

By: Bell of Montgomery

H.B. No. 76

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain criteria in a local governmental agency contractor selection process.

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

SECTION 1. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.909 to read as follows:

Sec. 271.909. CERTAIN CONTRACTING CRITERIA PROHIBITED. (a)
In this section, "governmental agency" has the meaning assigned by
Section 271.003.

(b) Notwithstanding any other law, a governmental agency
that procures a good or service through a competitive process may
not:

(1) consider any factor in the procurement process
other than a factor that:

(A) is required by law; or

(B) is objective, measurable, and directly
related to the cost, quality, reliability, or legal compliance of
the good or service being procured; or

(2) give a preference to a bid based on environmental,
social, and governance criteria that do not directly relate to the
cost, quality, reliability, or legal compliance of the good or
service being procured.

(c) For a competitive procurement process, a governmental
agency shall:

1 (1) provide written contract selection criteria in all
2 publicly available bid specification requirements; and

3 (2) include written contract selection criteria in the
4 solicitation documents at the time of vendor solicitation.

5 (d) A person may submit to the attorney general a suspected
6 violation of this section.

7 (e) If the attorney general determines that a governmental
8 agency has violated this section:

9 (1) if the procurement process is ongoing and a
10 contract has not been awarded, the attorney general shall direct
11 the governmental agency in writing to remove any contract selection
12 criteria that the attorney general determines are prohibited under
13 this section; or

14 (2) if a contract has been awarded but has not been
15 executed or performance of the contract has not been completed:

16 (A) the attorney general shall direct the
17 governmental agency in writing to terminate the contract not later
18 than the 10th day after the date the governmental agency receives
19 the notice; and

20 (B) the governmental agency shall provide
21 written proof of the termination of the contract to the attorney
22 general within the period prescribed by Paragraph (A).

23 (f) If a governmental agency fails to terminate a contract
24 or provide written proof of the termination of a contract to the
25 attorney general as required by and within the period prescribed by
26 Subsection (e)(2), the contract is void.

27 (g) The attorney general may bring an action for injunctive

1 or declaratory relief to enforce this section if a governmental
2 agency fails to comply with this section.

3 SECTION 2. Section 271.909, Local Government Code, as added
4 by this Act, applies only to a contractor selection process
5 initiated on or after the effective date of this Act.

6 SECTION 3. This Act takes effect on the 91st day after the
7 last day of the legislative session.