

SUBJECT: Extending General Services Commission contract dispute arbitration

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Seidlits, S. Turner, Black, Bosse, Danburg, B. Hunter, D. Jones, McCall, Ramsay
0 nays
6 absent — Alvarado, Craddick, Hilbert, Hochberg, Wolens

SENATE VOTE: On final passage — April 20 — 31-0

WITNESSES: For — Jim Sewell, Associated General Contractors-Building
Against — None

BACKGROUND: Current law allows arbitration to settle disputes or claims related to state building construction projects. The arbitration law does not apply to construction projects of the Texas Department of Transportation, institutions of higher education, Texas Parks and Wildlife Department, Texas Department of Criminal Justice, certain buildings constructed for the agriculture department, smaller repair and rehabilitation projects, repair projects of another state agency, projects under the supervision of public authorities created by the state and state-aided local government projects. The arbitration provision expires September 1, 1995.

DIGEST: SB 1159 would extend indefinitely the authority to use arbitration as a method of handling a dispute or claim from a contract involving the General Services Commission. The bill would also eliminate the prohibition against using arbitration one year after the work on a contract is completed.

The provisions of the bill would apply to the arbitration of a claim or dispute after the effective date of the bill. Disputes brought before the effective date of the bill would come under current law. The bill would take immediate effect if approved by two-thirds of the membership of each house.

**SUPPORTERS
SAY:**

The Legislature authorized arbitration to settle GSC construction claims and disputes in 1993 and required the state comptroller and the Center for Public Policy Dispute Resolution of the University of Texas School of Law to review the process and report to the 75th Legislature in 1997. The law inadvertently sunsetted the arbitration September 1, 1995. This bill would allow the study on arbitration to the 75th Legislature to be completed.

The arbitration process, which has been in effect for about a year, has proved extremely successful and should be continued indefinitely. All disputes have been settled at the mediation stage, before the need for binding arbitration. Furthermore, allowing binding arbitration saves the state as much as \$100 million a year in construction contract costs. The state auditor found that construction contract costs are inflated by as much as 10 percent because there was no other avenue to settle disputes than through the courts, which can be very expensive.

**OPPONENTS
SAY:**

State agencies, other than GSC, do not allow for binding arbitration to settle construction claims or disputes. This bill should require that all state-funded construction contracts include binding arbitration clauses to settle claims and disputes.