

BILL ANALYSIS

Senate Research Center

C.S.S.B. 354
By: Lindsay
Intergovernmental Relations
3/6/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Prior to 1999, local government corporations, as provided by the Transportation Code, were used primarily for transportation-related purposes and supervised by the Transportation Commission. However, these corporations were removed from the supervision of the Transportation Commission and their authority was broadened to include non-transportation-related functions with the passage of H.B. 2684 during the 76th Legislature. The applicability of state purchasing restrictions and procedures to local government corporations has been questioned, causing confusion and controversy. C.S.S.B. 354 limits local government corporations to transportation-related purposes with some exceptions for projects already initiated, makes reporting requirements for the local government corporations, and clarifies that they are subject to the applicable procurement restrictions and procedures that apply to the governmental entities that created them.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 431.101, Transportation Code, by amending Subsections (e) and (f) and adding Subsections (g), (h), and (i), as follows:

- (e) Provides that, except as provided by Subsections (h) and (i), a local government corporation is subject to all state law related to the design and construction of projects, including the procurement of design and construction services, that applies to the local government that created the corporation. Requires the corporation, in the event that a local government corporation is created jointly by multiple local governments, and if the local governments have different threshold contract amounts at which competitive bidding is required, to follow the lower amount. Deletes text regarding property and improvements and contracts awarded by a local government corporation.
- (f) Provides that a local government corporation is not subject to a competitive bidding requirement or other restriction imposed on the procedure related to the lease, sale, or other disposition of real property.
- (g) Redesignates Subsection (f) as Subsection (g).
- (h) Provides that a corporation created after September 1, 1999, by a municipality for the purpose of the development of a convention center hotel project is exempt from competitive bidding requirements and other restrictions on the award of contracts for the limited purpose of completing a project initiated prior to December 31, 2000.
- (i) Provides that a corporation created by a municipality after September 1, 1999, for the purpose of developing water treatment and distribution facilities is exempt from competitive

bidding requirements and other restrictions on the award of contracts for the limited purpose of completing projects as described in a project definition document issued prior to December 31, 2000. Provides that any expansion of the treatment facility beyond the project described in the project definition document is exempt from competitive bidding requirements and other restrictions on the award of contracts for the purpose of contracting for the operation of the facility, but is subject to all state law related to design and construction procurement that applies to the local government that created the corporation, as provided in Subsection (e).

SECTION 2. Amends Chapter 431D, Transportation Code, by adding Sections 431.110 and 431.111, as follows:

Sec. 431.110. CONFLICT OF INTEREST IN CONTRACTS. Requires the provisions of Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, to apply to the award of contracts by a local government corporation.

Sec. 431.111. ANNUAL REPORT TO COMPTROLLER. Requires the board of a local government corporation, not later than February 1 of each year, to submit to the comptroller a report in the form required by the comptroller. Prohibits the form from exceeding one page in length. Sets forth requirements for the report. Requires a copy of the report to be also submitted to the local government that created the corporation.

SECTION 3. Makes application of this Act prospective, with an exception.

SECTION 4. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Differs from the original as follows:

SECTION 1. Inserts Subsections (g), (h), and (i), and amends Subsections (e) and (f), rather than amending Subsections (a) and (e), of Section 431.101, Transportation Code. In Subsection (e), inserts an exception as provided by Subsections (h) and (i), changes the terms “statutes, codes, and other laws” to “state law,” and inserts a sentence regarding a local government corporation that is created jointly by multiple local governments.

SECTION 2. Inserts new text for SECTION 2, adding Sections 431.110 and 431.111, Transportation Code, and renumbers former SECTION 2 as SECTION 4.

SECTION 3. As added, inserts prospective clause.

SECTION 4. No change in former SECTION 2.