

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1236  
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Transportation  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Department of Transportation (TxDOT) is authorized to enter into contracts with vendors for the maintenance of state roads and highways. The services performed as part of these contracts include roadside beautification and cleanup, guardrail repairs, litter pick-up, pothole repair, sign installation, paint and bead striping, and, among other activities, rest area maintenance. TxDOT is required by law to award these contracts to the lowest bidder.

Interested parties contend that, in some cases, the lowest bidder awarded a contract for highway or road maintenance lacked the ability to perform the required work. In some cases, notably in the Dallas and Houston areas, TxDOT has terminated contracts with vendors that have failed to perform the required work. In these cases TxDOT had to re-let the contract for bids while allocating agency resources towards completing the work the vendor was unable to perform.

S.B. 1236 authorizes TxDOT to award performance-based maintenance contracts worth \$300,000 or more to the lowest responsible bidder capable of performing the size and complexity of the work required. The bill requires that TxDOT award these maintenance contracts to the lowest qualified bidder. The intent of this change is to ensure that maintenance contracts are awarded to companies capable of performing the size and scope of the work identified within the maintenance contract.

As proposed, S.B. 1236 amends current law relating to asset management agreements of the Texas Department of Transportation.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 223.0041, Transportation Code, by adding Subsection (d), as follows:

Sec. 223.0041. AWARD OF CONTRACTS. (a) Requires that all bids received and not rejected by the Texas Department of Transportation (TxDOT), except as provided by Section 223.005 (Bids on Contracts Involving Less Than \$300,000), be tabulated and forwarded to the Texas Transportation Commission (TTC).

(b) Authorizes TTC to accept or reject the bids. Requires TTC, except as provided in Subsections (c) and (d), if the bids are accepted, to award the contract to the lowest bidder, subject to Section 223.045 (Steel Preference Provisions in Improvement Contracts).

(c) Authorizes the executive director of TxDOT, for a maintenance contract involving an amount less than \$300,000, if the lowest bidder withdraws its bid prior to contract award or fails to execute the contract, to recommend to TTC that the contract be awarded to the second lowest bidder. Authorizes TTC to award the maintenance contract to the second lowest bidder if the second lowest bidder

agrees to accept the unit bid prices of the lowest bidder. Requires TTC to adopt rules governing the conditions under which TxDOT will allow the withdrawal of the bid of the lowest bidder and consider awarding a maintenance contract to the second lowest bidder.

(d) Requires TTC, for a performance-based maintenance contract in an amount of \$300,000 or more, to award the contract to the lowest responsible bidder. Requires TxDOT, for purposes of determining the lowest responsible bidder, to first prepare and issue a request for qualifications to identify those firms qualified to bid on a performance-based maintenance project of the size and complexity for which bids will be requested. Requires TTC, from among the bids received from firms determined to be qualified to bid, to award the contract to the lowest bidder.

SECTION 2. Effective date: upon passage or September 1, 2015.