

BILL ANALYSIS

C.S.H.B. 2729
By: Callegari
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Local governments are authorized under the Transportation Code to enter into public-private partnerships with private entities for the delivery of transportation projects. These public-private partnerships allow local governments to delegate responsibility for the delivery of a project to their private-sector partner possessing the expertise to succeed. Many local governments seeking turn-key projects are interested in entering into contracts with a private entity to build public facilities and other infrastructure projects, but are presently reluctant to do so because they do not believe they possess the statutory authorization. C.S.H.B.2729 allows local governments to deliver these critically needed infrastructure projects by authorizing this type of public-private partnership. The bill would allow a private entity to assume the authority granted to the local government for civil works projects or facilities. The private entity is required to comply with all procurement and bidding laws that apply to the local government.

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

SECTION 1. Amends Subchapter Z, Chapter 271, Local Government Code, to add §271.908, to authorize a local governmental entity, as defined by Section 271.181, Local Government Code, to contract with a private entity to act as the governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of an improvement to real property or a civil works project as defined by Section 271.181, Local Government Code. The bill requires that a local governmental entity entering into a contract select a private entity on the basis of the private entity's qualifications and experience, and enter into a project development agreement with the private entity. The bill requires that the private entity comply with the Texas Engineering Practice Act, Chapter 1051, Occupations Code, the Professional Services Procurement Act, and all laws related to procurement under the Public Property Finance Act that are applicable to the local governmental entity that selected the private entity.

SECTION 2. Transition language making the changes in the Act prospective.

SECTION 3. Effective upon passage provided that the bill is approved by two-thirds of all members in each chamber, or 1 September 2011.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute makes non-substantive changes to conform to Legislative Council style. The substitute also clarifies that a private entity selected as a local governmental entity's agent comply with Chapter 1051, Occupations Code (architecture practice act), the professional service procurement requirements of the Professional Services Procurement Act, and the procurement requirements of the Public Property Finance Act. The substitute adds a new SECTION 2 of the bill making the Act prospective.