

SUBJECT: Allowing electronic notice of school district purchases exceeding \$25,000

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Grusendorf, Branch, Dawson, Eissler, Griggs, Hochberg, Madden
0 nays
1 present not voting — Dutton
1 absent — Oliveira

WITNESSES: For — Amy Beneski, Texas Association of School Administrators; Sandi Borden, Texas Elementary Principals and Supervisors Association; Lonnie Hollingsworth, Texas Classroom Teachers Association; Mary Beth King, Texas Association of School Boards and Plano ISD; Mark J. Rogers, Texas Association of School Boards and Austin ISD

Against — Nuel Cates, Daily Commercial Record; Fred Hartman, Texas Daily Newspaper Association and Texas Press Association; Milton Morin, Texas Press Association, Texas Daily Newspaper Association, and Daily Court Review

On — Betty Ressel and Jeff Van Pelt, Comptroller's Office

BACKGROUND: Education Code, sec. 44.031(g) requires school districts to publish notice once a week for at least two weeks before the bidding deadline on any contract worth \$25,000 or more. The rules apply to one-time contracts for a major purchase or to ongoing contracts that equal \$25,000 or more in a calendar year, such as for cleaning supplies. A district must publish the notice in the local newspaper in the same county as the district's administrative offices. If no newspaper exists in that county, the district must publish the notice in the county with a newspaper nearest to the district's county seat.

Government Code, sec. 2177.051 sets forth rules for the state's electronic procurement marketplace, called the Texas Marketplace. The Texas Building and Procurement Commission (TBPC) manages this centralized online

bidding and procurement service, which is available at no cost to state agencies and local governments. Potential bidders and vendors can register with the website and log on to review open bids and procurement opportunities. The TBPC may make the marketplace available to political subdivisions such as school districts on a fee-for-service basis.

DIGEST:

HB 443 would allow school districts to choose whether to publish contract bids, proposals, or requests for qualifications worth more than \$25,000 on the state's electronic procurement marketplace or in the appropriate local newspaper. The electronic notice would have to be posted at least 14 days before the bidding deadline. The TBPC would have to allow a school district to post information on the electronic procurement marketplace.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 443 would save school districts thousands of dollars in newspaper advertising costs that could be spent better in the classroom. Austin ISD predicts that the bill would save the district about \$45,000 per year in advertising costs: \$15,000 on commodity purchases and \$30,000 on construction projects. In 2002, Houston ISD spent more than \$200,000 on newspaper advertising.

Several dozen school districts already have advertised bids on the Texas Marketplace, although they must advertise in the local newspaper as well. Districts that have moved to electronic bidding report many advantages, including lower overhead costs, greater accessibility to vendors, standardized specifications among vendors, and greater ability to reach potential vendors in geographically remote locations. Increased competition in the bidding process ultimately leads to lower costs for districts. School districts that now use the Texas Marketplace are doing so free of charge, and the TBPC is not expected to begin charging a fee for the service.

HB 443 would return local control to school districts in the area of bidding and procurement, doing away with an unfunded mandate imposed by the state. The bill is permissive and would not prevent school districts from continuing to advertise in their local newspapers. Also, nothing would prevent local newspapers or individual citizens from conducting online research about where school districts are spending money and then reporting that information

in the newspaper. Public libraries make free Internet access widely available, so vendors and citizens easily could view the Texas Marketplace online at their local libraries. HB 443 would protect the public interest and would give local school districts the flexibility to use their judgment to respond to local needs while saving money.

**OPPONENTS
SAY:**

HB 443 would make it harder for citizens to be informed about how school districts are spending their tax dollars, which is the main reason for requiring newspaper advertising of school district contracts. Most people do not look online at the Texas Marketplace to see how their school districts are spending money — they look at the legal notices in the local newspaper. A newspaper subscription is cheaper than a subscription for online services. Furthermore, newspapers provide independent verification and a permanent paper trail.

HB 443 could have an adverse effect on contractors who lack Internet access. The bill would take no account of the “digital divide” that still exists for low-income Texans and minorities. A recent national study found that only 25 percent of Texans have Internet access. Most of the larger school districts would take advantage of the online process, requiring potential vendors in urban areas to invest in computer hardware, software, and online subscription services in order to compete. This could have a negative effect on minority bidding on school district contracts.

NOTES:

The companion bill, SB 1359 by Lindsay, is pending in the Senate Education Committee.