

1-1 By: Callegari (Senate Sponsor - Fraser) H.B. No. 1050
1-2 (In the Senate - Received from the House May 8, 2013;
1-3 May 9, 2013, read first time and referred to Committee on State
1-4 Affairs; May 17, 2013, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 17, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Duncan	X		
1-10	Deuell	X		
1-11	Ellis	X		
1-12	Fraser	X		
1-13	Huffman	X		
1-14	Lucio	X		
1-15	Nichols	X		
1-16	Van de Putte	X		
1-17	Williams	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1050 By: Fraser

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to purchasing and other contracts by governmental
1-22 entities.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 791.011, Government Code, is amended by
1-25 adding Subsection (j) to read as follows:

1-26 (j) For the purposes of this subsection, the term
1-27 "purchasing cooperative" means a group purchasing organization
1-28 that governmental entities join as members and the managing entity
1-29 of which receives fees from members or vendors. A local government
1-30 may not enter into a contract to purchase construction-related
1-31 goods or services through a purchasing cooperative under this
1-32 chapter in an amount greater than \$50,000 unless a person
1-33 designated by the local government certifies in writing that:

1-34 (1) the project for which the construction-related
1-35 goods or services are being procured does not require the
1-36 preparation of plans and specifications under Chapter 1001 or 1051,
1-37 Occupations Code; or

1-38 (2) the plans and specifications required under
1-39 Chapters 1001 and 1051, Occupations Code, have been prepared.

1-40 SECTION 2. Section 2252.002, Government Code, is amended to
1-41 read as follows:

1-42 Sec. 2252.002. AWARD OF CONTRACT TO NONRESIDENT BIDDER. A
1-43 governmental entity may not award a governmental contract to a
1-44 nonresident bidder unless the nonresident underbids the lowest bid
1-45 submitted by a responsible resident bidder by an amount that is not
1-46 less than the amount by which a resident bidder would be required to
1-47 underbid the nonresident bidder to obtain a comparable contract in:

1-48 (1) the state in which the nonresident's principal
1-49 place of business is located; or

1-50 (2) a state in which the nonresident is a resident
1-51 manufacturer.

1-52 SECTION 3. Section 2267.353(b), Government Code, as added
1-53 by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular
1-54 Session, 2011, is amended to read as follows:

1-55 (b) A contract for a project under this subchapter may cover
1-56 only a single integrated project. A governmental entity may not
1-57 enter into a contract for aggregated projects at multiple
1-58 locations. For purposes of this subsection:

1-59 (1) if a metropolitan transit authority created under
1-60 Chapter 451, Transportation Code, enters into a contract for a

2-1 project involving a linear transit project with multiple stops
2-2 along the project route for boarding passengers, created under
2-3 Chapter 451, Transportation Code, the linear transit project [~~bus~~
2-4 ~~rapid transit system created under Chapter 451, Transportation~~
2-5 ~~Code, the bus rapid transit system]~~ is a single integrated project;
2-6 and

2-7 (2) a water treatment plant, including a desalination
2-8 plant, that includes treatment facilities, well fields, and
2-9 pipelines is a single integrated project.

2-10 SECTION 4. Section 2267.354, Government Code, as added by
2-11 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular
2-12 Session, 2011, is amended to read as follows:

2-13 Sec. 2267.354. LIMITATION ON NUMBER OF PROJECTS. (a)
2-14 [~~Before September 1, 2013:~~

2-15 [~~(1) a governmental entity with a population of~~
2-16 ~~500,000 or more within the entity's geographic boundary or service~~
2-17 ~~area may, under this subchapter, enter into contracts for not more~~
2-18 ~~than three projects in any fiscal year; and~~

2-19 [~~(2) a municipally owned water utility with a separate~~
2-20 ~~governing board appointed by the governing body of a municipality~~
2-21 ~~with a population of 500,000 or more may:~~

2-22 [~~(A) independently enter into a contract for not~~
2-23 ~~more than one civil works project in any fiscal year; and~~

