

By: Watson

S.B. No. 1765

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a municipality to enter into contracts without competitive bidding; making conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 252.021, Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$50,000 [~~\$25,000~~] from one or more municipal funds, the municipality must:

(1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Subchapter H, Chapter 271.

SECTION 2. Section 252.0215, Local Government Code, is amended to read as follows:

Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an expenditure of more than \$3,000 but less than \$50,000 [~~\$25,000~~], shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the Texas Building and Procurement [~~General Services~~] Commission pursuant to

1 Chapter 2161, Government Code. If the list fails to identify a
2 historically underutilized business in the county in which the
3 municipality is situated, the municipality is exempt from this
4 section.

5 SECTION 3. Subsection (a), Section 252.022, Local
6 Government Code, is amended to read as follows:

7 (a) This chapter does not apply to an expenditure for:

8 (1) a procurement made because of a public calamity
9 that requires the immediate appropriation of money to relieve the
10 necessity of the municipality's residents or to preserve the
11 property of the municipality;

12 (2) a procurement necessary to preserve or protect the
13 public health or safety of the municipality's residents;

14 (3) a procurement necessary because of unforeseen
15 damage to public machinery, equipment, or other property;

16 (4) a procurement for personal, professional, or
17 planning services;

18 (5) a procurement for work that is performed and paid
19 for by the day as the work progresses;

20 (6) a purchase of land or a right-of-way;

21 (7) a procurement of items that are available from
22 only one source, including:

23 (A) items that are available from only one source
24 because of patents, copyrights, secret processes, or natural
25 monopolies;

26 (B) films, manuscripts, or books;

27 (C) gas, water, and other utility services;

1 (D) captive replacement parts or components for
2 equipment;

3 (E) books, papers, and other library materials
4 for a public library that are available only from the persons
5 holding exclusive distribution rights to the materials; and

6 (F) management services provided by a nonprofit
7 organization to a municipal museum, park, zoo, or other facility to
8 which the organization has provided significant financial or other
9 benefits;

10 (8) a purchase of rare books, papers, and other
11 library materials for a public library;

12 (9) paving drainage, street widening, and other public
13 improvements, or related matters, if at least one-third of the cost
14 is to be paid by or through special assessments levied on property
15 that will benefit from the improvements;

16 (10) a public improvement project, already in
17 progress, authorized by the voters of the municipality, for which
18 there is a deficiency of funds for completing the project in
19 accordance with the plans and purposes authorized by the voters;

20 (11) a payment under a contract by which a developer
21 participates in the construction of a public improvement as
22 provided by Subchapter C, Chapter 212;

23 (12) personal property sold:

24 (A) at an auction by a state licensed auctioneer;

25 (B) at a going out of business sale held in
26 compliance with Subchapter F, Chapter 17, Business & Commerce Code;

27 (C) by a political subdivision of this state, a

1 state agency of this state, or an entity of the federal government;
2 or

3 (D) under an interlocal contract for cooperative
4 purchasing administered by a regional planning commission
5 established under Chapter 391;

6 (13) services performed by blind or severely disabled
7 persons;

8 (14) goods purchased by a municipality for subsequent
9 retail sale by the municipality; ~~or~~

10 (15) electricity; or

11 (16) advertising, other than legal notices.

12 SECTION 4. The change in law made by this Act to Subsection
13 (a), Section 252.021, Local Government Code, applies only to a
14 contract entered into on or after the effective date of this Act,
15 and the change in law made by this Act to Section 252.0215, Local
16 Government Code, applies only to an expenditure made on or after the
17 effective date of this Act. A contract entered into or expenditure
18 made before the effective date of this Act is governed by the law in
19 effect when the contract was entered into or the expenditure was
20 made, and the former law is continued in effect for that purpose.

21 SECTION 5. This Act takes effect September 1, 2007.