

SUBJECT: Disclosing contract scoring methods for government construction projects

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Paddie, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

2 absent — Hernandez, Smithee

WITNESSES: For — Perry Fowler, Texas Water Infrastructure Network; (*Registered, but did not testify*: William Ben Westcott, ABC of Texas; Clifford Sparks, City of Dallas; Bill Kelly, Mayor's Office, City of Houston; Jennifer Fagan, Texas Construction Association)

Against — Blaire Parker, San Antonio Water System; (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas Highway Heavy Utility and Industrial Branch)

BACKGROUND: Some have raised concerns that current contracting standards for construction projects do not promote competition by qualified contractors due to inadequate weighting of pricing factors and a lack of transparency, impacting the ability to ensure the best price and value for public dollars spent on infrastructure.

DIGEST: CSHB 2581 would require all governmental entities, rather than just state agencies, to publish a detailed methodology for scoring each criterion when using a method other than competitive bidding for construction contracts. After the contract was awarded, an offeror who submitted a bid, proposal, or response to a request for qualifications for a construction contract could make a written request to the governmental entity to provide documents related to the evaluation of the offeror's submission. The governmental entity would have to deliver the documents within 30 days of the request.

For civil works projects, the weighted value assigned to price included in a governmental entity's request for a competitive sealed proposal would have to be at least 50 percent of the total weighted value of all selection criteria. If the entity's governing body determined that assigning a lower weighted value to price was in the public interest, the entity could assign a weighted value of at least 40 percent of the total weighted value of all selection criteria.

The bill would require a governmental entity using a competitive sealed proposal method to make public the evaluations, including any scores, and provide them to all offerors within seven business days after the contract was awarded.

The bill would extend the time period under which state law governing contracting and delivery procedures for construction projects could be enforced through an action for declaratory or injunctive relief from 10 to 15 days after the contract was awarded.

The bill would take effect September 1, 2021, and would apply to a contract for which a governmental entity first advertised or solicited on or after that date.