit a certified or cashier's check on a responsible bank in the state equal to at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid issued by a surety legally authorized to do business in this state, as a good faith deposit to ensure execution of the contract.

SECTION 2. Amends Section 49.273, Water Code, by amending Subsections (d), (e), and (f) and adding new Subsection (m), as follows:

Amends Subsection (d), to change the requirement that a district advertise for competitive bids from contracts for \$25,000 or more to contracts over \$50,000 and requires that notice be published once a week for two, rather than three, consecutive weeks.

Amends Subsection (e), to change the requirement that a district solicit competitive bids from contracts for \$15,000 or more but less than \$25,000, to contracts over \$25,000 but not more than \$50,000.

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Amends Subsection (f), to change the provision allowing districts to award contracts without soliciting or advertising for competitive bids from contracts of less than \$15,000, to contracts of not more than \$25,000.

Adds new subsection (m), to authorize in accordance with this section, the board of a district created by special law may elect to contract for the construction and repair and renovation of district facilities and for the purchase of equipment, materials, machinery, and all things that constitute or will constitute the plant, works, facilities, or improvements of the district, notwithstanding a conflicting provision in the district's special law. For such a district, an election under this subsection must be by resolution of the board and applies only to a contract entered into on or after the effective date of the resolution.

SECTION 3. Provides that the changes in law enacted by this Act will apply only to those contracts entered into on or after the effective date of the Act and continues previous law in effect for those contracts executed prior to the effective date of the Act.

SECTION 4. Provides an effective date of September 1, 2007.

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

In Section 2 of C.S.H.B. 1033, Subsection (d), Section 49.273 Water Code, is amended to require that notice be published once a week for two, rather than three, consecutive weeks.