

By: Kuempel

H.B. No. 1977

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to construction manager-agents and managers-at-risk used  
3 by governmental entities.

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

5 SECTION 1. Section 2267.252(b), Government Code, as added  
6 by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular  
7 Session, 2011, is amended to read as follows:

8 (b) The governmental entity's architect, ~~[or]~~ engineer, or  
9 construction manager-agent for a project may not serve, alone or in  
10 combination with another person, as the construction  
11 manager-at-risk ~~[unless the architect or engineer is hired to serve~~  
12 ~~as the construction manager-at-risk under a separate or concurrent~~  
13 ~~selection process conducted in accordance with this~~  
14 ~~subchapter]~~. This subsection does not prohibit the governmental  
15 entity's architect or engineer from providing customary  
16 construction phase services under the architect's or engineer's  
17 original professional service agreement in accordance with  
18 applicable licensing laws.

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

23 (b) Subchapter F, Chapter 2269, Government Code, is amended  
24 by adding Section 2269.2511 to read as follows:

1       Sec. 2269.2511. LIMITATION ON CONSTRUCTION MANAGER-AT-RISK  
2 CONTRACTS. (a) A construction manager-at-risk contract may not be  
3 awarded to:

4           (1) a governmental entity's engineer, architect,  
5 construction manager-agent, or program director; or

6           (2) a sole proprietor, corporation, partnership,  
7 limited liability company, or other entity that is a subsidiary,  
8 parent corporation, or partner or has any other relationship in  
9 which the governmental entity's engineer, architect, construction  
10 manager-agent, or program director has an ownership interest, or is  
11 subject to common ownership or control, or is party to an agreement  
12 by which it will receive any proceeds of the construction  
13 manager-at-risk's payments from the governmental entity.

14       (b) A contract awarded in violation of this section is void  
15 as contrary to public policy.

16       (c) This section does not apply to:

17           (1) a public corporation in which three percent or  
18 less of the outstanding stock is owned by a governmental entity's  
19 architect or engineer; or

20           (2) a person who enters into a joint venture for a  
21 project or contract unrelated to the current project for which a  
22 construction manager-at-risk is being selected.

23       SECTION 3. (a) This section takes effect only if the Act of  
24 the 83rd Legislature, Regular Session, 2013, relating to  
25 nonsubstantive additions to and corrections in enacted codes does  
26 not become law.

27       (b) Subchapter F, Chapter 2267, Government Code, as added by

1 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular  
2 Session, 2011, is amended by adding Section 2267.2511 to read as  
3 follows:

4 Sec. 2267.2511. LIMITATION ON CONSTRUCTION MANAGER-AT-RISK  
5 CONTRACTS. (a) A construction manager-at-risk contract may not be  
6 awarded to:

7 (1) a governmental entity's engineer, architect,  
8 construction manager-agent, or program director; or

9 (2) a sole proprietor, corporation, partnership,  
10 limited liability company, or other entity that is a subsidiary,  
11 parent corporation, or partner or has any other relationship in  
12 which the governmental entity's engineer, architect, construction  
13 manager-agent, or program director has an ownership interest, or is  
14 subject to common ownership or control, or is party to an agreement  
15 by which it will receive any proceeds of the construction  
16 manager-at-risk's payments from the governmental entity.

17 (b) A contract awarded in violation of this section is void  
18 as contrary to public policy.

19 (c) This section does not apply to:

20 (1) a public corporation in which three percent or  
21 less of the outstanding stock is owned by a governmental entity's  
22 architect or engineer; or

23 (2) a person who enters into a joint venture for a  
24 project or contract unrelated to the current project for which a  
25 construction manager-at-risk is being selected.

26 SECTION 4. The changes in law made by this Act apply only to  
27 a contract for the services of a construction manager-at-risk

1 entered into on or after the effective date of this Act. A contract  
2 entered into before the effective date of this Act is governed by  
3 the law in effect when the contract was entered into, and the former  
4 law is continued in effect for that purpose.

5 SECTION 5. This Act takes effect September 1, 2013.