

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Creighton

H.B. No. 987

A BILL TO BE ENTITLED

1 AN ACT

2 relating to competitive procurement and change order requirements  
3 for local governments.

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

5 SECTION 1. Section 44.031(a), Education Code, is amended to  
6 read as follows:

7 (a) Except as provided by this subchapter, all school  
8 district contracts, except contracts for the purchase of produce or  
9 vehicle fuel, valued at \$50,000 [~~\$25,000~~] or more in the aggregate  
10 for each 12-month period shall be made by the method, of the  
11 following methods, that provides the best value for the district:

- 12 (1) competitive bidding;
- 13 (2) competitive sealed proposals;
- 14 (3) a request for proposals, for services other than  
15 construction services;
- 16 (4) an interlocal contract;
- 17 (5) a design/build contract;
- 18 (6) a contract to construct, rehabilitate, alter, or  
19 repair facilities that involves using a construction manager;
- 20 (7) a job order contract for the minor construction,  
21 repair, rehabilitation, or alteration of a facility;
- 22 (8) the reverse auction procedure as defined by  
23 Section 2155.062(d), Government Code; or
- 24 (9) the formation of a political subdivision

1 corporation under Section 304.001, Local Government Code.

2 SECTION 2. Subchapter B, Chapter 44, Education Code, is  
3 amended by adding Section 44.0313 to read as follows:

4 Sec. 44.0313. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS.

5 (a) A school district may receive bids or proposals under this  
6 chapter through electronic transmission if the board of trustees of  
7 the school district adopts rules to ensure the identification,  
8 security, and confidentiality of electronic bids or proposals and  
9 to ensure that the electronic bids or proposals remain effectively  
10 unopened until the proper time.

11 (b) Notwithstanding any other provision of this chapter, an  
12 electronic bid or proposal is not required to be sealed. A  
13 provision of this chapter that applies to a sealed bid or proposal  
14 applies to a bid or proposal received through electronic  
15 transmission in accordance with the rules adopted under Subsection  
16 (a).

17 SECTION 3. Section 252.048, Local Government Code, is  
18 amended by amending Subsection (c) and adding Subsection (e) to  
19 read as follows:

20 (c) If a change order involves a decrease or an increase of  
21 \$50,000 [~~\$25,000~~ or less and is for work within the original bid,  
22 the governing body may grant general authority to an administrative  
23 official of the municipality to approve the change orders.

24 (e) Compensation for a contract awarded on a unit price  
25 basis may not exceed the actual quantity of items supplied or  
26 services provided.

27 SECTION 4. Section 262.003(a), Local Government Code, is

1 amended to read as follows:

2 (a) Any law that requires a county to follow a competitive  
3 procurement [~~bidding~~] procedure in making a purchase requiring the  
4 expenditure of \$50,000 [~~\$25,000~~] or less does not apply to the  
5 purchase of an item available for purchase from only one supplier.

6 SECTION 5. Section 262.023(a), Local Government Code, is  
7 amended to read as follows:

8 (a) Before a county may purchase one or more items under a  
9 contract that will require an expenditure exceeding \$50,000  
10 [~~\$25,000~~], the commissioners court of the county must:

11 (1) comply with the competitive bidding or competitive  
12 proposal procedures prescribed by this subchapter;

13 (2) use the reverse auction procedure, as defined by  
14 Section 2155.062(d), Government Code, for purchasing; or

15 (3) comply with a method described by Subchapter H,  
16 Chapter 271.

17 SECTION 6. Section 262.0245, Local Government Code, is  
18 amended to read as follows:

19 Sec. 262.0245. COMPETITIVE PROCUREMENT [~~BIDDING~~]  
20 PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS. A county  
21 purchasing agent shall adopt procedures that provide for  
22 competitive procurement [~~bidding~~], to the extent practicable under  
23 the circumstances, for the county purchase of an item [~~under a~~  
24 ~~contract~~] that is not subject to competitive procurement [~~bidding~~  
25 ~~under Section 262.023~~].

26 SECTION 7. Section 262.025(d), Local Government Code, is  
27 amended to read as follows:

1 (d) A [~~In a county with a population of 3.3 million or more,~~  
2 ~~the~~] county and any district or authority created under Article  
3 XVI, Section 59, of the Texas Constitution of which the governing  
4 body is the commissioners court may require that a minimum of 25  
5 percent of the work be performed by the bidder and, notwithstanding  
6 any other law to the contrary, may establish financial criteria for  
7 the surety companies that provide payment and performance bonds.

