

By: Taylor of Galveston

S.B. No. 2233

A BILL TO BE ENTITLED

AN ACT

relating to contracting and purchasing of certain governmental entities and development corporations.

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

SECTION 1. Section 46.0111(b), Education Code, is amended to read as follows:

(b) A school district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under this subchapter shall provide the commissioner with written notice of the action by registered or certified mail, return receipt requested, not later than the 10th day after the date the action is filed. If the school district fails to comply with this subsection, the court or an arbitrator or other adjudicating authority shall dismiss the action.

SECTION 2. Subchapter A, Chapter 46, Education Code, is amended by adding Section 46.0112 to read as follows:

Sec. 46.0112. ATTORNEY GENERAL ENFORCEMENT OF SCHOOL DISTRICT DUTIES FOLLOWING CERTAIN ACTIONS. (a) If the attorney general believes that a school district has violated or is violating Section 46.0111(d) or (e), the attorney general may bring an action on behalf of the state to enjoin the school district from violating those sections.

1 (b) In an action brought under Subsection (a), the attorney
2 general may request and the court may order any other appropriate
3 relief that is in the public interest, including payment of:

4 (1) a civil penalty in an amount not to exceed \$50,000
5 for each violation of Section 46.0111(d) or (e);

6 (2) the attorney general's reasonable costs for
7 investigating and prosecuting the violation; or

8 (3) the amount of the state's share under Section
9 46.0111(e).

10 SECTION 3. Subchapter T, Chapter 51, Education Code, is
11 amended by adding Section 51.786 to read as follows:

12 Sec. 51.786. VOID CONTRACT. A contract, including a job
13 order, entered into in violation of this subchapter is voidable as
14 against public policy.

15 SECTION 4. Subchapter A, Chapter 791, Government Code, is
16 amended by adding Section 791.007 to read as follows:

17 Sec. 791.007. LIST OF PURCHASES BY PURCHASING COOPERATIVE.

18 (a) In this section, "purchasing cooperative" has the meaning
19 assigned by Section 791.011(j).

20 (b) A purchasing cooperative shall maintain an Internet
21 website with a continually updated list of purchases made through
22 the cooperative or through agreements made with the cooperative.

23 The list must include for each purchase:

24 (1) the name of the purchaser;

25 (2) the name of the vendor;

26 (3) the amount of the purchase;

27 (4) the date of the purchase; and

1 (5) the fees paid to the cooperative or managing
2 entity.

3 SECTION 5. Section 791.011(j), Government Code, is amended
4 to read as follows:

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

12 (1) the purchase is approved by the governing body of
13 the local government at a public meeting; and

14 (2) a person designated by the local government
15 certifies in writing that:

16 (A) [~~(1)~~] the project for which the
17 construction-related goods or services are being procured does not
18 require the preparation of plans and specifications under Chapter
19 1001 or 1051, Occupations Code; or

20 (B) [~~(2)~~] the plans and specifications required
21 under Chapters 1001 and 1051, Occupations Code, have been prepared.

22 SECTION 6. Section 2269.452(a), Government Code, is amended
23 to read as follows:

24 (a) This chapter may be enforced through an action for
25 declaratory or injunctive relief filed not later than the 10th
26 business day after the date on which the contract bid evaluations
27 are made public under Section 2269.056 or 2269.105 [~~is awarded~~].

1 SECTION 7. Subchapter A, Chapter 502, Local Government
2 Code, is amended by adding Section 502.002 to read as follows:

3 Sec. 502.002. APPLICABILITY OF OTHER LAW; PUBLIC WORKS
4 CONTRACTS. Chapter 2269, Government Code, applies to a public
5 works contract entered into by a corporation.

6 SECTION 8. Section 271.908(a), Local Government Code, is
7 amended to read as follows:

8 (a) In this section:

9 (1) "Civil [~~, "civil~~] works project" means:

10 (A) roads, streets, bridges, utilities, water
11 supply projects, water plants, wastewater plants, water
12 distribution and wastewater conveyance facilities, desalination
13 projects, wharves, docks, navigation channels, dredge material
14 placement areas, airport runways and taxiways, storm drainage and
15 flood control projects, or transit projects;

16 (B) types of projects or facilities related to
17 those described by Paragraph (A) and associated with civil
18 engineering construction; and

19 (C) buildings or structures that are incidental
20 to projects or facilities that are described by Paragraphs (A) and
21 (B) and that are primarily civil engineering construction projects.

22 (2) "Local [~~and "local~~] governmental entity" means a
23 municipality, a county, a river authority, a defense base
24 development authority established under Chapter 379B, a board of
25 trustees under Chapter 54, Transportation Code, a municipally owned
26 water utility with a separate governing board appointed by the
27 governing body of a municipality, or any other special district or

1 authority authorized by law to enter into a public works contract
2 for a civil works project. The term does not include a regional
3 tollway authority created under Chapter 366, Transportation Code, a
4 regional mobility authority created under Chapter 370,
5 Transportation Code, or a water district or authority created under
6 Section 52, Article III, or Section 59, Article XVI, Texas
7 Constitution, with a population of less than 50,000 [~~have the~~
8 ~~meanings assigned by Section 271.181~~].

9 SECTION 9. Subchapter J, Chapter 271, Local Government
10 Code, is repealed.

11 SECTION 10. The changes in law made by this Act apply only
12 to a contract entered into on or after the effective date of this
13 Act. A contract entered into before the effective date of this Act
14 is governed by the law applicable to the contract immediately
15 before the effective date of this Act, and that law is continued in
16 effect for that purpose.

17 SECTION 11. This Act takes effect September 1, 2017.