

**SUBJECT:** Relating to certain public works contracting requirements

**COMMITTEE:** Government Efficiency and Reform — committee substitute recommended

**VOTE:** 7 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Taylor, Scott Turner, Vo  
0 nays

**SENATE VOTE:** On final passage, April 11 — 31 - 0, on Local and Uncontested Calendar

**WITNESSES:** (*On House companion bill, HB 3830:*)  
For — Daniel Biles and Tom Tagliabue, City of Corpus Christi;  
(*Registered, but did not testify:* Michael Vasquez, Texas Conference of Urban Counties)  
  
Against — None  
  
On — Perry Fowler, BAR Constructors, Boyer Construction, Bryan Construction, CSA Construction, LEM Construction, Matous Construction, Pepper Lawson Waterworks; Brian Sledge, CDM Smith

**BACKGROUND:** Government Code, sec. 2267.354 will entitle 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. A municipally owned water utility with a separate governing board appointed by a municipality with a population of more than 500,000 will be able to enter two projects per year, also 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.

Local Government Code, sec. 252.048 enables the governing body of a municipality to approve an order making changes to a contract if a change in plans or specifications becomes necessary after contract performance has begun. In cities with populations of 500,000 or more, a city may delegate the authority to approve a change order not exceeding \$100,000 to an administrative official.

**DIGEST:**

CSSB 1430 would push the start date up by 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. Government entities with populations of more than 500,000 still would be permitted to annually perform up to six design-build projects beginning on September 1, 2013.

The bill would amend Local Government Code, sec. 252.048 so that a city with a population of 300,000 or more could delegate to an administrative official the approval of a change order less than \$100,000.

This 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 September 1, 2013.

**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.

Alternative delivery methods are being used across the state to lower project costs and increase efficiency in completing construction projects. The bill would modestly accelerate the phase-in process for mid-size cities. It would not allow more design-build projects than under current law beginning in 2015. Under the bill, mid-size cities such as Corpus Christi or Arlington, which now have experience with alternative delivery methods, could solicit four design-build contracts per fiscal year.

The fact that Texas companies are not 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 may not be winning initial bids, many of these companies, such as engineering firms,

are being awarded subcontracts.

**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. For example, 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.

**NOTES:**

The committee substitute differs from the Senate bill in that it would leave the upper population bracket for government entities entering into contracts at 500,000, rather than changing it to 300,000, and would accelerate by two years, to September 1, 2013, the start date for when smaller municipalities could perform up to four design-build projects in a fiscal year.