

SENATE AMENDMENTS

2nd Printing

By: Truitt

H.B. No. 273

A BILL TO BE ENTITLED

AN ACT

relating to certain contracts and purchasing procedures for school districts.

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

SECTION 1. The heading to Section 34.008, Education Code, is amended to read as follows:

Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~OR~~ COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

SECTION 2. Section 34.008(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or school district board of trustees may contract with a mass transit authority, ~~or~~ a commercial transportation company, or a juvenile board for all or any part of a district's public school transportation if the authority, ~~or~~ company, or board:

(1) requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

(2) uses only those school buses or mass transit authority buses in transporting 15 or more public school students that meet or exceed safety standards for school buses established under Section 34.002 [~~Education Code~~].

SECTION 3. Section 44.031(b), Education Code, is amended to read as follows:

1 (b) Except as provided by this subchapter, in determining to
2 whom to award a contract, the district shall [~~may~~] consider:

3 (1) the purchase price;

4 (2) the reputation of the vendor and of the vendor's
5 goods or services;

6 (3) the quality of the vendor's goods or services;

7 (4) the extent to which the goods or services meet the
8 district's needs;

9 (5) the vendor's past relationship with the district;

10 (6) the impact on the ability of the district to comply
11 with laws and rules relating to historically underutilized
12 businesses;

13 (7) the total long-term cost to the district to
14 acquire the vendor's goods or services; and

15 (8) any other relevant factor specifically listed in
16 the request for bids or proposals.

17 SECTION 4. Subchapter B, Chapter 44, Education Code, is
18 amended by adding Section 44.0331 to read as follows:

19 Sec. 44.0331. MANAGEMENT FEES UNDER CERTAIN COOPERATIVE
20 PURCHASING CONTRACTS. (a) A school district that enters into a
21 purchasing contract valued at \$25,000 or more under Section
22 44.031(a)(5), under Subchapter F, Chapter 271, Local Government
23 Code, or under any other cooperative purchasing program authorized
24 for school districts by law shall document any contract-related
25 fee, including any management fee, and the purpose of each fee under
26 the contract.

27 (b) The amount, purpose, and disposition of any fee

1 described by Subsection (a) must be presented in a written report
2 and submitted annually in an open meeting of the board of trustees
3 of the school district. The written report must appear as an agenda
4 item.

5 (c) The commissioner may audit the written report described
6 by Subsection (b).

7 SECTION 5. The change in law made by Section 44.031(b),
8 Education Code, as amended by this Act, and Section 44.0331,
9 Education Code, as added by this Act, applies only to a contract
10 entered into on or after the effective date of this Act. A contract
11 entered into before the effective date of this Act is governed by
12 the law in effect immediately before that date, and that law is
13 continued in effect for that purpose.

14 SECTION 6. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2007.

ADOPTED

MAY 17 2007

Haley Spaw
Secretary of the Senate

By: *Chris Harris*

H.B. No. 273

Substitute the following for H.B. No. 273:

By: *[Signature]*

C.S.H.B. No. 273

A BILL TO BE ENTITLED

AN ACT

relating to certain contracts and purchasing procedures for school districts.

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

SECTION 1. Section 34.007(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system:

(1) in the county or district, as applicable; or

(2) outside the county or district, as applicable, if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code.

SECTION 2. The heading to Section 34.008, Education Code, is amended to read as follows:

Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~[OR]~~ COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

SECTION 3. Section 34.008(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or school district board of trustees may contract with a mass transit authority, ~~[or a]~~ commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, ~~[or]~~ company, or board:

1 (1) requires its school bus drivers to have the
2 qualifications required by and to be certified in accordance with
3 standards established by the Department of Public Safety; and

4 (2) uses only those school buses or mass transit
5 authority buses in transporting 15 or more public school students
6 that meet or exceed safety standards for school buses established
7 under Section 34.002 [~~Education Code~~].

8 SECTION 4. Section 44.031(b), Education Code, is amended to
9 read as follows:

10 (b) Except as provided by this subchapter, in determining to
11 whom to award a contract, the district shall [~~may~~] consider:

12 (1) the purchase price;

13 (2) the reputation of the vendor and of the vendor's
14 goods or services;

15 (3) the quality of the vendor's goods or services;

16 (4) the extent to which the goods or services meet the
17 district's needs;

18 (5) the vendor's past relationship with the district;

19 (6) the impact on the ability of the district to comply
20 with laws and rules relating to historically underutilized
21 businesses;

22 (7) the total long-term cost to the district to
23 acquire the vendor's goods or services; and

24 (8) any other relevant factor specifically listed in
25 the request for bids or proposals.

26 SECTION 5. Subchapter B, Chapter 44, Education Code, is
27 amended by adding Section 44.0331 to read as follows:

1 Sec. 44.0331. MANAGEMENT FEES UNDER CERTAIN COOPERATIVE
2 PURCHASING CONTRACTS. (a) A school district that enters into a
3 purchasing contract valued at \$25,000 or more under Section
4 44.031(a)(5), under Subchapter F, Chapter 271, Local Government
5 Code, or under any other cooperative purchasing program authorized
6 for school districts by law shall document any contract-related
7 fee, including any management fee, and the purpose of each fee under
8 the contract.

9 (b) The amount, purpose, and disposition of any fee
10 described by Subsection (a) must be presented in a written report
11 and submitted annually in an open meeting of the board of trustees
12 of the school district. The written report must appear as an agenda
13 item.

