

BILL ANALYSIS

Senate Research Center
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H.B. 1542
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Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas design-build procurements statutes allow governmental entities to require a design-build firm to identify companies on their projects team that will fill key project roles and serve as task leaders when responding to a proposal. Half of those statutes prevent a design-build firm from making changes to their team after selection, unless the identified company on the team meets certain criteria.

Some have raised concerns that design-build firms that contract with the Texas Department of Transportation (TxDOT) could profit from submitting a proposal for a project with an identified team and after being selected, renegotiate the deal with the identified companies to seek lower rates or replace one of the identified companies. H.B. 1542 will help eliminate this issue by authorizing TxDOT and regional mobility authorities to prohibit a design-build contractor from making changes to the companies or entities identified after being selected for a contract except in limited circumstances. Additionally, this bill will ensure any cost-savings from making changes to a team after selection would go directly back to the government entity.

H.B. 1542 amends current law relating to changes made by certain design-build contractors to the design-build team for transportation 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 Subchapter F, Chapter 223, Transportation Code, by adding Section 223.2475, as follows:

Sec. 223.2475. CHANGES TO DESIGN-BUILD TEAM. (a) Prohibits a design-build contractor selected for a contract from making changes to companies or entities identified as part of the design-build team in a response to a request for proposals unless an identified company or entity:

- (1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement proposed for the project with the design-build contractor;
- (2) voluntarily removes itself from the team;
- (3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or
- (4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(b) Provides that, if the design-build contractor makes design-build team changes in violation of Subsection (a), any cost savings resulting from the changes accrue to the Texas Department of Transportation and not to the design-build contractor.

SECTION 2. Amends Subchapter K, Chapter 370, Transportation Code, by adding Section 370.4075, as follows:

Sec. 370.4075. CHANGES TO DESIGN-BUILD TEAM. (a) Prohibits a design-build contractor selected for a contract from making changes to companies or entities identified as part of the design-build team in a response to a request for proposals unless an identified company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement proposed for the project with the design-build contractor;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(b) Provides that, if the design-build contractor makes design-build team changes in violation of Subsection (a), any cost savings resulting from the changes accrue to the regional mobility authority and not to the design-build contractor.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.