

BILL ANALYSIS

Senate Research Center
81R12112 TJS-D

H.B. 473
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The enabling act of the Ector County Hospital District (district) provides that a construction project which involves spending more than \$25,000 may be entered into only after a competitive bidding process that complies with the statutory scheme provided by Subchapter B (Competitive Bidding on Certain Public Works Contracts), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

Since the enactment of the district's enabling statute, the Texas Legislature has amended Subchapter H (Alternative Project Delivery Methods for Certain Projects), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code. Subchapter H provides for more flexibility than Subchapter B, and applies to "governmental entities."

During the 80th Legislature, the definition of "government entities" was amended twice in Subchapter H, with one definition including hospital districts within the definition of governmental entities, while the other definition did not mention hospital districts.

Provisions in the Code Construction Act exist to reconcile conflicts such as these by employing a "last in time" standard. However, the two amendments in question cannot be reconciled by this method because each of the pertinent events occurred simultaneously for all intents and purposes.

The result of this contradiction is that there is no way to determine which amendment to Subchapter H is effective. Subchapter H supersedes the district's enabling act, and any contract made in violation of Subchapter H is void as contrary to public policy. Accordingly, if Subchapter H applies to hospital districts, the district must follow the statutory scheme therein. If Subchapter H excludes hospital districts, then Subchapter B must continue to be followed.

This bill amends the district's enabling act to incorporate by reference Subchapter H in the event that hospital districts are included within its definition of "governmental entities."

H.B. 473 amends current law relating to procurement methods of the Ector County Hospital District for the construction, rehabilitation, alteration, or repair of certain projects.

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 1024.105, Special District Local Laws Code, as effective April 1, 2009, as follows:

Sec. 1024.105. PURCHASING AND ACCOUNTING PROCEDURES. (a) Creates this subsection from existing text.

(b) Authorizes the board of directors of the Ector County Hospital District (district) to act as a governmental entity under Subchapter H (Alternative Project

Delivery Methods for Certain Projects), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, for purposes of using the procurement procedures authorized by that chapter. Requires that notice under Section 271.112(d) (relating to a notice given for a contract entered into by certain entities), Local Government Code, for purposes of this subsection, be provided by the district in the same manner as provided for a conservation and reclamation district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

SECTION 2. Effective date: upon passage or September 1, 2009.