

BILL ANALYSIS

Senate Research Center
88R7465 YDB-F

H.B. 1817
By: Capriglione (Hancock)
State Affairs
5/13/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2015, the legislature enacted legislation that required governmental entities to file a disclosure of interested parties, otherwise known as a Form 1295, with the Texas Ethics Commission for certain contracts. In 2022, a development company, Legacy Hutto LLC, sued the City of Hutto for breach of contract. The judge found that the city had not verified whether a Form 1295 was submitted and on file, therefore not complying with state government transparency laws. As such, the judge found that the contract had not been properly executed. With this ruling, the potential now exists for any government contract without a Form 1295 on file to be found void. H.B. 1817 seeks to prevent this from occurring by updating the disclosure of interested parties statute to allow for a cure period of 10 business days if a Form 1295 is found to not be on file.

H.B. 1817 amends current law relating to the validity of a contract for which a disclosure of interested parties is required.

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 2252.908, Government Code, by adding Subsection (f-1), as follows:

(f-1) Provides that a contract described by Subsection (b) (relating to providing that Section 2252.908 (Disclosure of Interested Parties) applies only to a contract of a certain governmental entity or state agency) entered into by a governmental entity or state agency is voidable for failure to provide the disclosure of interested parties required by this section only if:

- (1) the governmental entity or state agency submits to the business entity written notice of the business entity's failure to provide the required disclosure; and
- (2) the business entity fails to submit to the governmental entity or state agency the required disclosure on or before the 10th business day after the date the business entity receives the written notice under Subdivision (1).

SECTION 2. Provides that a court in which a suit challenging the validity of a contract described by Section 2252.908(b) (relating to providing that Section 2252.908 applies only to a contract of a governmental entity or state agency that meets certain guidelines), Government Code, is pending on the effective date of this Act is authorized to require the governmental entity or state agency to provide the written notice required under Section 2252.908(f-1), Government Code, as added by this Act, if the court finds that failure to enforce that requirement would cause an inequitable or unjust result for the parties to the suit.

SECTION 3. Provides that a contract described by Section 2252.908(b), Government Code, that was executed before the effective date of this Act is presumed to have been properly executed in

accordance with Section 2252.908, Government Code, if an action to void or invalidate the contract has not been filed with a court in this state before the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2023.