

SUBJECT: Posting state agency procurement notices on the Internet

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Wolens, S. Turner, Counts, Craddick, Danburg, Hunter, D. Jones, Longoria, McCall, Ramsay

0 nays

5 absent — Alvarado, Brimer, Carter, Hilbert, Stiles

WITNESSES: For — Henry Flores, Texas Association of Mexican American Chambers of Commerce; Jesse Romero, Mexican American Legal Defense Fund; Jim Wyatt, Texas Association of African American Chambers of Commerce; Monica Trevino Binggeli, San Antonio Hispanic Chambers of Commerce; Rene Gonzalez

Against — None

On — Dan Wattles, Texas Department of Commerce; Robert McKinley, UTSA Small Business Development Center and North San Antonio Chamber of Commerce; Cathy Navarro and Leo Aguirre, Comptroller's Office

DIGEST: CSHB 319 would require state agencies to electronically post all bid notices and proposal solicitation packages for procurements exceeding \$25,000. The information would be posted daily on the Texas Department of Commerce “Texas Marketplace” web page on the Internet.

Postings would have to include a brief description and quantity of the goods and services to be purchased, applicable state product codes, the bid closing date, date on which the goods would be needed, and the phone number and address of a contact at the state agency.

A bid notice would have to be posted for 21 calendar days or until the closing date or until the date the state agency decided not to make the procurement. An entire bid or proposal solicitation package would have to be posted for 15 calendar days or until the closing date or until the date the

state agency decided not to make the procurement. The posting provisions would not have to be followed in an emergency requiring the state agency to purchase more quickly to prevent a hazard or to avoid additional cost to the state. A contract or procurement award made by a state agency violating the minimum posting requirements would be void.

CSHB 319 would allow governmental entities to provide public access to the notices and could charge a fee for downloading the information. A nongovernmental entity could use the posted information for more than just downloading and could charge a fee for this service.

The Texas Department of Commerce would be able to adopt rules beginning September 1, 1997 to administer the provisions of the bill. Proposed rules would have to be sent for review to the governor, Legislative Budget Board, comptroller, state auditor and commission for review.

CSHB 319 would take effect June 1, 1998. The minimum posting requirements would apply to procurements made on or after July 1, 1998.

**SUPPORTERS
SAY:**

CSHB 319 would create a centralized location that businesses and individuals could consult to learn about state procurement opportunities. Currently, potential vendors are forced to check with state agencies individually in order to learn about bid notices. CSHB 319 would consolidate procurement information into a one-stop shop located on the Internet.

The Internet is used by millions of people every day to sell, purchase and post information about products and is becoming a common location for commercial activity. CSHB 319 would ensure state agencies tap into this rapidly expanding cyberspace marketplace.

The bill could save the state money. Instead of mailing bid notices to lists of potential vendors, state agencies could post the information on the Internet for quick access by literally thousands of interested parties. In addition, the bill could increase the diversity and number of bidders for state agency contracts because more people would have access to bid notices.

CSHB 319 would use existing infrastructure to facilitate the spread of procurement information to potential bidders and offerors. "Texas Marketplace" is a free buy/sell network used by Texas businesses and is updated by the Texas Department of Commerce. State agencies would easily be able to post procurement notices to this already established website.

The posting requirements in the bill are modeled after federal government notice requirements and would provide the necessary starting framework for this program. The penalty for violation of posting requirement is prudent and would encourage state agencies to post information on the Internet.

OPPONENTS
SAY:

The penalty prescribed in CSHB 319 for violations of posting requirements would be overly harsh. Voiding a contract because of a mistake committed by a state agency would unfairly penalize business owners. The state agency should be penalized for its own mistake, not the vendor.

The 15-day posting period is too long and could prevent business owners from participating in the state's bidding process because it would likely increase the number of emergency procurements made.

NOTES:

The committee substitute deleted requirements for a printed version of procurement notices and package available for subscription and reduces the posting requirement from 30 days to 21 days for notices and 15 days for packages.

The companion bill, SB 1380 by Ellis, West and Barrientos, passed the Senate on April 28 and was reported favorably as substituted by the House State Affairs Committee on May 6, making it eligible to be considered in lieu of HB 319.