8 SECTION 8. Section 271.024, Local Government Code, is  
9 amended to read as follows:

10 Sec. 271.024. COMPETITIVE PROCUREMENT [~~BIDDING~~] PROCEDURE  
11 APPLICABLE TO CONTRACT. If a governmental entity is required by  
12 statute to award a contract for the construction, repair, or  
13 renovation of a structure, road, highway, or other improvement or  
14 addition to real property on the basis of competitive bids, and if  
15 the contract requires the expenditure of more than \$50,000  
16 [~~\$25,000~~] from the funds of the entity, the bidding on the contract  
17 must be accomplished in the manner provided by this subchapter.

18 SECTION 9. Section 271.054, Local Government Code, is  
19 amended to read as follows:

20 Sec. 271.054. COMPETITIVE PROCUREMENT [~~BIDDING~~]  
21 REQUIREMENT. Before the governing body of an issuer may enter into  
22 a contract requiring an expenditure by or imposing an obligation or  
23 liability on the issuer, or on a subdivision of the issuer if the  
24 issuer is a county, of more than \$50,000 [~~\$25,000~~], the governing  
25 body must submit the proposed contract to competitive procurement  
26 [~~bidding~~].

27 SECTION 10. Section 271.060, Local Government Code, is

1 amended by adding Subsection (c) to read as follows:

2 (c) A governing body may grant authority to an official or  
3 employee responsible for purchasing or administering a contract to  
4 approve a change order that is within the scope of the original  
5 contract and involves \$50,000 or less.

6 SECTION 11. Section 271.9051(b), Local Government Code, is  
7 amended to read as follows:

8 (b) In purchasing under this title any real property,  
9 personal property that is not affixed to real property, or  
10 services, if a municipality receives one or more competitive sealed  
11 bids from a bidder whose principal place of business is in the  
12 municipality and whose bid is within five percent of the lowest bid  
13 price received by the municipality from a bidder who is not a  
14 resident of the municipality, the municipality may enter into a  
15 contract for an expenditure of less than \$100,000 with:

16 (1) the lowest bidder; or

17 (2) the bidder whose principal place of business is in  
18 the municipality if the governing body of the municipality  
19 determines, in writing, that the local bidder offers the  
20 municipality the best combination of contract price and additional  
21 economic development opportunities for the municipality created by  
22 the contract award, including the employment of residents of the  
23 municipality and increased tax revenues to the municipality.

24 SECTION 12. Section 281.046, Local Government Code, is  
25 amended by adding Subsection (f) to read as follows:

26 (f) The board may grant authority to an official or employee  
27 responsible for purchasing or administering a contract to approve a

1 change order that is within the scope of the original contract and  
2 involves \$50,000 or less.

3 SECTION 13. The heading to Section 281.047, Local  
4 Government Code, is amended to read as follows:

5 Sec. 281.047. CONTRACTS OVER \$50,000 [~~\$10,000~~].

6 SECTION 14. Section 281.047(a), Local Government Code, is  
7 amended to read as follows:

8 (a) This section applies to a contract that is for materials  
9 for, or construction of, facilities and that is for an amount  
10 greater than \$50,000 [~~\$10,000~~].

11 SECTION 15. Section 325.040, Local Government Code, is  
12 amended to read as follows:

13 Sec. 325.040. CHANGE ORDERS. After a construction contract  
14 is awarded, if the district determines that additional work is  
15 needed or if the character or type of work, facilities, or  
16 improvements should be changed, the board may authorize change  
17 orders to the contract on terms the board approves. A change made  
18 under this section may not increase or decrease the total cost of  
19 the contract by more than 25 percent. The board may grant authority  
20 to an official or employee responsible for purchasing or  
21 administering a contract to approve a change order that is within  
22 the scope of the original contract and involves \$50,000 or less.

23 SECTION 16. Sections 351.137(b) and (c), Local Government  
24 Code, are amended to read as follows:

25 (b) Construction contracts requiring an expenditure of more  
26 than \$50,000 [~~\$15,000~~] may be made only after competitive bidding  
27 as provided by Subchapter B, Chapter 271.

1 (c) After a construction contract is awarded, if the  
2 district determines that additional work is needed or if the  
3 character or type of work, facilities, or improvements should be  
4 changed, the board may authorize change orders to the contract on  
5 terms the board approves. The board may grant authority to an  
6 official or employee responsible for purchasing or administering a  
7 contract to approve a change order that is within the scope of the  
8 original contract and involves \$50,000 or less. A change made under  
9 this subsection may not increase or decrease the total cost of the  
10 contract by more than 25 percent.

