

SUBJECT: TERP contracting; abolishing Texas Council on Environmental Technology

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 5 ayes — Bonnen, Kuempel, Chisum, Smith, West

0 nays

2 absent — Crownover, Flores

WITNESSES: No public hearing

BACKGROUND: HB 1365 by Bonnen, et al., regular session, created new funding for and made other changes in the Texas Emissions Reduction Plan (TERP), the state's main program for achieving compliance with federal air quality standards. Portions of a state that do not meet U.S. Environmental Protection Agency (EPA) pollution thresholds for clean air are termed "non-attainment areas." Counties meeting the standards by only a slim margin are termed "affected counties," also known as "near-non-attainment areas."

Government Code, sec. 2155.451 and Local Government Code, sec. 271.907, as modified by HB 1365, allow contracts performed wholly or partly in affected counties and awarded by the Texas Building and Procurement Commission (TBPC), other state agencies, and local political subdivisions to contain two optional provisions. The governmental entities may:

- give preference to vendors that meet or exceed any state or federal air quality standard, including voluntary standards, if the cost of the goods or services is not more than 5 percent greater than those of a vendor that does not meet the standards; or
- require vendors to demonstrate that they meet or exceed state or federal air quality standards, including voluntary standards.

After the regular session, Gov. Perry line-item vetoed the appropriations for the Texas Council on Environmental Technology (TCET), which is appointed by the governor to award research and development grants for innovative

emissions-reducing technologies, such as alternative-fuel engines and emissions-control systems.

DIGEST: HB 37 would specify that the discretionary vendor preferences and requirements for state and local government contracts performed in affected counties also apply to contracts to be performed wholly or partly in non-attainment areas.

The bill would reword a definition and make other conforming changes eliminating TCET from secs. 386 and 387 of the Health and Safety Code and transferring its duties and functions to the Texas Commission on Environmental Quality. HB 37 also would repeal the statute housing TCET offices and projects at the Center for Energy and Environmental Resources at the University of Texas at Austin.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the third called session.

NOTES: The vendor contracting preference additions in HB 37 are identical to those in HB 19 by Swinford, second called session, which was reported favorably, as substituted by the Government Reform Committee and left pending in the Calendars Committee. In addition, HB 19 would have excluded late model motor homes from the 1 percent TERP surcharge and applied the 2.5 percent surcharge to older motor homes.