

1-1 By: Watson S.B. No. 1765
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 April 11, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1765 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of a municipality to enter into contracts
1-11 without competitive bidding; making conforming changes.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 252.021, Local
1-14 Government Code, is amended to read as follows:

1-15 (a) Before a municipality may enter into a contract that
1-16 requires an expenditure of more than \$50,000 [~~\$25,000~~] from one or
1-17 more municipal funds, the municipality must:

1-18 (1) comply with the procedure prescribed by this
1-19 subchapter and Subchapter C for competitive sealed bidding or
1-20 competitive sealed proposals;

1-21 (2) use the reverse auction procedure, as defined by
1-22 Section 2155.062(d), Government Code, for purchasing; or

1-23 (3) comply with a method described by Subchapter H,
1-24 Chapter 271.

1-25 SECTION 2. Section 252.0215, Local Government Code, is
1-26 amended to read as follows:

1-27 Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO
1-28 HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an
1-29 expenditure of more than \$3,000 but less than \$50,000 [~~\$25,000~~],
1-30 shall contact at least two historically underutilized businesses on
1-31 a rotating basis, based on information provided by the Texas
1-32 Building and Procurement [~~General Services~~] Commission pursuant to
1-33 Chapter 2161, Government Code. If the list fails to identify a
1-34 historically underutilized business in the county in which the
1-35 municipality is situated, the municipality is exempt from this
1-36 section.

1-37 SECTION 3. Subsection (a), Section 252.022, Local
1-38 Government Code, is amended to read as follows:

1-39 (a) This chapter does not apply to an expenditure for:

1-40 (1) a procurement made because of a public calamity
1-41 that requires the immediate appropriation of money to relieve the
1-42 necessity of the municipality's residents or to preserve the
1-43 property of the municipality;

1-44 (2) a procurement necessary to preserve or protect the
1-45 public health or safety of the municipality's residents;

1-46 (3) a procurement necessary because of unforeseen
1-47 damage to public machinery, equipment, or other property;

1-48 (4) a procurement for personal, professional, or
1-49 planning services;

1-50 (5) a procurement for work that is performed and paid
1-51 for by the day as the work progresses;

1-52 (6) a purchase of land or a right-of-way;

1-53 (7) a procurement of items that are available from
1-54 only one source, including:

1-55 (A) items that are available from only one source
1-56 because of patents, copyrights, secret processes, or natural
1-57 monopolies;

1-58 (B) films, manuscripts, or books;

1-59 (C) gas, water, and other utility services;

1-60 (D) captive replacement parts or components for
1-61 equipment;

1-62 (E) books, papers, and other library materials
1-63 for a public library that are available only from the persons

2-1 holding exclusive distribution rights to the materials; and
2-2 (F) management services provided by a nonprofit
2-3 organization to a municipal museum, park, zoo, or other facility to
2-4 which the organization has provided significant financial or other
2-5 benefits;

2-6 (8) a purchase of rare books, papers, and other
2-7 library materials for a public library;

2-8 (9) paving drainage, street widening, and other public
2-9 improvements, or related matters, if at least one-third of the cost
2-10 is to be paid by or through special assessments levied on property
2-11 that will benefit from the improvements;

2-12 (10) a public improvement project, already in
2-13 progress, authorized by the voters of the municipality, for which
2-14 there is a deficiency of funds for completing the project in
2-15 accordance with the plans and purposes authorized by the voters;

2-16 (11) a payment under a contract by which a developer
2-17 participates in the construction of a public improvement as
2-18 provided by Subchapter C, Chapter 212;

2-19 (12) personal property sold:

2-20 (A) at an auction by a state licensed auctioneer;

2-21 (B) at a going out of business sale held in
2-22 compliance with Subchapter F, Chapter 17, Business & Commerce Code;

2-23 (C) by a political subdivision of this state, a
2-24 state agency of this state, or an entity of the federal government;
2-25 or

2-26 (D) under an interlocal contract for cooperative
2-27 purchasing administered by a regional planning commission
2-28 established under Chapter 391;

2-29 (13) services performed by blind or severely disabled
2-30 persons;

2-31 (14) goods purchased by a municipality for subsequent
2-32 retail sale by the municipality; [~~or~~]

2-33 (15) electricity; or

2-34 (16) advertising, other than legal notices.

2-35 SECTION 4. The change in law made by this Act to Subsection
2-36 (a), Section 252.021, Local Government Code, applies only to a
2-37 contract entered into on or after the effective date of this Act,
2-38 and the change in law made by this Act to Section 252.0215, Local
2-39 Government Code, applies only to an expenditure made on or after the
2-40 effective date of this Act. A contract entered into or expenditure
2-41 made before the effective date of this Act is governed by the law in
2-42 effect when the contract was entered into or the expenditure was
2-43 made, and the former law is continued in effect for that purpose.

2-44 SECTION 5. This Act takes effect September 1, 2007.

2-45 * * * * *