11 SECTION 17. Section 375.221, Local Government Code, is  
12 amended to read as follows:

13 Sec. 375.221. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS  
14 CONTRACTS. (a) A contract, other than a contract for services,  
15 for more than \$50,000 [~~\$15,000~~] for the construction of  
16 improvements or the purchase of material, machinery, equipment,  
17 supplies, and other property, except real property, may be entered  
18 into only after competitive bids. Notice of the contract for the  
19 purpose of soliciting bids shall be published once a week for two  
20 consecutive weeks in a newspaper with general circulation in the  
21 area in which the district is located. The first publication of  
22 notice must be not later than the 14th [~~15th~~] day before the date  
23 set for receiving bids. The board may adopt rules governing receipt  
24 of bids and the award of the contract and providing for the waiver  
25 of the competitive bid requirement if:

- 26 (1) there is an emergency;  
27 (2) the needed materials are available from only one

1 source;

2 (3) in a procurement requiring design by the supplier  
3 competitive bidding would not be appropriate and competitive  
4 negotiation, with proposals solicited from an adequate number of  
5 qualified sources, would permit reasonable competition consistent  
6 with the nature and requirements of the procurement; or

7 (4) after solicitation, it is ascertained that there  
8 will be only one bidder.

9 (b) If a proposed contract for works, plant improvements,  
10 facilities other than land, or the purchase of equipment,  
11 appliances, materials, or supplies is for an estimated amount of  
12 more than \$50,000 [~~\$15,000 but less than \$25,000~~] or for a duration  
13 of more than two years, competitive sealed proposals [~~bids~~] shall  
14 be asked from at least three persons.

15 (c) The board of a district created by special law may by  
16 resolution elect to contract, in accordance with the resolution,  
17 for services for the construction of improvements or for the  
18 purchase of equipment, materials, machinery, supplies, and  
19 components of plants, works, facilities, or improvements of the  
20 district, notwithstanding a conflicting provision in the  
21 district's special law.

22 SECTION 18. Section 1433.025(a), Government Code, is  
23 amended to read as follows:

24 (a) A contract for construction or purchase under this  
25 chapter involving the expenditure of more than \$50,000 [~~\$2,000~~] may  
26 be made only after advertising in the manner provided by Chapter  
27 252, Local Government Code, or Subchapter C, Chapter 262, Local



1 Government Code, as applicable.

2 SECTION 19. Section 54.054(a), Transportation Code, is  
3 amended to read as follows:

4 (a) Except as otherwise provided by this chapter, the board  
5 may award a contract involving the expenditure of funds in excess of  
6 the amount applicable to an expenditure of funds by a municipality  
7 under Section 252.021(a), Local Government Code, [~~more than~~  
8 ~~\$25,000]~~ only by competitive bidding.

9 SECTION 20. Sections 44.031(k) and 44.033, Education Code,  
10 are repealed.

11 SECTION 21. This Act takes effect immediately if it  
12 receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, this Act takes effect September 1, 2009.

# ADOPTED

MAY 21 2009

*Atty. Gen. Spaw*  
Secretary of the Senate

By: *Roger W. N.*

H.B. No. 987

Substitute the following for H.B. No. 987:

By: *Roger W. N.*

C.S. H.B. No. 987

## A BILL TO BE ENTITLED

1 AN ACT  
2 relating to competitive procurement requirements for local  
3 governments.

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

5 SECTION 1. Section 44.031(a), Education Code, is amended to  
6 read as follows:

7 (a) Except as provided by this subchapter, all school  
8 district contracts, except contracts for the purchase of produce or  
9 vehicle fuel, valued at \$50,000 [~~\$25,000~~] or more in the aggregate  
10 for each 12-month period shall be made by the method, of the  
11 following methods, that provides the best value for the district:

- 12 (1) competitive bidding;
- 13 (2) competitive sealed proposals;
- 14 (3) a request for proposals, for services other than  
15 construction services;
- 16 (4) an interlocal contract;
- 17 (5) a design/build contract;
- 18 (6) a contract to construct, rehabilitate, alter, or  
19 repair facilities that involves using a construction manager;
- 20 (7) a job order contract for the minor construction,  
21 repair, rehabilitation, or alteration of a facility;
- 22 (8) the reverse auction procedure as defined by  
23 Section 2155.062(d), Government Code; or
- 24 (9) the formation of a political subdivision

1 corporation under Section 304.001, Local Government Code.