2-24 [~~(B) enter into contracts for additional civil~~
2-25 ~~works projects in any fiscal year, but not more than the number of~~
2-26 ~~civil works projects prescribed by the limit in Subdivision (1) for~~
2-27 ~~the municipality, provided that:~~

2-28 [~~(i) the additional contracts for the civil~~
2-29 ~~works projects entered into by the utility under this paragraph are~~
2-30 ~~allocated to the number of contracts the municipality that appoints~~
2-31 ~~the utility's governing board may enter under Subdivision (1); and~~

2-32 [~~(ii) the governing body of the~~
2-33 ~~municipality must approve the contracts.~~

2-34 [~~(b) Before September 1, 2015, a governmental entity that~~
2-35 ~~has a population of 100,000 or more but less than 500,000 or is a~~
2-36 ~~board of trustees governed by Chapter 54, Transportation Code, may~~
2-37 ~~enter into contracts under this subchapter for not more than two~~
2-38 ~~projects in any fiscal year.~~

2-39 [~~(c) After August 31, 2013 [the period described by~~
2-40 ~~Subsection (a) or (b)]:~~

2-41 (1) a governmental entity with a population of 500,000
2-42 or more within the entity's geographic boundary or service area
2-43 may, under this subchapter, enter into contracts for not more than
2-44 six projects in any fiscal year;

2-45 (2) a municipally owned water utility with a separate
2-46 governing board appointed by the governing body of a municipality
2-47 with a population of 500,000 or more may:

2-48 (A) independently enter into contracts for not
2-49 more than two civil works projects in any fiscal year; and

2-50 (B) enter into contracts for additional civil
2-51 works projects in any fiscal year, but not more than the number of
2-52 civil works projects prescribed by the limit in Subdivision (1) for
2-53 the municipality, provided that:

2-54 (i) the additional contracts for the civil
2-55 works projects entered into by the utility under this paragraph are
2-56 allocated to the number of contracts the municipality that appoints
2-57 the utility's governing board may enter under Subdivision (1); and

2-58 (ii) the governing body of the municipality
2-59 must approve the contracts; and

2-60 (3) a governmental entity that has a population of
2-61 100,000 or more but less than 500,000 or is a board of trustees
2-62 governed by Chapter 54, Transportation Code, may enter into
2-63 contracts under this subchapter for not more than four projects in
2-64 any fiscal year.

2-65 (b) [~~(d)~~] For purposes of determining the number of
2-66 eligible projects under this section, a municipally owned water
2-67 utility with a separate governing board appointed by the governing
2-68 body of the municipality is considered part of the municipality.

2-69 SECTION 5. (a) This section takes effect only if the Act of

3-1 the 83rd Legislature, Regular Session, 2013, relating to
3-2 nonsubstantive additions to and corrections in enacted codes
3-3 becomes law.

3-4 (b) Subchapter H, Chapter 2269, Government Code, is amended
3-5 by adding Section 2269.3615 to read as follows:

3-6 Sec. 2269.3615. IDENTIFICATION OF PROJECT TEAM. (a) A
3-7 governmental entity may require a design-build firm responding to a
3-8 request for detailed proposals to identify companies that will:

3-9 (1) fill key project roles, including project
3-10 management, lead design firm, quality control management, and
3-11 quality assurance management; and

3-12 (2) serve as key task leaders for geotechnical,
3-13 hydraulics and hydrology, structural, environmental, utility, and
3-14 right-of-way issues.

3-15 (b) If a design-build firm required to identify companies
3-16 under Subsection (a) is selected for a design-build agreement, the
3-17 firm may not make changes to the identified companies unless an
3-18 identified company:

3-19 (1) is no longer in business, is unable to fulfill its
3-20 legal, financial, or business obligations, or can no longer meet
3-21 the terms of the teaming agreement with the design-build firm;

3-22 (2) voluntarily removes itself from the team;

3-23 (3) fails to provide a sufficient number of qualified
3-24 personnel to fulfill the duties identified during the proposal
3-25 stage; or

3-26 (4) fails to negotiate in good faith in a timely manner
3-27 in accordance with provisions established in the teaming agreement
3-28 proposed for the project.

