

## **BILL ANALYSIS**

Senate Research Center  
76R7483 JD-F

S.B. 927  
By: Wentworth  
Infrastructure  
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As Filed

### **DIGEST**

Currently, Texas law does not allow the Texas Transportation Commission (commission) and the Texas Department of Transportation to utilize a design-build contract for the design and construction of highways and turnpike projects. Contracting procedures are governed by statute which make the distinction between construction services and pre-construction services. Each type of service is governed by its own law, and the two conflict to the extent that they cannot be reconciled, precluding the possibility of combining both types of services in a single contract. The design-build concept generally involves awarding a highway improvement project to a firm or combination of firms responsible for both the design and subsequent construction of the project. This bill would authorize the commission and the Texas Turnpike Authority division of the Texas Department of Transportation to award a design-build contract for the improvement of turnpike projects that are part of the state highway system.

### **PURPOSE**

As proposed, S.B. 927 establishes requirements and procedures for granting contracts for the development of turnpike projects of the Texas Department of Transportation and the Texas Turnpike Authority division of the department.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Transportation Commission in SECTION 1 (Section 223.165(a), Transportation Code) and to the board of directors of the Texas Turnpike Authority division of the Texas Department of Transportation in SECTION 2 (Section 361.2311(j), Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 223, Transportation Code, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. DESIGN-BUILD CONTRACTS**

Sec. 223.161. DEFINITIONS. Defines “design-build contract” and “preconstruction services.”

Sec. 223.162. AWARD OF DESIGN-BUILD CONTRACTS. Authorizes the Texas Transportation Commission (commission) to award a design-build contract for a preventative maintenance or rehabilitation project or a congestion mitigation project, as an alternative to the procedures provided by Subchapters A and D of this chapter.

Sec. 223.163. SOLICITATION OF PROPOSALS. Requires the Texas Department of Transportation (department) to use competitive sealed proposals to obtain services and construction under this subchapter. Requires the commission to establish prequalification requirements for persons from which the department solicits proposals. Requires a proposal to comply with the prequalification requirements to be eligible for consideration. Authorizes the commission to reimburse a person a stipulated amount for design costs incurred in submitting an unsuccessful application. Prohibits the Texas Board of Professional Engineers from taking disciplinary action under the Texas Engineering Practice Act (Article 3271a, V.T.C.S.) to prevent a qualified person or firm from submitting a proposal or entering into a contact under this subchapter.

Sec. 223.164. BEST VALUE STANDARD. Requires the commission to award design-build

contracts to persons whose proposals provide the best value to this state. Authorizes the commission to adjust the rating of a proposal for the value of time based on the number of days needed to complete the project multiplied by a value per day established by the department. Requires the commission to state in writing the basis on which an award is made.

Sec. 223.165. RULES. Authorizes the commission to adopt rules including prequalification and proposal requirements, short-listing procedures, and evaluation categories for various projects.

SECTION 2. Amends Chapter 361F, Transportation Code, by adding Section 361.2311, as follows:

Sec. 361.2311. DESIGN-BUILD CONTRACTS. Defines “design-build contract.” Authorizes the board of directors of the Texas Turnpike Authority division of the Texas Department of Transportation (board) to award a design-build contract for a turnpike project or a congestion mitigation project authorized by the commission. Requires the Texas Turnpike Authority division of the Texas Department of Transportation (authority) to use competitive sealed proposals to obtain services and construction under this section. Requires the board to establish prequalification requirements for persons from which the authority solicits proposals. Requires a proposal to comply with the prequalification requirements to be eligible for consideration. Prohibits the Texas Board of Professional Engineers from taking disciplinary action under the Texas Engineering Practice Act (Article 3271a, V.T.C.S.) to prevent a qualified person or firm from submitting a proposal or entering into a contract under this section. Requires the board to award design-build contracts to persons whose proposals provide the best value to this state. Authorizes the board to adjust the rating of a proposal for the value of time based on the number of days needed to complete the project multiplied by a value per day established by the authority. Requires the board to state in writing the basis on which an award is made. Authorizes the board to adopt rules including prequalification and proposal requirements, short-listing procedures, and evaluation categories for various projects.

SECTION 3. Amends Sections 224.154(a) and (c), Transportation Code, to authorize the commission to authorize, by order, the authority to charge a toll for the use of lanes on a state highway. Authorizes the commission to authorize the department, the authority, or a transportation corporation to build and maintain a congestion mitigation project or a facility under this section. Makes conforming changes.

SECTION 4. Effective date: September 1, 1999.