

By: Murphy, Workman, Flynn, Harper-Brown,
et al.

H.B. No. 611

Substitute the following for H.B. No. 611:

By: Callegari

C.S.H.B. No. 611

A BILL TO BE ENTITLED

AN ACT

relating to the provision of certain professional services by
certain governmental entities.

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

SECTION 1. The heading to Subtitle E, Title 10, Government
Code, is amended to read as follows:

SUBTITLE E. GOVERNMENT RESOURCES [~~PROPERTY~~]

SECTION 2. Subtitle E, Title 10, Government Code, is
amended by adding Chapter 2202 to read as follows:

CHAPTER 2202. LIMITATION ON USE OF GOVERNMENT SERVICES

Sec. 2202.001. DEFINITION; APPLICABILITY. (a) In this
chapter, "governmental entity" means:

(1) a board, commission, department, office, or other
agency of this state, other than an institution of higher education
as defined by Section 61.003, Education Code;

(2) a special district or authority with a governing
board appointed by the governor; or

(3) a regional planning commission under Chapter 391,
Local Government Code.

(b) This chapter applies only to commercially available
services that consist of:

(1) the practice of engineering within the meaning of
Chapter 1001, Occupations Code;

(2) the practice of architecture within the meaning of

Chapter 1051, Occupations Code;

(3) construction services;

(4) construction management services; or

(5) environmental document preparation services.

Sec. 2202.002. LIMITATION ON PROVISION OF CERTAIN
PROFESSIONAL SERVICES BY GOVERNMENTAL ENTITY. (a) A governmental
entity may not provide, through its officers or employees, a
commercially available service for an improvement to real property
unless the property:

(1) is owned, leased, or operated by the entity; or

(2) is held by the entity under an easement or other
agreement with the property owner that provides for access to the
property.

(b) A nonprofit corporation created by a river authority
under Chapter 152, Water Code, is considered, with the river
authority, a single governmental entity for purposes of this
section.

(c) This section does not apply to:

(1) construction services in an amount less than
\$25,000 provided for a project;

(2) contract management or project management
services provided by a governmental entity's employees;

(3) water and water quality technical assistance
activities, operation, or maintenance provided by a river authority
within its service area;

(4) activities necessary to ensure compliance with the
administration of federal funds;

1 (5) incidental sampling and testing of construction or
2 maintenance materials provided at a commercial quarry or a
3 commercial fabrication plant by a state agency for another
4 governmental entity that pays the cost of that service at a location
5 where the state agency provides regular testing or inspection for
6 state agency projects; or

7 (6) a public calamity or emergency that requires the
8 provision of services prohibited under this section to preserve
9 life, health, safety, welfare, or property.

10 SECTION 3. The change in law made by Section 2202.002,
11 Government Code, as added by this Act, does not apply to services
12 provided on or after September 1, 2011, under a contract for
13 services entered into before that date.

14 SECTION 4. This Act takes effect September 1, 2011.