3-29 (c) If the design-build firm makes team changes in violation
3-30 of Subsection (b), any cost savings resulting from the change
3-31 accrue to the governmental entity and not to the design-build firm.

3-32 SECTION 6. (a) This section takes effect only if the Act of
3-33 the 83rd Legislature, Regular Session, 2013, relating to
3-34 nonsubstantive additions to and corrections in enacted codes does
3-35 not become law.

3-36 (b) Subchapter H, Chapter 2267, Government Code, as added by
3-37 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular
3-38 Session, 2011, is amended by adding Section 2267.3615 to read as
3-39 follows:

3-40 Sec. 2267.3615. IDENTIFICATION OF PROJECT TEAM. (a) A
3-41 governmental entity may require a design-build firm responding to a
3-42 request for detailed proposals to identify companies that will:

3-43 (1) fill key project roles, including project
3-44 management, lead design firm, quality control management, and
3-45 quality assurance management; and

3-46 (2) serve as key task leaders for geotechnical,
3-47 hydraulics and hydrology, structural, environmental, utility, and
3-48 right-of-way issues.

3-49 (b) If a design-build firm required to identify companies
3-50 under Subsection (a) is selected for a design-build agreement, the
3-51 firm may not make changes to the identified companies unless an
3-52 identified company:

3-53 (1) is no longer in business, is unable to fulfill its
3-54 legal, financial, or business obligations, or can no longer meet
3-55 the terms of the teaming agreement with the design-build firm;

3-56 (2) voluntarily removes itself from the team;

3-57 (3) fails to provide a sufficient number of qualified
3-58 personnel to fulfill the duties identified during the proposal
3-59 stage; or

3-60 (4) fails to negotiate in good faith in a timely manner
3-61 in accordance with provisions established in the teaming agreement
3-62 proposed for the project.

3-63 (c) If the design-build firm makes team changes in violation
3-64 of Subsection (b), any cost savings resulting from the change
3-65 accrue to the governmental entity and not to the design-build firm.

3-66 SECTION 7. Section 252.048(c-1), Local Government Code, is
3-67 amended to read as follows:

3-68 (c-1) If a change order for a public works contract in a
3-69 municipality with a population of 300,000 [~~500,000~~] or more

4-1 involves a decrease or an increase of \$100,000 or less, or a lesser
4-2 amount as provided by ordinance, the governing body of the
4-3 municipality may grant general authority to an administrative
4-4 official of the municipality to approve the change order.

4-5 SECTION 8. Section 49.273(i), Water Code, is amended to
4-6 read as follows:

4-7 (i) If changes in plans or specifications are necessary
4-8 after the performance of the contract is begun, or if it is
4-9 necessary to decrease or increase the quantity of the work to be
4-10 performed or of the materials, equipment, or supplies to be
4-11 furnished, the board may approve change orders making the changes.
4-12 The board may grant authority to an official or employee
4-13 responsible for purchasing or for administering a contract to
4-14 approve a change order that involves an increase or decrease of
4-15 \$50,000 or less. The aggregate of the change orders may not
4-16 increase the original contract price by more than 25 [~~10~~]
4-17 percent. Additional change orders may be issued only as a result
4-18 of unanticipated conditions encountered during construction,
4-19 repair, or renovation or changes in regulatory criteria or to
4-20 facilitate project coordination with other political entities.

4-21 SECTION 9. The changes in law made by this Act to Sections
4-22 791.011 and 2252.002, Government Code, and Section 49.273(i), Water
4-23 Code, apply only to a contract made on or after the effective date
4-24 of this Act.

4-25 SECTION 10. The changes in law made by this Act to Sections
4-26 2267.3615 and 2269.3615, Government Code, as added by this Act,
4-27 apply only to a contract or construction project for which a
4-28 governmental entity first advertises or otherwise requests bids,
4-29 proposals, offers, or qualifications, or makes a similar
4-30 solicitation, on or after the effective date of this Act.

4-31 SECTION 11. Section 2267.353(d), Government Code, is
4-32 repealed.

4-33 SECTION 12. This Act takes effect September 1, 2013.

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