2 SECTION 2. Subchapter B, Chapter 44, Education Code, is  
3 amended by adding Section 44.0313 to read as follows:

4 Sec. 44.0313. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS.

5 (a) A school district may receive bids or proposals under this  
6 chapter through electronic transmission if the board of trustees of  
7 the school district adopts rules to ensure the identification,  
8 security, and confidentiality of electronic bids or proposals and  
9 to ensure that the electronic bids or proposals remain effectively  
10 unopened until the proper time.

11 (b) Notwithstanding any other provision of this chapter, an  
12 electronic bid or proposal is not required to be sealed. A  
13 provision of this chapter that applies to a sealed bid or proposal  
14 applies to a bid or proposal received through electronic  
15 transmission in accordance with the rules adopted under Subsection  
16 (a).

17 SECTION 3. Section 262.003(a), Local Government Code, is  
18 amended to read as follows:

19 (a) Any law that requires a county to follow a competitive  
20 procurement [~~bidding~~] procedure in making a purchase requiring the  
21 expenditure of \$50,000 [~~\$25,000~~] or less does not apply to the  
22 purchase of an item available for purchase from only one supplier.

23 SECTION 4. Section 262.023(a), Local Government Code, is  
24 amended to read as follows:

25 (a) Before a county may purchase one or more items under a  
26 contract that will require an expenditure exceeding \$50,000  
27 [~~\$25,000~~], the commissioners court of the county must:

1 (1) comply with the competitive bidding or competitive  
2 proposal procedures prescribed by this subchapter;

3 (2) use the reverse auction procedure, as defined by  
4 Section 2155.062(d), Government Code, for purchasing; or

5 (3) comply with a method described by Subchapter H,  
6 Chapter 271.

7 SECTION 5. Section 262.0245, Local Government Code, is  
8 amended to read as follows:

9 Sec. 262.0245. COMPETITIVE PROCUREMENT [~~BIDDING~~]  
10 PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS. A county  
11 purchasing agent shall adopt procedures that provide for  
12 competitive procurement [~~bidding~~], to the extent practicable under  
13 the circumstances, for the county purchase of an item [~~under a~~  
14 ~~contract~~] that is not subject to competitive procurement [~~bidding~~  
15 ~~under Section 262.023~~].

16 SECTION 6. Section 271.024, Local Government Code, is  
17 amended to read as follows:

18 Sec. 271.024. COMPETITIVE PROCUREMENT [~~BIDDING~~] PROCEDURE  
19 APPLICABLE TO CONTRACT. If a governmental entity is required by  
20 statute to award a contract for the construction, repair, or  
21 renovation of a structure, road, highway, or other improvement or  
22 addition to real property on the basis of competitive bids, and if  
23 the contract requires the expenditure of more than \$50,000  
24 [~~\$25,000~~] from the funds of the entity, the bidding on the contract  
25 must be accomplished in the manner provided by this subchapter.

26 SECTION 7. Section 271.054, Local Government Code, is  
27 amended to read as follows:

1           Sec. 271.054.   COMPETITIVE           PROCUREMENT           ~~[BIDDING]~~  
2   REQUIREMENT. Before the governing body of an issuer may enter into  
3   a contract requiring an expenditure by or imposing an obligation or  
4   liability on the issuer, or on a subdivision of the issuer if the  
5   issuer is a county, of more than \$50,000 [~~\$25,000~~], the governing  
6   body must submit the proposed contract to competitive procurement  
7   ~~[bidding]~~.

8           SECTION 8. Section 271.153(a), Local Government Code, is  
9   amended to read as follows:

10          (a) The total amount of money awarded in an adjudication  
11   brought against a local governmental entity for breach of a  
12   contract subject to this subchapter is limited to the following:

13               (1) the balance due and owed by the local governmental  
14   entity under the contract as it may have been amended, including any  
15   amount owed as compensation for the increased cost to perform the  
16   work as a direct result of owner-caused delays or acceleration;

17               (2) the amount owed for change orders or additional  
18   work the contractor is directed to perform by a local governmental  
19   entity in connection with the contract; ~~and~~

20               (3) reasonable and necessary attorney's fees that are  
21 equitable and just; and

22               (4) interest as allowed by law.

