

SENATE AMENDMENTS

2nd Printing

By: Creighton

H.B. No. 3517

A BILL TO BE ENTITLED

AN ACT

relating to competitive purchasing requirements for local governments.

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

SECTION 1. The heading to Section 252.021, Local Government Code, is amended to read as follows:

Sec. 252.021. COMPETITIVE REQUIREMENTS FOR [CERTAIN] PURCHASES.

SECTION 2. Sections 252.021(b) and (c), Local Government Code, are amended to read as follows:

(b) ~~[Before a municipality with a population of less than 25,000 may enter into a contract for insurance that requires an expenditure of more than \$5,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding.~~

~~[(c)]~~ A municipality may use the competitive sealed proposal procedure for the purchase of goods or services, including high technology items [procurements] and ~~[, in a municipality with a population of 25,000 or more, for the purchase of]~~ insurance.

(c) The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body may delegate, as appropriate, its authority under this subsection to a designated

1 representative. If the competitive sealed proposals requirement
2 applies to the contract, the municipality shall consider the
3 criteria described by Section 252.043(b) and the discussions
4 conducted under Section 252.042 to determine the best value for the
5 municipality.

6 SECTION 3. The heading to Section 262.030, Local Government
7 Code, is amended to read as follows:

8 Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE
9 FOR CERTAIN GOODS AND [~~INSURANCE, HIGH TECHNOLOGY ITEMS, AND~~
10 ~~SPECIAL~~] SERVICES.

11 SECTION 4. Section 262.030(d), Local Government Code, is
12 amended to read as follows:

13 (d) A county in which a purchasing agent has been appointed
14 under Section 262.011 or employed under Section 262.0115 [~~having a~~
15 ~~population of one million or more according to the most recent~~
16 ~~federal census~~] may use the competitive proposal purchasing method
17 authorized by this section for the purchase of insurance or high
18 technology items. In addition, the method may be used to purchase
19 other items when the county official who makes purchases for the
20 county determines, with the consent of the commissioners court,
21 that it is in the best interest of the county to make a request for
22 proposals.

23 SECTION 5. Section 775.084(a), Health and Safety Code, is
24 amended to read as follows:

25 (a) Except as provided by Subsection (i), the board must
26 submit to competitive bids an expenditure of more than \$50,000
27 [~~\$25,000~~] for:

- 1 (1) one item or service; or
2 (2) more than one of the same or a similar type of item
3 or service in a fiscal year.

4 SECTION 6. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

By: Watson

Secretary of the Senate H.B. No. 3517

Substitute the following for H.B. No. 3517:

By: Phil Lee Nick

C.S. H.B. No. 3517

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~~(b) [Before a municipality with a population of less than 25,000 may enter into a contract for insurance that requires an expenditure of more than \$5,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by this chapter for competitive sealed bidding.~~

~~[(c)] A municipality may use the competitive sealed proposal procedure for the purchase of goods or services, including high technology items ~~[procurements]~~ and ~~[, in a municipality with a population of 25,000 or more, for the purchase of]~~ insurance.~~

(c) The governing body of a municipality that is considering using a method other than competitive sealed bidding must determine before notice is given the method of purchase that provides the best value for the municipality. The governing body may delegate, as appropriate, its authority under this subsection to a designated

1 representative. If the competitive sealed proposals requirement
2 applies to the contract, the municipality shall consider the
3 criteria described by Section 252.043(b) and the discussions
4 conducted under Section 252.042 to determine the best value for the
5 municipality.

6 SECTION 3. Section 262.024(a), Local Government Code, is
7 amended to read as follows:

8 (a) A contract for the purchase of any of the following
9 items is exempt from the requirement established by Section 262.023
10 if the commissioners court by order grants the exemption:

11 (1) an item that must be purchased in a case of public
12 calamity if it is necessary to make the purchase promptly to relieve
13 the necessity of the citizens or to preserve the property of the
14 county;

15 (2) an item necessary to preserve or protect the
16 public health or safety of the residents of the county;

17 (3) an item necessary because of unforeseen damage to
18 public property;

19 (4) a personal or professional service;

20 (5) any individual work performed and paid for by the
21 day, as the work progresses, provided that no individual is
22 compensated under this subsection for more than 20 working days in
23 any three month period;

24 (6) any land or right-of-way;

25 (7) an item that can be obtained from only one source,
26 including:

27 (A) items for which competition is precluded

1 because of the existence of patents, copyrights, secret processes,
2 or monopolies;

3 (B) films, manuscripts, or books;

4 (C) electric power, gas, water, and other utility
5 services; and

6 (D) captive replacement parts or components for
7 equipment;

8 (8) an item of food;

9 (9) personal property sold:

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

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

14 (C) by a political subdivision of this state, a
15 state agency of this state, or an entity of the federal government;
16 [~~or~~]

17 (10) any work performed under a contract for community
18 and economic development made by a county under Section 381.004; or

19 (11) vehicle and equipment repairs.

20 SECTION 4. The heading to Section 262.030, Local Government
21 Code, is amended to read as follows:

22 Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE
23 FOR CERTAIN GOODS AND [~~INSURANCE, HIGH TECHNOLOGY ITEMS, AND~~
24 ~~SPECIAL~~] SERVICES.

25 SECTION 5. Section 262.030(d), Local Government Code, is
26 amended to read as follows:

27 (d) A county in which a purchasing agent has been appointed

1 under Section 262.011 or employed under Section 262.0115 [~~having a~~
2 ~~population of one million or more according to the most recent~~
3 ~~federal census~~] may use the competitive proposal purchasing method
4 authorized by this section for the purchase of insurance or high
5 technology items. In addition, the method may be used to purchase
6 other items when the county official who makes purchases for the
7 county determines, with the consent of the commissioners court,
8 that it is in the best interest of the county to make a request for
9 proposals.

