

BILL ANALYSIS

Senate Research Center
88R3606 KBB-D

H.B. 1440
By: Button et al. (Hall)
Local Government
5/11/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1440 streamlines the change order approval process for the City of Garland and clarifies that approval requirements under Section 252.048, Local Government Code, only apply to change orders for contracts awarded through competitive bidding procedures.

- Subchapters B and C, Chapter 252, Local Government Code, govern the purchasing and contracting authority of municipalities. Subchapter B requires contracts for an amount greater than \$50,000 to be awarded through competitive bidding procedures.
- Subchapter C provides the procedures for competitive bidding and approving change orders. Section 252.048 allows a municipality's governing body to approve a change order when changes in plans or specifications are necessary after a contract has been awarded through competitive bidding procedures.
- Section 252.048(d) streamlines this process by allowing a municipality's governing body to delegate approval of change orders that involve an amount less than \$50,000 to an authorized administrative official. However, approval may not be delegated if the change order increases the original contract price by more than 25 percent.
- Current law does not specify whether Section 252.048 applies to only change orders for contracts subject to competitive bidding procedures or to all change orders. Therefore, a municipality's methods of approval are limited by the provisions set forth in Section 252.048 even for change orders to contracts that were not subject to competitive bidding procedures.
- Practically, this means a municipality must seek approval from its governing body, rather than delegate approval authority to an authorized administrative official, for any change order that increases the original contract price by 25 percent. This is true even if both the change order and corresponding contract involve amounts less than \$50,000 and the contract was never required to be awarded through competitive bidding procedures.

H.B. 1440:

- H.B. 1440 clarifies that change order approval procedures provided by Section 252.048 only apply to contracts awarded through competitive bidding procedures. This restores the intent of Chapter 252, which only subjects contracts greater than \$50,000 to competitive bidding procedures, and Section 242.048, which provides an expeditious process for approving minor changes.
- In addition to providing clarity to the change order approval process for contracts, generally, the bill allows Garland to grant authority to an administrative official to approve change orders to public works contracts involving an increase or decrease of \$100,000 or less.
- These minor changes will allow Garland to enter into necessary contracts more efficiently and to govern its residents more effectively.

H.B. 1440 amends current law relating to the authority to approve change orders for certain municipal contracts.

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 252.048, Local Government Code, by amending Subsection (c-1) and adding Subsection (e), as follows:

(c-1) Authorizes the governing body of a municipality with a population of 240,000 or more, rather than 300,000 or more, if a change order for a public works contract in the municipality involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, to grant general authority to an administrative official of the municipality to approve the change order.

(e) Provides that Section 252.048 (Change Orders) applies only to a contract awarded through a competitive procedure as required by Section 252.021 (Competitive Requirements for Purchases).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.