

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1380
By: Ellis
State Affairs
4-17-97
Committee Report (Substituted)

DIGEST

Currently, methods demonstrating advance notice of state procurement are rare. S.B. 1380 creates an electronic business daily to give notice before a state agency makes a procurement with a value that exceeds \$25,000.

PURPOSE

As proposed, C.S.S.B. 1380 creates an electronic business daily to give notice before a state agency makes a procurement with a value that exceeds \$25,000.

RULEMAKING AUTHORITY

Rulemaking authority is granted to General Services Commission in SECTION 1 (Sec. 2155.074(1) Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2155B, Government Code, by adding Section 2155.074, as follows:

Sec. 2155.074. STATE BUSINESS DAILY; NOTICE REGARDING PROCUREMENT EXCEEDING \$25,000. (a) Provides that this section applies to each state agency making a procurement that will exceed \$25,000 in value, without regard to the source of funds the agency will use for the procurement, including a procurement that fulfills other qualifications.

(b) Defines "department."

(c) Requires the Texas Department of Commerce (department) each business day to produce and post a business daily in an electronic format. Requires the department to post in the business daily information as prescribed by this section about each state agency procurement that will exceed \$25,000 in value. Requires the department to also post in the business daily certain other information that the department considers to be of interest to the public.

(d) Requires the department to make the business daily available on the Internet through its information service known as Texas Marketplace or through a suitable successor information service that will make the information available on the Internet. Requires the department and each state agency to cooperate in making the electronic business daily available.

(e) Sets forth the procedure to accommodate businesses and other governmental and nongovernmental entities that do not have the technical means to access the business daily.

(f) Prohibits the department and other state agencies from charging certain fees as these costs are to be considered part of the procuring agency's responsibility to publicly inform potential bidders of certain information.

(g) Requires the department to include certain information for each procurement that the department or another state agency will make that is estimated to exceed \$25,000 in value.

(h) Requires the department to continue to perform certain functions relating to the posting of a procurement.

(i) Provides that the state agency may not award the procurement contract and shall continue to accept bids or proposals or other applicable expressions of interest for the procurement contract for a certain time period. Provides that the 15-calendar-day requirement of this subsection and Subsection (g) does not apply in an emergency requiring the department or other state agency to make the procurement more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the state.

(j) Provides that a contract or procurement award made by a state agency that violates certain requirements is void.

(k) Requires each state agency that will award a procurement contract estimated to exceed \$25,000 in value to send certain information to the department.

(l) Authorizes the department to adopt rules, prescribe forms, and require information to administer this section. Requires the department to send any proposed rules to certain government officials.

(m) Provides that the requirements of this section are in addition to the requirements of other law relating to the solicitation of bids, proposals, or expressions of interest for a procurement by a state agency. Provides that this section does not affect whether the state agency is required to award a procurement contract through competitive bidding, competitive sealed proposals, or another method.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: June 1, 1998, except that the Texas Department of Commerce may adopt rules, procedures, and forms and make agreements necessary to administer this Act beginning September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends relating clause.

SECTION 1.

Amends Section 2155.074(a), Government Code, to delete text which includes a procurement under this section that will exceed \$25,000.

(b) Adds Subsection (b) to define "department." Renumbers subsequent subsections accordingly.

Transfers all responsibilities and duties given to the General Services Commission in the proposed version to the Texas Department of Commerce in the substitute. Revises the subsections to reflect the change and adds new Subsections (e), (f), (h), (i), and (j) and redesignates proposed Subsections (i)-(k) as new Subsections (k)-(m) while making certain language changes throughout the substitute. Deletes proposed Subsections (b), (c), and (e) entirely.

(c) Deletes proposed Subsection (c) to remove all references to a printed business daily.

- (d) Establishes the business daily in an electronic format and makes this format available over the Internet through certain information services only.
- (e) Sets forth provisions for certain business, governmental, and nongovernmental entities that do not have the technical means to access the business daily.
- (f) Prohibits the department or other state agency from collecting certain fees.
- (g) Sets forth a description of the information the department is required to post in the business daily.
- (h) Requires the department to continue to perform certain function relating to the business daily until a certain date.
- (i) Prohibits a state agency from awarding certain procurement contracts under certain conditions.
- (j) Provides that certain procurement contracts are void if they violate certain requirements.
- (k) Requires a state agency that awards a procurement contract that exceeds \$25,000 to send the department certain information.
- (l) Authorizes the department to adopt certain rules, to prescribe certain forms, and to require certain information to administer this section.
- (m) Makes conforming changes.

Adds SECTION 2 to make application of this Act prospective.

Adds SECTION 3 to set forth the effective date and authorizes the department to adopt rules, procedures, and forms by a certain date.

Adds SECTION 4 to set forth the emergency clause.