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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 15, 2007

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TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1886** by Callegari (Relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend sections of Chapter 271, Local Government Code, to expand the definition of "governmental entity" to include a hospital district; a water district or authority created under Section 59, Article XVI, Texas Constitution; and a conservation and reclamation district for the purposes of purchasing and contracting authority.

The bill would add Subchapter J to Chapter 271, Local Government Code, to authorize a municipality; county; river authority; defense base development authority; certain municipally owned water utilities; or any other special district or authority authorized to enter into certain public works contracts to utilize design-build procedures for certain civil works projects. Authorization under the subchapter would not apply to a water district or authority with a population of less than 50,000.

The bill would apply to different population-sized entities, starting with the largest prior to September 1, 2009, and on or after September 1, 2011, applying to local governmental entities with a population of more than 100,000 in its geographic boundaries or service area. Procedures and other requirements for using this method of procurement are included in the proposed statute. With certain exceptions and under certain conditions, the local government entity would assume all risks and costs associated with scope changes and modifications; unknown or differing site conditions; regulatory permitting, if responsible for those risks and costs by law; and natural disasters and other force majeure events; and costs associated with property acquisition.

The bill would amend the Education Code to require that any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007 for use as a school building to be inspected to ensure compliance with the mandatory building codes or approved designs, plans, and specifications in Chapter 1202, Occupations Code.

The bill would amend the Government Code regarding enforcement of purchasing contracts entered into by a state agency.

The Water Code would be amended to stipulate that Subchapter J, Chapter 271, Local Government Code, would not apply to purchase contracts entered into by Navigation Districts.

Provisions of the bill would apply only to a contract for which a request for proposals or a request for qualification is first published or distributed on or after the effective date of the bill, which would be September 1, 2007.

It is assumed that any additional duties and responsibilities associated with implementing the provisions of the bill that would change the Government Code could be absorbed within existing state resources.

Local Government Impact

Expanding the definition of governmental entities would provide those entities added to the definition more flexibility in methods of purchasing. The fiscal impact would vary based on purchases made.

Based on information from various sized local government entities and the Texas Association of Counties regarding the addition of Subchapter J, no significant fiscal impact is anticipated for those local government entities to whom the provisions of the bill would apply in the first five years after the effective date, and there would be no fiscal impact in that initial five-year period to the entities to whom the provisions would not apply until on or after September 1, 2011.

No significant fiscal impact is anticipated as a result of the proposed changes in the bill to the other codes.

Source Agencies:
LBB Staff: JOB, MN, DB