

BILL ANALYSIS

Senate Research Center
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S.B. 1467
By: Davis, Wendy
Government Organization
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows local governments to purchase goods or services with the goal of improving air quality. Over half a dozen local North Texas governments, including Tarrant County and the cities of Fort Worth, Dallas, Arlington, and Plano, have used this law to enact "green" cement purchasing preferences, buying cement from the newer and cleaner "dry process" cement kilns, rather than the older and dirtier "wet process" cement kilns which produce less cement but emit more ozone-forming pollution. There are 10 kilns in operation within a few miles of each other and directly below the center of the Dallas/Fort Worth Metroplex and they have a significant impact on the region's air quality.

Recently, a lawsuit was filed by Ash Grove Cement, the only wet process kilns operating in North Texas, against all the local governments that adopted "green" cement policies, claiming in part that they are based on formula and emission caps, not emission standards as required by statute. This is a permissive "right-to-but" bill that explicitly guarantees local governments choice in the procurement of goods or services.

As proposed, S.B. 1467 authorizes a governmental agency procuring goods or services that involve the production of cement to give preference to a vendor that demonstrates that the cement was produced from a portland cement kiln that utilizes a dry raw material feed precalciner pyroprocessing technology and meets or exceeds regulatory requirements for emissions of nitrogen oxide.

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 271.907, Local Government Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Authorizes a preference provided by Subsection (c) (relating to a governmental agency procuring goods or services) or (e) to be given only if the cost to the governmental agency for the goods or services would not exceed 105 percent of the cost of the goods or services provided by a vendor who does not meet the standards.

(e) Authorizes a governmental agency procuring goods or services that involve the production of cement to give preference to goods or services of a vendor that demonstrates that the cement was produced from a portland cement kiln that utilizes a dry raw material feed precalciner pyroprocessing technology and meets or exceeds regulatory requirements for emissions of nitrogen oxide.

SECTION 2. Effective date: September 1, 2009.