

BILL ANALYSIS

C.S.S.B. 176
By: Carona
Government Efficiency & Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State agencies may contract with outside consultants to benefit from expertise that agencies may not possess, but interested parties note that these contractors may submit reports that may be copyrighted or have other limitations on their distribution. These parties assert that such limitations unreasonably impede the public's access to information and recommend that the initial owner of work made for hire should be the employer or other person for whom the work was prepared unless both parties involved have signed a written agreement to the contrary. The parties also assert that a governmental entity should be able to award multiple contracts for architectural, engineering, or land surveying services under a single request for qualifications under certain conditions. C.S.S.B. 176 seeks to address these issues.

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.S.B. 176 amends the Government Code to establish that statutory provisions relating to a contract for the professional services of an architect, engineer, or land surveyor do not prohibit an entity from making multiple awards under a request for qualifications, provided that the terms and conditions are noted in the request for qualifications, the selection of providers is based on demonstrated competence and qualifications, the contracts are negotiated sequentially, and the work is distributed on an equitable basis as set out in the request for qualifications.

C.S.S.B. 176 requires a consulting services contract to include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature. The bill establishes that this requirement does not affect the application of state public information law to a consultant's report.

C.S.S.B. 176 specifies that its provisions relating to the distribution of consultant reports do not apply to a consulting services contract entered into on or after the bill's effective date if the state agency entered into negotiations for the consulting services contract before the bill's effective date and the contract is executed before December 31, 2013.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 176 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

No equivalent provision.

SECTION 1. Subchapter B, Chapter 2254, Government Code, is amended by adding Section 2254.041.

SECTION 2. Section 2254.041, Government Code, as added by this Act, applies only to a consulting services contract entered into on or after the effective date of this Act. A consulting services contract entered into before the effective date of this Act is governed by the law in effect on the date the contract is entered into, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not

receive the vote necessary for immediate

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 2254.004, Government Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not prohibit an entity from making multiple awards under a request for qualifications, provided that the terms and conditions are noted in the request for qualifications, the selection of providers is based on demonstrated competence and qualifications, the contracts are negotiated sequentially, and the work is distributed on an equitable basis as set out in the request for qualifications.

SECTION 2. Same as engrossed version.

SECTION 3. (a) Except as provided by Subsection (b) of this section, Section 2254.041, Government Code, as added by this Act, applies only to a consulting services contract entered into on or after the effective date of this Act. A consulting services contract entered into before the effective date of this Act is governed by the law in effect on the date the contract is entered into, and that law is continued in effect for that purpose.

(b) Section 2254.041, Government Code, as added by this Act, does not apply to a consulting services contract entered into on or after the effective date of this Act if:

(1) the state agency entered into negotiations for the consulting services contract before the effective date of this Act; and

(2) the contract is executed before December 31, 2013.

SECTION 4. Same as engrossed version.

effect, this Act takes effect September 1, 2013.