

BILL ANALYSIS

C.S.H.B. 2581
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Civil works contracting practices and procurement laws should promote competition by qualified contractors to ensure the best price and value for public dollars spent on infrastructure. Unfortunately, there are several deficiencies in current contracting standards. For instance, the inadequate weighting of pricing factors used in conjunction with competitive sealed proposals is serving to diminish competition and has led to overly subjective procurements and contract awards. Additionally, transparency in this process is currently lacking. Contractors competing for civil works projects should expect a reasonable explanation of the factors resulting in an award where they are not selected without engaging in costly and time-consuming bid protests, litigation, and public information requests. C.S.H.B. 2581 seeks to address these issues and improve contracting and procurement processes for civil works and other construction projects by requiring the disclosure of scoring methodologies and bid evaluations and requiring the weighted value assigned to price for certain projects to be at least 50 percent of the total weighted value of all selection criteria.

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. 2581 amends the Government Code to make applicable to all governmental entities the requirement to publish a detailed methodology for scoring each selection when using a method other than competitive bidding in a request for proposals or qualifications for a construction contract. An offeror who submits a bid, proposal, or response to a request for qualifications for a government construction contract may make a written request to the governmental entity after the contract is awarded to provide documents related to the evaluation of the offeror's submission. The entity must deliver those documents to the offeror not later than the 30th day after the date the request is made.

C.S.H.B. 2581 requires the weighted value assigned to price for civil works projects included in a governmental entity's request for competitive sealed proposals to be at least 50 percent of the total weighted value of all selection criteria. The bill authorizes an entity whose governing body determines that assigning a lower weighted value to price is in the public interest to assign to price a weighted value of at least 40 percent of the total weighted value of all selection criteria.

C.S.H.B. 2581 requires a governmental entity selecting an offeror using a competitive sealed proposal method to make the evaluation, including any scores, public and to provide them to all offerors not later than the seventh business day after the date the contract is awarded. The bill sets the deadline for filing an action for declaratory or injunctive relief for the enforcement of applicable state law governing contracting and delivery procedures for construction projects as the 15th calendar day after the date on which a contract is awarded.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2581 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits provisions that appeared in the original authorizing a governmental entity to implement a prequalification process for civil works projects. Accordingly, the substitute also omits additional provisions of the original referencing that process.