10 SECTION 6. Section 271.111(10), Local Government Code, is
11 amended to read as follows:

12 (10) "Governmental entity" means a municipality,
13 county, river authority, conservation and reclamation district
14 created pursuant to Section 59, Article XVI, Texas Constitution,
15 and located in a county with a population of more than 250,000, or
16 defense base development authority established under Chapter 379B
17 [~~378 as added by Chapter 1221, Acts of the 76th Legislature, Regular~~
18 ~~Session, 1999~~].

19 SECTION 7. Sections 271.112(a), (d), and (f), Local
20 Government Code, are amended to read as follows:

21 (a) Any provision in the charter of a home-rule municipality
22 or regulation, if any, of a county, river authority, conservation
23 and reclamation district created pursuant to Section 59, Article
24 XVI, Texas Constitution, and located in a county with a population
25 of more than 250,000, or defense base development authority that
26 requires the use of competitive bidding or competitive sealed
27 proposals or that prescribes procurement procedures and that is in

1 conflict with this subchapter controls over this subchapter unless
2 the governing body of the governmental entity elects to have this
3 subchapter supersede the charter or regulation.

4 (d) For a contract entered into by a municipality, river
5 authority, conservation and reclamation district created pursuant
6 to Section 59, Article XVI, Texas Constitution, and located in a
7 county with a population of more than 250,000, or defense base
8 development authority under any of the methods provided by this
9 subchapter, the municipality, river authority, conservation and
10 reclamation district created pursuant to Section 59, Article XVI,
11 Texas Constitution, and located in a county with a population of
12 more than 250,000, or defense base development authority shall
13 publish notice of the time and place the bids or proposals, or the
14 responses to a request for qualifications, will be received and
15 opened. The notice must be published in a newspaper of general
16 circulation in the county in which the defense base development
17 authority's or municipality's central administrative office is
18 located or the county in which the greatest amount of the river
19 authority's or such conservation and reclamation district's
20 territory is located once each week for at least two weeks before
21 the deadline for receiving bids, proposals, or responses. If there
22 is not a newspaper of general circulation in that county, the notice
23 shall be published in a newspaper of general circulation in the
24 county nearest the county seat of the county in which the defense
25 base development authority's or municipality's central
26 administrative office is located or the county in which the
27 greatest amount of the river authority's or such conservation and

1 reclamation district's territory is located. In a two-step
2 procurement process, the time and place the second step bids,
3 proposals, or responses will be received are not required to be
4 published separately.

5 (f) A contract entered into or an arrangement made in
6 violation of this subchapter is contrary to public policy and is
7 void. A court may enjoin performance of a contract made in
8 violation of this subchapter. A county attorney, a district
9 attorney, a criminal district attorney, a resident of a county that
10 enters into a contract under this subchapter or of a county in which
11 a municipality, ~~[or a]~~ river authority, or conservation and
12 reclamation district created pursuant to Section 59, Article XVI,
13 Texas Constitution, and located in a county with a population of
14 more than 250,000 that enters into a contract under this subchapter
15 is located, or any interested party may bring an action for an
16 injunction. A party who prevails in an action brought under this
17 subsection is entitled to reasonable attorney's fees as approved by
18 the court.

19 SECTION 8. Section 775.084(a), Health and Safety Code, is
20 amended to read as follows:

21 (a) Except as provided by Subsection (i), the board must
22 submit to competitive bids an expenditure of more than \$50,000
23 [~~\$25,000~~] for:

- 24 (1) one item or service; or
25 (2) more than one of the same or a similar type of item
26 or service in a fiscal year.

27 SECTION 9. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

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

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

IN RE: **HB3517** by Creighton (Relating to competitive purchasing requirements for local governments.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to remove restrictions on municipalities of a certain population size regarding the purchase of insurance. In addition, the bill would authorize a municipality to use the competitive sealed proposal procedure for the purchase of goods or services. A municipality would be required to determine the best value for the municipality if it were to consider a method of purchasing other than sealed bid. The bill would also exempt the purchase of a vehicle and equipment repairs from certain purchasing requirements.

The bill would amend the Local Government Code to add a conservation and reclamation district in a county with a population of 250,000 or more to those governmental entities to which the Public Property Finance Act would apply.

The bill would amend the Health and Safety Code to increase from \$25,000 to \$50,000 the minimum expenditure for certain items or services that would require an emergency service district board to submit to competitive bids.

The bill would take effect September 1, 2007.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 10, 2007

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

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

IN RE: **HB3517** by Creighton (Relating to competitive purchasing requirements for local governments.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to remove restrictions on municipalities of a certain population size regarding the purchase of insurance. In addition, the bill would authorize a municipality to use the competitive sealed proposal procedure for the purchase of goods or services. A municipality would be required to determine the best value for the municipality if it were to consider a method of purchasing other than sealed bid.

The bill would amend the Health and Safety Code to increase from \$25,000 to \$50,000 the minimum expenditure for certain items or services that would require an emergency service district board to submit to competitive bids.

The bill would take effect September 1, 2007.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 30, 2007

TO: Honorable Bill Callegari, Chair, House Committee on Government Reform

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

IN RE: **HB3517** by Creighton (Relating to competitive purchasing requirements for local governments.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code to remove restrictions on municipalities of a certain population size regarding the purchase of insurance. In addition, the bill would authorize a municipality to use the competitive sealed proposal procedure for the purchase of goods or services. A municipality would be required to determine the best value for the municipality if it were to consider a method of purchasing other than sealed bid.

The bill would take effect September 1, 2007.

Local Government Impact

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

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