

BILL ANALYSIS

C.S.H.B. 208
By: Leach
Government Transparency & Operation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties point out that state governmental entities are required to award and justify contracts using applicable methods related to competitive bidding for projects that exceed a certain amount. These parties note that certain governmental entities are permitted to raise revenue through an economic development corporation (EDC) by using sales taxes to finance new and expanded businesses in their local communities, but these EDCs are taxpayer-funded entities that are subject to requirements related to other governmental entities. However, the parties assert that EDCs have the authority to spend taxpayer dollars on various design and construction projects without following the same procurement process as local governments. C.S.H.B. 208 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 208 amends the Local Government Code to require an economic development corporation created by a municipality, county, or conservation and reclamation district to comply with the same procurement process methods for the design and construction of projects and construction services with which its authorizing unit must comply.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 208 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter Z, Chapter 271, Local Government Code, is amended by

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 501, Local Government Code, is amended by

84R 21455

15.97.526

Substitute Document Number: 84R 14943

adding Section 271.909 to read as follows:

Sec. 271.909. PROJECT DESIGN AND CONSTRUCTION REQUIREMENTS APPLICABLE TO CERTAIN AGENCIES, INSTRUMENTALITIES, AND AGREEMENTS. (a) In this section, "governmental entity" means a county, municipality, district, or other political subdivision of this state.
(b) The same state laws related to the design and construction of projects, including the procurement of design and construction services, that apply to a governmental entity apply to an agency or instrumentality of the governmental entity, an economic development corporation created by the governmental entity under Subtitle C1, Title 12, or an alliance, agreement, partnership, or agency created between the governmental entity and one or more other governmental entities.
(c) This section does not apply to:
(1) an expenditure made for an improvement:
(A) that is constructed in a reinvestment zone; and
(B) the construction of which is managed by a private venture participant;
(2) an expenditure made for an improvement connected with a project of which more than 50 percent of the cost is funded by a private entity;
(3) an expenditure described by Section 311.010(g), Tax Code;
(4) an expenditure described by Section 431.110, Transportation Code;
(5) an expenditure made for an improvement funded from bond proceeds or a source other than taxes or assessments imposed by a governmental entity;
(6) an expenditure made for an improvement under Chapter 2267, Government Code;
(7) an interlocal contract under Subchapter B, Chapter 791, Government Code; or
(8) a local cooperative organization under Subchapter F.

SECTION 2. The changes in law made by this Act affecting contract requirements apply only to a contract for which an entity first advertises or otherwise solicits bids, proposals, offers, or qualifications or makes

adding Section 501.0741 to read as follows:

Sec. 501.0741. PROJECT DESIGN AND CONSTRUCTION REQUIREMENTS APPLICABLE TO CORPORATIONS.

A corporation must comply with the same procurement process methods for the design and construction of projects and construction services with which its authorizing unit must comply.

SECTION 2. The changes in law made by this Act affecting contract requirements apply only to a contract for which an economic development corporation first advertises or otherwise solicits bids,

a similar solicitation on or after the effective date of this Act. A contract for which an **entity** first advertises or otherwise solicits bids, proposals, offers, or qualifications or makes a similar solicitation before the effective date of this Act is governed by the law in effect on the date the advertisement or solicitation is made, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

proposals, offers, or qualifications or makes a similar solicitation on or after the effective date of this Act. A contract for which an **economic development corporation** first advertises or otherwise solicits bids, proposals, offers, or qualifications or makes a similar solicitation before the effective date of this Act is governed by the law in effect on the date the advertisement or solicitation is made, and that law is continued in effect for that purpose.

SECTION 3. Same as introduced version.