

BILL ANALYSIS

Senate Research Center
88R13093 CXP-F

H.B. 3989
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Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Transportation (TxDOT) does not have a comprehensive written policy upon which it relies when determining that a design professional should be precluded or disqualified from a project contract. TxDOT districts have been exercising independent judgment on a case-by-case basis when it comes to preclusion. The reasoning given from TxDOT to a design professional is often only a vague explanation of a perceived conflict of interest as the basis for precluding a design professional from the project. However, there is often no connection between the statutory conflicts of interest and the TxDOT reasons given for being precluded. This arbitrary application of the law and lack of TxDOT results in confusion and project delays.

H.B. 3989 will require TxDOT to establish a written preclusion policy that is distributed and publicized statewide to all TxDOT districts. This bill will also provide an opportunity for design professionals to appeal TxDOT decisions on preclusion.

H.B. 3989 amends current law relating to the adoption of a policy on the preclusion of private design professionals from contracting with 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 Subchapter F, Chapter 2261, Government Code, by adding Section 2261.260, as follows:

Sec. 2261.260. TEXAS DEPARTMENT OF TRANSPORTATION PRECLUSION POLICY FOR PRIVATE DESIGN PROFESSIONALS. (a) Defines "private design professional."

(b) Requires the Texas Department of Transportation (TxDOT), before TxDOT is authorized to make a determination under Subchapter F (Ethics, Reporting, and Approval Requirements for Certain Contracts) that a private design professional is precluded from performing a contract for architectural or engineering services or from participating in a procurement for those services, to adopt a written preclusion policy.

(c) Requires that a policy under this section:

(1) be published or distributed in a manner that ensures that private design professionals in this state are aware of the policy;

(2) provide that the private design professional be notified in writing at the time TxDOT determines that a potential basis for preclusion exists; and

(3) provide for an appeals process by which the private design professional is given a reasonable amount of time to establish that no basis for preclusion under the policy exists.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.