

By: Callegari

H.B. No. 1050

Substitute the following for H.B. No. 1050:

By: Harper-Brown

C.S.H.B. No. 1050

A BILL TO BE ENTITLED

AN ACT

relating to construction-related and purchasing contracts by certain governmental entities.

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

SECTION 1. Section 791.011, Government Code, is amended by adding Subsection (j) to read as follows:

(j) For the purposes of this subsection, the term "purchasing cooperative" means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors. A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under this chapter in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that:

(1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or

(2) the plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

SECTION 2. 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)

1 ~~[Before September 1, 2013:~~

2 ~~[(1) a governmental entity with a population of~~
3 ~~500,000 or more within the entity's geographic boundary or service~~
4 ~~area may, under this subchapter, enter into contracts for not more~~
5 ~~than three projects in any fiscal year; and~~

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

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

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

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

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

21 ~~[(b) Before September 1, 2015, a governmental entity that~~
22 ~~has a population of 100,000 or more but less than 500,000 or is a~~
23 ~~board of trustees governed by Chapter 54, Transportation Code, may~~
24 ~~enter into contracts under this subchapter for not more than two~~
25 ~~projects in any fiscal year.~~

26 ~~[(c)] After August 31, 2013 ~~[the period described by~~~~

27 ~~Subsection (a) or (b)]:~~

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

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

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

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

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

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

20 (3) a governmental entity that has a population of
21 100,000 or more but less than 500,000 or is a board of trustees
22 governed by Chapter 54, Transportation Code, may enter into
23 contracts under this subchapter for not more than four projects in
24 any fiscal year.

25 (b) [~~(d)~~] For purposes of determining the number of
26 eligible projects under this section, a municipally owned water
27 utility with a separate governing board appointed by the governing

1 body of the municipality is considered part of the municipality.

2 SECTION 3. (a) This section takes effect only if the Act of
3 the 83rd Legislature, Regular Session, 2013, relating to
4 nonsubstantive additions to and corrections in enacted codes
5 becomes law.

6 (b) Subchapter H, Chapter 2269, Government Code, is amended
7 by adding Section 2269.3615 to read as follows:

8 Sec. 2269.3615. IDENTIFICATION OF PROJECT TEAM. (a) A
9 governmental entity may require a design-build firm responding to a
10 request for detailed proposals to identify companies that will:

11 (1) fill key project roles, including project
12 management, lead design firm, quality control management, and
13 quality assurance management; and

14 (2) serve as key task leaders for geotechnical,
15 hydraulics and hydrology, structural, environmental, utility, and
16 right-of-way issues.

17 (b) If a design-build firm required to identify companies
18 under Subsection (a) is selected for a design-build agreement, the
19 firm may not make changes to the identified companies unless an
20 identified company:

21 (1) is no longer in business, is unable to fulfill its
22 legal, financial, or business obligations, or can no longer meet
23 the terms of the teaming agreement with the design-build firm;

24 (2) voluntarily removes itself from the team;

25 (3) fails to provide a sufficient number of qualified
26 personnel to fulfill the duties identified during the proposal
27 stage; or

1 (4) fails to negotiate in good faith in a timely manner
2 in accordance with provisions established in the teaming agreement
3 proposed for the project.

4 (c) If the design-build firm makes team changes in violation
5 of Subsection (b), any cost savings resulting from the change
6 accrue to the governmental entity and not to the design-build firm.

7 SECTION 4. (a) This section takes effect only if the Act of
8 the 83rd Legislature, Regular Session, 2013, relating to
9 nonsubstantive additions to and corrections in enacted codes does
10 not become law.

11 (b) Subchapter H, Chapter 2267, Government Code, as added by
12 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular
13 Session, 2011, is amended by adding Section 2267.3615 to read as
14 follows:

15 Sec. 2267.3615. IDENTIFICATION OF PROJECT TEAM. (a) A
16 governmental entity may require a design-build firm responding to a
17 request for detailed proposals to identify companies that will:

18 (1) fill key project roles, including project
19 management, lead design firm, quality control management, and
20 quality assurance management; and

21 (2) serve as key task leaders for geotechnical,
22 hydraulics and hydrology, structural, environmental, utility, and
23 right-of-way issues.

24 (b) If a design-build firm required to identify companies
25 under Subsection (a) is selected for a design-build agreement, the
26 firm may not make changes to the identified companies unless an
27 identified company:

1 (1) is no longer in business, is unable to fulfill its
2 legal, financial, or business obligations, or can no longer meet
3 the terms of the teaming agreement with the design-build firm;

4 (2) voluntarily removes itself from the team;

5 (3) fails to provide a sufficient number of qualified
6 personnel to fulfill the duties identified during the proposal
7 stage; or

8 (4) fails to negotiate in good faith in a timely manner
9 in accordance with provisions established in the teaming agreement
10 proposed for the project.

11 (c) If the design-build firm makes team changes in violation
12 of Subsection (b), any cost savings resulting from the change
13 accrue to the governmental entity and not to the design-build firm.

14 SECTION 5. Section 252.048(c-1), Local Government Code, is
15 amended to read as follows:

16 (c-1) If a change order for a public works contract in a
17 municipality with a population of 300,000 [~~500,000~~] or more
18 involves a decrease or an increase of \$100,000 or less, or a lesser
19 amount as provided by ordinance, the governing body of the
20 municipality may grant general authority to an administrative
21 official of the municipality to approve the change order.

22 SECTION 6. Section 49.273(i), Water Code, is amended to
23 read as follows:

24 (i) If changes in plans or specifications are necessary
25 after the performance of the contract is begun, or if it is
26 necessary to decrease or increase the quantity of the work to be
27 performed or of the materials, equipment, or supplies to be

1 furnished, the board may approve change orders making the changes.
2 The board may grant authority to an official or employee
3 responsible for purchasing or for administering a contract to
4 approve a change order that involves an increase or decrease of
5 \$50,000 or less. The aggregate of the change orders may not
6 increase the original contract price by more than 25 [~~10~~]
7 percent. Additional change orders may be issued only as a result
8 of unanticipated conditions encountered during construction,
9 repair, or renovation or changes in regulatory criteria or to
10 facilitate project coordination with other political entities.

11 SECTION 7. The changes in law made by this Act to Section
12 791.011, Government Code, and Section 49.273(i), Water Code, apply
13 only to a contract made on or after the effective date of this Act.

14 SECTION 8. The changes in law made by this Act to Sections
15 2267.3615 and 2269.3615, Government Code, as added by this Act,
16 apply only to a contract or construction project for which a
17 governmental entity first advertises or otherwise requests bids,
18 proposals, offers, or qualifications, or makes a similar
19 solicitation, on or after the effective date of this Act.

20 SECTION 9. Section 2267.353(d), Government Code, is
21 repealed.

22 SECTION 10. This Act takes effect September 1, 2013.