23          SECTION 9. Section 271.9051(b), Local Government Code, is  
24   amended to read as follows:

25          (b) In purchasing under this title any real property,  
26   personal property that is not affixed to real property, or  
27   services, if a municipality receives one or more competitive sealed

1 bids from a bidder whose principal place of business is in the  
2 municipality and whose bid is within five percent of the lowest bid  
3 price received by the municipality from a bidder who is not a  
4 resident of the municipality, the municipality may enter into a  
5 contract for an expenditure of less than \$100,000 with:

6 (1) the lowest bidder; or

7 (2) the bidder whose principal place of business is in  
8 the municipality if the governing body of the municipality  
9 determines, in writing, that the local bidder offers the  
10 municipality the best combination of contract price and additional  
11 economic development opportunities for the municipality created by  
12 the contract award, including the employment of residents of the  
13 municipality and increased tax revenues to the municipality.

14 SECTION 10. The heading to Section 281.047, Local  
15 Government Code, is amended to read as follows:

16 Sec. 281.047. CONTRACTS OVER \$50,000 [~~\$10,000~~].

17 SECTION 11. Section 281.047(a), Local Government Code, is  
18 amended to read as follows:

19 (a) This section applies to a contract that is for materials  
20 for, or construction of, facilities and that is for an amount  
21 greater than \$50,000 [~~\$10,000~~].

22 SECTION 12. Section 351.137(b), Local Government Code, is  
23 amended to read as follows:

24 (b) Construction contracts requiring an expenditure of more  
25 than \$50,000 [~~\$15,000~~] may be made only after competitive bidding  
26 as provided by Subchapter B, Chapter 271.

27 SECTION 13. Section 375.221, Local Government Code, is

1 amended to read as follows:

2           Sec. 375.221. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS  
3 CONTRACTS. (a) A contract, other than a contract for services, for  
4 more than \$50,000 [~~\$15,000~~] for the construction of improvements or  
5 the purchase of material, machinery, equipment, supplies, and other  
6 property, except real property, may be entered into only after  
7 competitive bids. Notice of the contract for the purpose of  
8 soliciting bids shall be published once a week for two consecutive  
9 weeks in a newspaper with general circulation in the area in which  
10 the district is located. The first publication of notice must be  
11 not later than the 14th [~~15th~~] day before the date set for receiving  
12 bids. The board may adopt rules governing receipt of bids and the  
13 award of the contract and providing for the waiver of the  
14 competitive bid requirement if:

- 15                   (1) there is an emergency;
- 16                   (2) the needed materials are available from only one  
17 source;
- 18                   (3) in a procurement requiring design by the supplier  
19 competitive bidding would not be appropriate and competitive  
20 negotiation, with proposals solicited from an adequate number of  
21 qualified sources, would permit reasonable competition consistent  
22 with the nature and requirements of the procurement; or
- 23                   (4) after solicitation, it is ascertained that there  
24 will be only one bidder.

25           (b) If a proposed contract for works, plant improvements,  
26 facilities other than land, or the purchase of equipment,  
27 appliances, materials, or supplies is for an estimated amount of

1 more than \$50,000 [~~\$15,000 but less than \$25,000~~] or for a duration  
2 of more than two years, competitive sealed proposals [~~bids~~] shall  
3 be asked from at least three persons.

4 SECTION 14. Section 54.054(a), Transportation Code, is  
5 amended to read as follows:

6 (a) Except as otherwise provided by this chapter, the board  
7 may award a contract involving the expenditure of funds in excess of  
8 the amount applicable to an expenditure of funds by a municipality  
9 under Section 252.021(a), Local Government Code, [~~more than~~  
10 ~~\$25,000]~~ only by competitive bidding.

11 SECTION 15. Section 44.033, Education Code, is repealed.

12 SECTION 16. Section 271.159, Local Government Code, is  
13 repealed.

14 SECTION 17. The change in law made by this Act applies only  
15 to a claim that arises under a contract executed on or after the  
16 effective date of this Act. A claim that arises under a contract  
17 executed before the effective date of this Act is governed by the  
18 law as it existed immediately before the effective date of this Act,  
19 and that law is continued in effect for that purpose.

20 SECTION 18. This Act takes effect immediately if it  
21 receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this Act takes effect September 1, 2009.



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 21, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

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

**IN RE: HB987** by Creighton (Relating to competitive procurement requirements for local governments.), **As Passed 2nd House**

**No fiscal implication to the State is anticipated.**

The bill would authorize school districts to receive competitive procurement bids or proposals electronically if the school board adopts security-related rules.

The bill would make various changes in requirements and procedures associated with the use of competitive procurement methods and contracts that local government entities follow. As part of those changes as they apply to a school district, certain portions of the Education Code would be repealed.

