

SUBJECT: Prohibiting certain changes to a contracted team for transportation projects

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Canales, Landgraf, Bernal, Y. Davis, Hefner, Krause, Leman, Martinez, Ortega

0 nays

4 absent — Goldman, Raney, Thierry, E. Thompson

WITNESSES: For — Peyton McKnight, American Council of Engineering Companies of Texas; (*Registered, but did not testify*: Karen Rove, Associated General Contractors of Texas, Highway Heavy; Matthew Geske, Austin Chamber of Commerce; Perry Fowler, Texas Water Infrastructure Network)

Against — None

On — (*Registered, but did not testify*: James Bass and Bill Hale, Texas Department of Transportation)

BACKGROUND: Transportation Code ch. 370 authorizes the creation of regional mobility authorities, defined as political subdivisions formed by one or more counties to construct, maintain, and operate transportation projects.

Government Code ch. 2269 authorizes a governmental entity that enters into a contract with a design-build firm to require that firm to identify the team of companies that will fill key project roles and serve as task leaders.

Firms held to this identification requirement are not allowed to change the companies they select to work on the project unless the identified company meets certain criteria. If a design-build firm makes a team change in violation of these criteria, any cost savings resulting from the change accrue to the governmental entity, not to the design-build firm. Sec. 2269.004 exempts contracts entered into by the Texas Department of Transportation from this authorization and any project that receives

money from a state or federal highway fund.

Some have raised concerns that design-build firms that contract with the Texas Department of Transportation could profit from submitting a proposal for a project with an identified team and, after being selected, renegotiate the deal with the identified companies to seek lower rates or replace one of the identified companies.

DIGEST:

HB 1542 would authorize the Texas Department of Transportation and regional mobility authorities to prohibit a design-build contractor from making changes to the companies or entities identified by the design-build contractor as a part of the team designated for the purposes of completing a project unless the entity or company:

- was no longer in business;
- voluntarily removed itself from the team;
- failed to provide a sufficient number of qualified personnel; or
- failed to negotiate in good faith.

If the design-build contractor made design-build team changes and the company or entity did not meet these criteria, any cost savings resulting from the changes would accrue to the department or authority and not to the design-build contractor.

The bill would take effect September 1, 2019.