14 (c) The commissioner may audit the written report described
15 by Subsection (b).

16 SECTION 6. The change in law made by Section 44.031(b),
17 Education Code, as amended by this Act, and Section 44.0331,
18 Education Code, as added by this Act, applies only to a contract
19 entered into on or after the effective date of this Act. A contract
20 entered into before the effective date of this Act is governed by
21 the law in effect immediately before that date, and that law is
22 continued in effect for that purpose.

23 SECTION 7. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

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

IN RE: **HB273** by Truitt (relating to certain contracts and purchasing procedures for school districts.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would authorize the commissioner of education to audit school district reports of cooperative contract management fees. It is assumed that such audits would be conducted within the scope of existing agency audit activities.

No net cost implications are anticipated with regard to state aid distributed under the Foundation School Program. Due to changes made by House Bill 1, 79th Legislature, 3rd Called Session, increases in entitlement under the transportation allotment of the Foundation School Program are generally either offset by a decrease in districts' entitlement to hold harmless funds or an increased reduction for excess formula gain to hold districts to a total revenue target. Since the bill does not amend Texas Education Code 42.2516 regarding the calculation of school district entitlements under the Foundation School Program, no net cost to the state is expected due to any increase in entitlement for the transportation allotment that might result under the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

School districts would be required to prepare and publicly present an annual report of the amount and disposition of management fees paid under certain cooperative purchasing contracts. Local administrative costs associated with the preparation and presentation of annual reports are not expected to be significant.

The bill would authorize a school district to establish and operate a school transportation system outside the county or school district under an interlocal contract. The bill would further authorize a school district to contract with a juvenile board for all or part of the school district's school transportation services. To the extent that school districts choose to contract with a juvenile board for certain school transportation services, additional local cost could be incurred.

Source Agencies: 665 Juvenile Probation Commission, 701 Central Education Agency

LBB Staff: JOB, JSp, UP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 1, 2007

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

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

IN RE: HB273 by Truitt (Relating to certain contracts and purchasing procedures for school districts.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would authorize the commissioner of education to audit school district reports of cooperative contract management fees. It is assumed that such audits would be conducted within the scope of existing agency audit activities.

No net cost implications are anticipated with regard to state aid distributed under the Foundation School Program. Due to changes made by House Bill 1, 79th Legislature, 3rd Called Session, increases in entitlement under the transportation allotment of the Foundation School Program are generally either offset by a decrease in districts' entitlement to hold harmless funds or an increased reduction for excess formula gain to hold districts to a total revenue target. Since the bill does not amend Texas Education Code 42.2516 regarding the calculation of school district entitlements under the Foundation School Program, no net cost to the state is expected due to any increase in entitlement for the transportation allotment that might result under the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

School districts would be required to prepare and publicly present an annual report of the amount and disposition of management fees paid under certain cooperative purchasing contracts. Local administrative costs associated with the preparation and presentation of annual reports are not expected to be significant.

The bill would authorize a school district to contract with a juvenile board for all or part of the school district's school transportation services. To the extent that school districts choose to contract with a juvenile board for certain school transportation services, additional local cost could be incurred.

Source Agencies: 665 Juvenile Probation Commission, 701 Central Education Agency

LBB Staff: JOB, JSp, UP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 30, 2007

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

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

IN RE: **HB273** by Truitt (relating to certain purchasing procedures for school districts.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that audits of district contract performance and reports of cooperative contract management fees as provided under the bill would be conducted within the scope of existing agency audit activities.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

School districts would be required to prepare and publicly present an annual report of the amount and disposition of management fees paid under certain cooperative purchasing contracts. Local administrative costs associated with the preparation and presentation of annual reports are not expected to be significant.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 24, 2007

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

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

IN RE: HB273 by Truitt (Relating to certain purchasing procedures for school districts.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB273, As Introduced: a negative impact of (\$188,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	(\$188,000)
2010	(\$188,000)
2011	(\$188,000)
2012	(\$188,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	\$0	0.0
2009	(\$188,000)	1.1
2010	(\$188,000)	1.1
2011	(\$188,000)	1.1
2012	(\$188,000)	1.1

Fiscal Analysis

The bill prescribes additional duties and responsibilities to the State Auditor's Office (SAO) that would be proposed in the SAO's annual audit plan for Legislative Audit Committee Approval.

Section 2 of the bill would limit management fees paid by school districts under certain cooperative purchasing contracts to two percent and would require school districts to prepare an annual report of the amount and disposition of such fees. The bill would provide authority for the State Auditor to audit the management fee reports. The SAO estimates cost to the state for these activities to be \$188,000 annually.

Methodology

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For the purpose of this estimate, it is assumed that the first annual reports of management fees would be available for audit in FY2009. Beginning in FY2009, the State Auditor's Office assumes selection of approximately 20 school districts annually for audit of these reports. Direct time for the auditing reports at selected ISDs would be estimated to total 1,750 hours each year. Total FTEs are estimated on the basis of 1,600 direct hours per year per FTE.

Local Government Impact

School districts would be required to prepare and publicly present an annual report of the amount and disposition of management fees paid under certain cooperative purchasing contracts. Local administrative costs associated with the preparation and presentation of annual reports are not expected to be significant.

Source Agencies: 308 State Auditor's Office, 701 Central Education Agency

LBB Staff: JOB, UP, JSp

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2009

