

**SUBJECT:** Competitive-bidding requirements for certain governmental entities

**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 — David Bloxom; Wes Johnson, TEXO; (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Perry Fowler; Jennifer McEwan, Texas Society of Professional Engineers; Peyton McKnight, American Council of Engineering Council of Texas; Jim Sewell, Gallagher Construction Services; Michael White, Texas Construction Association)  
  
Against — Peter Vaky, City of Fort Worth  
  
On — (*Registered, but did not testify*: John Dahill, Texas Conference of Urban Counties)

**BACKGROUND:** Local Government Code, ch. 271 addresses features of the contracting authority of political subdivisions in the state, such as competitive-bidding requirements.

**DIGEST:** CSHB 2958 would amend Local Government Code, ch. 271, subch. Z to require instrumentalities of government entities, economic development corporations, or partnerships between government entities to adhere to the same state laws related to the procurement of construction projects and services that apply to counties and municipalities.  
  
The bill would take effect September 1, 2013, and would apply only to contracts first solicited on or after the bill's effective date.

**SUPPORTERS SAY:** Current state law allows government entities to contract for construction and repair only after the entity follows competitive-bidding requirements.

State law also provides for other procurement methods. All of these methods are designed to expand government transparency and accountability, while ensuring projects go to the most qualified bidder. Economic development corporations (ECDs) many times funded in part if not completely by tax dollars are not required to follow these same procurement guidelines. Instances of favoritism have occurred in smaller communities, where ECDs awarded construction contracts without going through the competitive-bidding process. Also, with millions of dollars of contracting for economic development happening each year in larger cities, the use of this loophole for ECDs would be problematic.

The bill would fix this problem so that ECDs and other instrumentalities of government entities followed the same procurement rules required of the government entity by which they were created. ECDs are subject to the state's open records and meetings laws, yet state law does not currently address how they should handle public construction contracts. The bill would provide consistency in the procurement and awarding of public construction contracts.

**OPPONENTS  
SAY:**

Greater clarity is needed as to what “instrumentalities” of government entities means. The bill should not apply to local development corporations partnering with private entities to fund economic development in a city. These corporations do not use taxpayer dollars but rather rely on bank loans and grants. The provisions of state law dealing directly with economic development corporations should instead be amended.

**NOTES:**

The author plans to introduce a floor amendment exempting certain privately funded development projects from the requirements of the bill.