

House Bill 3517
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.~~
[~~e~~] 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 representative. If the competitive sealed proposals requirement applies to the contract, the municipality shall consider the criteria described by Section 252.043(b) and the discussions conducted under Section 252.042 to determine the best value for the

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municipality.

No equivalent provision.

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

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

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

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

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

(4) a personal or professional service;

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

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

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

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

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

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and
(D) captive replacement parts or components for equipment;
(8) an item of food;
(9) personal property sold:
(A) at an auction by a state licensed auctioneer;
(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; [Ø] ~~or~~
(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or
(11) vehicle and equipment repairs.

SECTION 3. The heading to Section 262.030, Local Government Code, is amended to read as follows:
Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND [INSURANCE, HIGH TECHNOLOGY ITEMS, AND SPECIAL] SERVICES.

SECTION 4. Same as House version.

SECTION 4. Section 262.030(d), Local Government Code, is amended to read as follows:
(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 ~~[having a population of one million or~~

SECTION 5. Same as House version.

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~~more according to the most recent federal census]~~ may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.

No equivalent provision.

No equivalent provision.

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SECTION 6. Section 271.111(10), Local Government Code, is amended to read as follows:
(10) "Governmental entity" means a municipality, county, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority established under Chapter 379B ~~[378 as added by Chapter 1221, Acts of the 76th Legislature, Regular Session, 1999].~~

SECTION 7. Sections 271.112(a), (d), and (f), Local Government Code, are amended to read as follows:
(a) Any provision in the charter of a home-rule municipality or regulation, if any, of a county, river authority, conservation and reclamation district created pursuant to Section 59, Article XVI, Texas Constitution, and located in a county with a population of more than 250,000, or defense base development authority that

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requires the use of competitive bidding or competitive sealed proposals or that prescribes procurement procedures and that is in conflict with this subchapter controls over this subchapter unless the governing body of the governmental entity elects to have this subchapter supersede the charter or regulation.

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

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of the county in which the defense base development authority's or municipality's central administrative office is located or the county in which the greatest amount of the river authority's or such conservation and reclamation district's territory is located. In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

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

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

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

SECTION 8. Same as House version.

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

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

SECTION 9. Same as House version.