

BILL ANALYSIS

H.B. 2634
By: Kuempel
Government Transparency & Operation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties familiar with contracting issues explain that a governmental entity is currently required to conduct two separate procurements for a construction project: selecting an engineer or architect to prepare and manage design under one contract and selecting a construction manager-at-risk to manage and perform construction services under a separate contract. The parties further explain that, if the engineer or architect is not an employee of the governmental entity, the selection is based on qualifications set out in state law and that the selected engineer or architect may also serve as the construction manager-at-risk if a separate procurement is conducted. The interested parties are concerned that this situation allows the governmental entity's engineer or architect to influence selection criteria in favor of related entities as construction managers-at-risk, which may constitute a conflict of interest and create competitive disadvantages for companies that are not so affiliated. H.B. 2634 seeks to address this situation.

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

H.B. 2634 amends the Government Code to remove an exception to a prohibition against a governmental entity's project architect or engineer serving, alone or in combination with another person, as the construction manager-at-risk. The bill subjects an entity related to the governmental entity's architect or engineer to that prohibition. The bill establishes, for the purposes of such a prohibition, that an entity is related to the governmental entity's architect or engineer if the entity is a sole proprietorship, corporation, partnership, limited liability company, or other entity that is a subsidiary, parent corporation, or partner or has any other relationship in which the governmental entity's architect or engineer has an ownership interest, or is subject to common ownership or control, or is party to an agreement by which it will receive any proceeds of the construction manager-at-risk's payments from the governmental entity.

EFFECTIVE DATE

September 1, 2015.