

BILL ANALYSIS

C.S.H.B. 473
By: Lewis
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The enabling legislation for the Ector County Hospital District authorizes a construction project that costs more than \$25,000 to be entered into only after a competitive bidding process that complies with Subchapter B, Chapter 271, Local Government Code, relating to competitive bidding on certain public works contracts. C.S.H.B. 473 does not change this authority.

Since the enactment of the district's enabling legislation, the legislature amended Subchapter H, Chapter 271, Local Government Code, relating to alternative project delivery methods for certain projects, which applies to "governmental entities." H.B. 1886 and H.B. 3517, Acts of the 80th Legislature, Regular Session, 2007, included and excluded a hospital district from the definition of "governmental entity" in Subchapter H, respectively.

Provisions in the Code Construction Act reconcile such conflicts by employing a "last in time" standard, but these two provisions cannot be reconciled by that standard.

This contradiction creates ambiguity in determining which definition of "governmental entity" in Subchapter H is applicable. Subchapter H supersedes the Ector County Hospital District's enabling legislation, and any contract made in violation of Subchapter H is void as contrary to public policy. If Subchapter H applies to hospital districts, a hospital in the Ector County Hospital District is required to follow state law on alternative project delivery methods for certain projects. If Subchapter H does not apply, a hospital in the Ector County Hospital District is required to follow state law on competitive bidding on certain public works contracts.

C.S.H.B. 473 amends the Ector County Hospital District's enabling legislation to incorporate a reference to Subchapter H in the event that hospital districts are included in the definition of "governmental entity."

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 473 amends the Special District Local Laws Code, as effective April 1, 2009, to authorize the board of directors of the Ector County Hospital District to act as a governmental entity for purposes of using the procurement procedures authorized under provisions relating to alternative project delivery methods in contracting for the construction, rehabilitation, alteration, or repair of certain construction projects.

C.S.H.B. 473 requires notice of the time and place a bid or proposal, or response to a request for qualifications, will be received and opened to be provided by the district in the same manner as provided for a conservation and reclamation district created under the Texas Constitution.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 473 differs from the original by providing for immediate effect contingent on the bill's receiving the necessary two-thirds vote in each house or a September 1, 2009, effective date, whereas the original provides for a September 1, 2009, effective date.