

BILL ANALYSIS

Senate Research Center

H.B. 1486
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties allege that school district board members are not expressly prohibited from talking with vendors that are also bidders on a contract pending board approval. This practice is inconsistent with statute applicable to state agencies, where board members and commissioners are generally barred from communicating directly with bidders on a pending contract.

H.B. 1486 prohibits school board trustees from having communications with prospective bidders during the procurement process. Once the board of trustees of an independent school district has issued a request for proposals or advertised for bids on a contract, this bill prohibits a trustee from having direct communication outside a public meeting. This bill also requires that if a board member prematurely contacts a bidder that the board shall reject the bid.

H.B. 1486 amends current law relating to a prohibition on a vendor contact with a member of the board of trustees of certain independent school districts during the procurement process.

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 Subchapter B, Chapter 44, Education Code, by adding Section 44.0353, as follows:

Sec. 44.0353. **VENDOR CONTACT PROHIBITED.** (a) Provides that this section applies only to an independent school district:

(1) any part of which is located in a county with a population of more than 1.5 million in which more than 75 percent of the population lives in a single municipality; and

(2) that has been a party to one or more causes of action involving a dispute over a vendor contract within the years 2000-2014.

(b) Prohibits a member of the board of trustees of an independent school district to which this section applies from, outside a public meeting of the board, having direct or indirect communication with an actual or prospective bidder or offeror relating to a request for proposals or an advertisement for bids during the period:

(1) after the district has issued the request for proposals or has advertised for bids on a contract; and

(2) before the board has awarded the contract that was the subject of the request for proposals or the advertisement for bids.

(c) Requires the board to reject the bid or offer of the bidder or offeror if a trustee violates Subsection (b) by engaging in direct or indirect communication with a bidder or offeror.

(d) Authorizes a trustee, notwithstanding Subsection (b), to have direct or indirect communication with an actual or prospective bidder or offeror if:

(1) the trustee has a substantial interest, as determined under Section 171.002 (Substantial Interest in Business Entity), Local Government Code, in a business entity or in real property and complies with the requirements of Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, if applicable, and:

(A) the business entity is an actual or prospective bidder or offeror responding to the school district's request for proposals or advertisement for bids and the communication relates to the business entity's response; or

(B) the real property is offered in response to the school district's request for proposals or advertisement for bids and the communication relates to the real property; or

(2) the communication occurs at a trade show or convention at which the bidder or offeror was a registered participant and the trustee discloses at a public meeting of the board that the communication occurred, before the earlier of one week after the date the communication occurred, or the date on which the board votes on the request for proposals or advertisement for bids for which the bidder or offeror submitted a proposal or bid.

SECTION 2. Provides that Section 44.0353, Education Code, as added by this Act, applies only to a contract for which the request for proposals or bids was issued on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2015.