The bill would authorize the award of reasonable and necessary attorney's fees that are equitable and just to be included in an award in an adjudication brought against a local government entity for breach of a contract subject to Subchapter I of Chapter 271, Local Government Code. This change in statute would apply only to a claim that arises under a contract executed on or after the effective date of the bill.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

**Local Government Impact**

It is anticipated that a school district would establish rules and implement the related security measures for accepting electronic bids and proposals only if associated costs of implementation could be absorbed within existing resources.

The proposed changes in procedures and requirements for procurement methods and contracts applicable to local government entities would provide additional flexibility in how those entities make certain purchases, which is anticipated to provide a savings that would vary by entity based on the number of applicable purchases. Potential revenue losses that would be associated with attorney's fees would vary depending on the number of breach of contract suits an entity may experience and lose.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, SD, DB, JSp, TP, KJG



LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

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

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

IN RE: **HB987** by Creighton (Relating to competitive procurement requirements for local governments.), **Committee Report 2nd House, Substituted**

**No fiscal implication to the State is anticipated.**

The bill would authorize school districts to receive competitive procurement bids or proposals electronically if the school board adopts security-related rules.

The bill would make various changes in requirements and procedures associated with the use of competitive procurement methods and contracts that local government entities follow. As part of those changes as they apply to a school district, certain portions of the Education Code would be repealed.

The bill would authorize the award of reasonable and necessary attorney's fees that are equitable and just to be included in an award in an adjudication brought against a local government entity for breach of a contract subject to Subchapter I of Chapter 271, Local Government Code. This change in statute would apply only to a claim that arises under a contract executed on or after the effective date of the bill.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

**Local Government Impact**

It is anticipated that a school district would establish rules and implement the related security measures for accepting electronic bids and proposals only if associated costs of implementation could be absorbed within existing resources.

The proposed changes in procedures and requirements for procurement methods and contracts applicable to local government entities would provide additional flexibility in how those entities make certain purchases, which is anticipated to provide a savings that would vary by entity based on the number of applicable purchases. Potential revenue losses that would be associated with attorney's fees would vary depending on the number of breach of contract suits an entity may experience and lose.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, DB, JSp, TP, KJG



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 4, 2009**

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

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

**IN RE:** **HB987** by Creighton (Relating to competitive procurement and change order requirements for local governments.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would authorize school districts to receive competitive procurement bids or proposals electronically if the school board adopts security-related rules.

The bill would make various changes in requirements and procedures associated with the use of competitive procurement methods and with change orders that local government entities follow. As part of those changes as they apply to a school district, certain portions of the Education Code would be repealed.

In addition, certain purchasing options currently applicable only to a county with a population of 3.3 million or more or a conservation and reclamation district in that county would be expanded to apply to all counties and conservation and reclamation districts.

**Local Government Impact**

It is anticipated that a school district would establish rules and implement the related security measures for accepting electronic bids and proposals only if associated costs of implementation could be absorbed within existing resources.

The proposed changes in procedures and requirements for procurement methods and change orders applicable to local government entities would provide additional flexibility in how those entities make certain purchases and handle change orders, which is anticipated to provide a savings that would vary by entity based on the number of applicable purchases.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, DB, JSp, TP, KJG



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 13, 2009**

**TO:** Honorable Burt R. Solomons, Chair, House Committee on State Affairs

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

**IN RE: HB987** by Creighton (Relating to competitive procurement and change order requirements for local governments.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would authorize school districts to receive competitive procurement bids or proposals electronically if the school board adopts security-related rules.

The bill would make various changes in requirements and procedures associated with the use of competitive procurement methods and with change orders that local government entities follow. As part of those changes as they apply to a school district, certain portions of the Education Code would be repealed.

In addition, certain purchasing options currently applicable only to a county with a population of 3.3 million or more or a conservation and reclamation district in that county would be expanded to apply to all counties and conservation and reclamation districts.

**Local Government Impact**

It is anticipated that a school district would establish rules and implement the related security measures for accepting electronic bids and proposals only if associated costs of implementation could be absorbed within existing resources.

The proposed changes in procedures and requirements for procurement methods and change orders applicable to local government entities would provide additional flexibility in how those entities make certain purchases and handle change orders, which is anticipated to provide a savings that would vary by entity based on the number of applicable purchases.

**Source Agencies:** 701 Central Education Agency

**LBB Staff:** JOB, KJG, DB, JSp

