

BILL ANALYSIS

H.B. 1972
By: Hamilton
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Navigation districts in Texas presently are required by general law to follow competitive bidding requirements for purchases or contracts involving a known or reasonably expected expenditure in an amount exceeding \$25,000. The \$25,000 threshold was established by legislation in 1995, when it was increased from \$15,000 to \$25,000. In the years since, operational costs of navigation districts have continued to rise, with the result that the frequency of transactions requiring elaborate competitive bidding procedures has also increased. The “soft costs” associated with the competitive bidding process, including fees for professional service providers such as engineers or architects, public advertisements, and staff time, coupled with the time delays imposed by the process, inappropriately hamper the ability of navigation districts to function in a cost-effective way that meets the competitive challenges of current transportation markets.

For projects in which competitive bidding is required, current law requires that bidders attach to the bid a certified check, cashier’s check, or bidders bond, as security for liquidated damages in the event the bidder is the apparent successful bidder, but fails or refuses to enter into the contract for which the bid is made. In some instances, a navigation district may determine that bid security is not required in order to protect the public interest for the particular project for which bids are sought.

H.B. 1972 increases from \$25,000 to \$100,000 the threshold amount for items under a contract that requires a port commission or port authority to comply with competitive bidding requirements and specifies that the specification required to be included in the notice must require the attachment of a certified check, cashier's check, or bidders bond to a bid if the bid specifications require such an attachment.

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

H.B. 1972 amends the Water Code to increase from \$25,000 to \$100,000 the maximum amount a port commission, an authorized designated officer of the port commission, the executive director of the district or the port authority, or an authorized representative of the executive director is authorized to spend to make routine purchases or contracts. The bill increases from \$25,000 to \$100,000 the amount the executive director of a port commission or an officer of a port commission authorized in writing by the executive director of the port commission is authorized to spend to make emergency purchases or contracts, if necessary. The bill increases from \$25,000 to \$100,000 the threshold amount for items to be purchased or contracted for that requires public notice. The bill specifies that the specifications required to be included in the notice must require the attachment of a certified check, cashier's check, or bidders bond to a bid if the bid specifications require such an attachment. The bill increases from \$25,000 to \$100,000

the threshold amount for items under a contract that requires a port commission or port authority to comply with competitive bidding requirements or proposal procedures provided by law.

EFFECTIVE DATE

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