

BILL ANALYSIS

Senate Research Center
80R8748 ESH-F

H.B. 2411
By: Strama (Ogden)
Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When the legislature modified the basic purchasing statutes for school districts, the "best value procurement" for contracts of \$25,000 or more was introduced. This granted districts the ability to use competitive bidding, competitive sealed proposals, request for proposals, catalogue purchase procedures, inter-local contracts, or design-build contracts. However, banking depositories were omitted from that modification, so districts can only use the competitive bidding process for selecting banking services.

H.B. 2411 provides school districts with the option of utilizing a request for proposal process for selecting a bank depository, thereby allowing districts to select a procurement method tailored to obtain the best value when acquiring depository services. This would allow a school district to consider the factors that would have the most favorable impact on the district and potentially allow the district to save money.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 45.204, Education Code, as follows:

Sec. 45.204. CONFLICT OF INTEREST. (a) Provides that a bank is not disqualified from submitting a proposal to a school district (district), if the bank is selected by a majority vote of the district's board of trustees (board) or a majority vote of a quorum when only a quorum is present, if a member of the board is a stockholder, officer, director, or employee of the bank. Makes nonsubstantive changes.

(b) Makes conforming changes.

SECTION 2. Amends Section 45.205(b), Education Code, as follows:

(b) Authorizes a district and the district's depository bank to agree to extend a depository contract for two, rather than one, additional two-year terms. Makes a conforming change.

SECTION 3. Amends Section 45.206 and 45.207, Education Code, as follows:

Sec. 45.206. New heading: BID OR REQUEST FOR PROPOSAL NOTICES; BID AND PROPOSAL FORMS. (a) Requires the district, not later than the 60th day before the date a school district's current depository contract expires, to choose whether to select a depository through competitive bidding or through requests for proposals.

(a-1) Requires a district that chooses under Subsection (a) to use competitive bidding, not later than the 30th day before the date, rather than at least 30 days before the termination of, the current depository contract expires, to take certain actions. Makes a nonsubstantive change.

(a-2) Requires a district that chooses under Subsection (a) to use requests for proposals, not later than the 30th day before the date the current depository contract expires, to take certain actions.

(b) Makes a conforming change.

(c) Makes conforming changes.

(d) Requires the district, if it chooses under Subsection (a) to use requests for proposals, to state the selection criteria, including the factors specified under Section 45.207(c), in the request for proposals and to select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. Authorizes a district to negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed.

Sec. 45.207. AWARD OF CONTRACT. (a) Requires a district to award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, as determined under Subsection (c), except that the district is authorized to award the contract as provided by Subsection (a-1) if the district receives tying bids for the contract; or after evaluating the proposals for the contract, ranks two or more proposals equally; each bank submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by law by the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation; and the tying bids or proposals are otherwise equal in the judgment and discretion of the board of the district.

(a-1) Authorizes the board, in the case of tying bids or proposals, to award the depository contract by determining by lot which of the banks submitting the tying bids or proposals will receive the contract; or awarding a contract to each of the banks submitting the tying bids or proposals. Deletes existing text relating to authorizing the board to award the depository contract if tie bids received for a school depository contract are of a certain kind.

(b) Makes conforming changes.

(c) Requires the board at a regular or special meeting to consider in accordance with this subsection each bid or proposal received, rather than this section. Deletes existing text relating to all bids received. Requires the board to consider certain information, in determining the highest and best bid or the highest-ranked proposal, or in case of tying, rather than tie, bids or proposals the highest and best tying bids or proposals. Makes a conforming change.

(d) Makes conforming changes.

SECTION 4. Amends Section 45.208(a), Education Code, to make nonsubstantive and conforming changes.

SECTION 5. Amends Section 45.209, Education Code, to make nonsubstantive and conforming changes.

SECTION 6. Effective date: upon passage or September 1, 2007.