

- SUBJECT:** Relating to alternative delivery methods for public construction projects
- COMMITTEE:** Government Efficiency and Reform — committee substitute recommended
- VOTE:** 6 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Scott Turner, Vo  
0 nays  
1 absent — Taylor
- WITNESSES:** For — Don Elder, Jr., City of Katy, Choice Partners, Harris County Department of Education; Peyton McKnight, American Council of Engineering Council of Texas; (*Registered, but did not testify:* Michael Chatron, AGC Texas Building Branch; Mindy Ellmer, Gulf Coast Water Authority; Jennifer McEwan, Texas Society of Professional Engineers; Craig Pardue, Dallas County; Tom Tagliabue, City of Corpus Christi; Michael White, Texas Construction Association)
- Against — Perry Fowler; (*Registered, but did not testify:* Rich Austin, Fred Dodd, Josh Lanman, Bruce Matous; TJ Patterson, City of Fort Worth; James Ridgway; Mark Smith, BAR Constructors; Ken Stringer)
- On — Susan Butler, CH2M Hill; John Dahill, Texas Conference of Urban Counties; Mari Garza-Bird, CDM Smith; Barry Haenisch, Texas Association of Community Schools and Texas Association of School Administrators; Les Hooper, Harris County Department of Education; Leonardo Olivares, City of Weslaco; Jim Owens, Harris County Department Education; Brian Sledge; Lloyd Gosselink Rochelle & Townsend, P.C.; Ruben Villarreal, City of Rio Grande City; (*Registered, but did not testify:* Donald Lee)
- BACKGROUND:** Government Code, sec. 2267.354 entitles local government entities with a population of more than 500,000 to use the alternative project delivery method of design-build for up to six public construction contracts per year beginning on September 1, 2013. After September 1, 2015, entities between 100,000 and 500,000 in population may enter into up to four design-build projects per year.

Government code, sec. 2267.301 defines "design-build" as a method of project delivery that allows a governmental entity to contract with a single company to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Water Code, sec. 49.273 addresses situations where a change of a contract's specifications is necessary after performance of a municipally owned utility's contract has begun. The government board for the district may grant the authority for a change-order not exceeding 10 percent of the original contract price to occur.

**DIGEST:**

CSHB 1050 would push the start-date up two years to September 1, 2013 for government entities with populations between 100,000 and 500,000 to be able to perform up to four design-build projects per year.

A municipally owned water utility's governing board could allow a change-order on a construction project, as long as the change-order did not exceed 25 percent of the original contract price.

The bill would result in other changes to the design-build process. A design-build firm submitting a bid for a project could be required to disclose the companies to be used for the project. The bill would also remove the requirement for government entities considering the design-build method to make formal findings that the criteria for selecting this project method were properly considered.

The bill would take effect September 1, 2013. The various changes to state law would not affect contracts made prior to the bill's effective date.

**SUPPORTERS  
SAY:**

In 2011, the Legislature passed HB 628, which authorized alternative project delivery methods and consolidated them into one chapter of the law. It also expanded the types of entities eligible to use alternative project delivery methods to entities such as hospital districts.

The interim Government Efficiency & Reform committee looked at a survey performed by Texas Legislative Council (TLC), which found that alternative delivery methods were being utilized. The survey also indicated that in many instances, lower project costs resulted, along with increased efficiency in completing construction projects.

As with any major law, minor adjustments are sometimes needed. This bill

would serve this role and respond to the study by TLC. The bill would modestly accelerate the phase-in process in recognition of the fact that entities now have enough experience and market knowledge of alternative project delivery. Also, by granting municipally owned water utilities the authority to approve contract change-orders up to 25 percent from 10 percent of the contract price, the bill would allow more flexibility. During a design-build project, sometimes the contracted amount needs to be changed.

The fact that Texas companies are not currently being awarded design-build contracts is a temporary market condition because Texas companies have not traditionally used alternative project delivery methods. As Texas companies bid more and become more experienced with these methods, the marketplace will even out. While Texas companies currently may not be winning initial bids, many of these companies are being made subcontractors on projects. An example is when Texas engineering firms are hired as subcontractors to perform work.

**OPPONENTS  
SAY:**

With respect to moving up the dates to allow more design-build projects, this has not been a process that has included many Texas companies. The vast majority of design-build water construction projects built in Texas have gone to out-of-state firms. The bill would do little to provide more opportunity to Texas companies.