

House Bill 1050
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 2252.002, Government Code, is amended to read as follows:

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

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

(2) a state in which the nonresident is a resident manufacturer.

SENATE VERSION (CS)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

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No equivalent provision.

SECTION 3. 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:~~
~~[(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 500,000 or more may:~~

SENATE VERSION (CS)

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

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

(1) if a metropolitan transit authority created under Chapter 451, Transportation Code, enters into a contract for a project involving a linear transit project with multiple stops along the project route for boarding passengers, created under Chapter 451, Transportation Code, the linear transit project ~~[bus rapid transit system created under Chapter 451, Transportation Code, the bus rapid transit system]~~ is a single integrated project; and

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

SECTION 4. Same as House version.

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~~[(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:~~

~~[(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.~~

~~[(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 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:~~

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

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

Sec. 2269.3615. IDENTIFICATION OF PROJECT TEAM.

(a) A governmental entity may require a design-build firm responding to a request for detailed proposals to identify companies that will:

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

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

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SECTION 5. Same as House version.

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issues.

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

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

(2) voluntarily removes itself from the team;

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

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

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

SECTION 5. (a) This section takes effect only if the Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

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

Sec. 2267.3615. IDENTIFICATION OF PROJECT TEAM.

(a) A governmental entity may require a design-build firm responding to a request for detailed proposals to identify companies that will:

(1) fill key project roles, including project management, lead

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design firm, quality control management, and quality assurance management; and

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

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

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

(2) voluntarily removes itself from the team;

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

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

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

SECTION 6. Section 252.048(c-1), Local Government Code, is amended to read as follows:

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

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SECTION 7. Same as House version.

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SECTION 7. Section 49.273(i), Water Code, is amended to read as follows:

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

SECTION 8. The changes in law made by this Act to Section 791.011, Government Code, and Section 49.273(i), Water Code, apply only to a contract made on or after the effective date of this Act.

SECTION 9. The changes in law made by this Act to Sections 2267.3615 and 2269.3615, Government Code, as added by this Act, apply only to a contract or construction project for which a governmental entity first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act.

SECTION 10. Section 2267.353(d), Government Code, is

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SECTION 8. Same as House version.

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

SECTION 10. Same as House version.

SECTION 11. Same as House version.

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repealed.

SECTION 11. This Act takes effect September 1, 2013.

SECTION 12. Same as House version.