

## **BILL ANALYSIS**

C.S.S.B. 1430  
By: Hinojosa  
Government Efficiency & Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

State law places limitations on the number of design-build public works contracts certain entities can award. In addition, change order authority is now reserved for municipalities with a population of least 500,000, even though interested parties observe that for decades the only limitation on an administrative official's ability to approve a change order was the dollar amount of the change order. Interested parties contend that the current contract limitations hinder the ability of a midsized city such as Corpus Christi or Arlington to maximize economic development and public works plans. These parties also assert that limiting the authority for administrative approval of public works change orders causes unnecessary and costly delays to projects. C.S.S.B. 1430 seeks to provide more efficiency and flexibility to certain entities by amending statutory provisions relating to limitations on design-build public works contracts and change order authority.

### **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. 1430 amends Section 2267.354, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011, to remove statutory provisions relating to limits on the number of certain civil works projects delivered by the design-build method for which a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area or a municipally owned water utility with a separate governing board appointed by the governing body of such a municipality may enter into contracts before September 1, 2013. The bill establishes August 31, 2013, as the date after which such a governmental entity or such a municipally owned water utility may enter into not more than six contracts for such civil works projects.

C.S.S.B. 1430 removes a provision limiting to not more than two the number of certain civil works projects delivered by the design-build method for which the following entities may enter into contracts before September 1, 2015: a governmental entity that has a population of 100,000 or more but less than 500,000, or a governmental entity that is a board of trustees of a harbor and port facility in a municipality that has a population of more than 5,000 located on the Gulf of Mexico or a channel, canal, bay, or inlet connected to that gulf. The bill establishes August 31, 2013, as the date after which such an entity may enter into not more than four contracts for such civil works projects.

C.S.S.B. 1430 amends a Local Government Code provision to change from 500,000 to 300,000 the minimum population of a municipality for the governing body of the municipality to be authorized to grant general authority to an administrative official of the municipality to approve a change order if the change order for a public works contract involves a decrease or an increase of \$100,000 or less, or a lesser amount as approved by ordinance.

**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. 1430 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**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subsections (a), (b), and (c), Section 2267.354, Government Code, are amended to read as follows:

SECTION 1. Section 2267.354, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

Sec. 2267.354. **LIMITATION ON NUMBER OF PROJECTS.** (a) ~~Before September 1, 2013;~~

(a) ~~Before September 1, 2013;~~

(1) a governmental entity with a population of 300,000 ~~[500,000]~~ or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than three projects in any fiscal year; and

~~[(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than three projects in any fiscal year; and~~

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 300,000 ~~[500,000]~~ or more may:

~~[(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:~~

(A) independently enter into a contract for not more than one civil works project in any fiscal year; and

~~[(A) independently enter into a contract for not more than one civil works project in any fiscal year; and~~

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

~~[(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:~~

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

~~[(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and~~

(ii) the governing body of the municipality must approve the contracts.

~~[(ii) the governing body of the municipality must approve the contracts.~~

(b) ~~Before September 1, 2015,~~ a governmental entity that has a population of 100,000 or more but less than 300,000 ~~[500,000]~~ or is a board of trustees governed by Chapter 54, Transportation Code, may

~~[(b) Before September 1, 2015, a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into~~

enter into contracts under this subchapter for not more than two projects in any fiscal year.

(c) After the period described by Subsection (a) or (b):

(1) a governmental entity with a population of 300,000 ~~[500,000]~~ or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;

(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 300,000 ~~[500,000]~~ or more may:

(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and

(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:

(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and

(ii) the governing body of the municipality must approve the contracts; and

(3) a governmental entity that has a population of 100,000 or more but less than 300,000 ~~[500,000]~~ or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.

No equivalent provision.

SECTION 2. Subsection (c-1), Section 252.048, Local Government Code, is amended.

SECTION 3. This Act takes effect

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~~contracts under this subchapter for not more than two projects in any fiscal year.~~

~~[(c)] After August 31, 2013 [the period described by Subsection (a) or (b)]:~~

~~(1) a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area may, under this subchapter, enter into contracts for not more than six projects in any fiscal year;~~

~~(2) a municipally owned water utility with a separate governing board appointed by the governing body of a municipality with a population of 500,000 or more may:~~

~~(A) independently enter into contracts for not more than two civil works projects in any fiscal year; and~~

~~(B) enter into contracts for additional civil works projects in any fiscal year, but not more than the number of civil works projects prescribed by the limit in Subdivision (1) for the municipality, provided that:~~

~~(i) the additional contracts for the civil works projects entered into by the utility under this paragraph are allocated to the number of contracts the municipality that appoints the utility's governing board may enter under Subdivision (1); and~~

~~(ii) the governing body of the municipality must approve the contracts; and~~

~~(3) a governmental entity that has a population of 100,000 or more but less than 500,000 or is a board of trustees governed by Chapter 54, Transportation Code, may enter into contracts under this subchapter for not more than four projects in any fiscal year.~~

~~(b) [(d)] For purposes of determining the number of eligible projects under this section, a municipally owned water utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.~~

SECTION 2. Same as engrossed version except for recitation.

SECTION 3. Same as engrossed version.

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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 effect, this Act takes effect September 1, 2013.