

**SUBJECT:** Delegating purchasing authority to the Veterans' Land Board

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 7 ayes — Swinford, Miller, Gattis, Farrar, J. Keffer, Martinez Fischer, Wong  
0 nays  
2 absent — B. Cook, Villarreal

**WITNESSES:** For — Jerry Patterson, Texas Veterans' Land Board  
Against — None  
On — Edward Johnson, Texas Building and Procurement Commission

**BACKGROUND:** The Veterans' Land Board administers several programs for eligible veterans and certain dependents, including veterans' homes, veterans' cemeteries, and three low-interest loan programs to help veterans buy land or improve or buy a home. In 2001, state voters approved Proposition 7, authorizing \$500 million in new bonding authority for the VLB's loan programs. Proposition 7 also authorized the VLB to create and fund up to seven state veterans cemeteries, three of which are now in various stages of approval, design, and construction. Funding for construction and equipment of these cemeteries is provided by the U.S. Department of Veterans Affairs, but the state will own and operate them.

In 1997, the 75th Legislature authorized the VLB to build veterans' homes to provide long-term care facilities, skilled nursing services, specialized medical services, and social and educational activities for Texas veterans. The Texas State Veterans Home Program has built four homes with funding from the U.S. Department of Veterans Affairs (VA) and state revenue bonds. Two more homes are under construction.

To be eligible for these programs, sec. 161.007 of the Natural Resources requires that a veteran:

- have served at least 90 continuous days, unless discharged for a service-related disability;
- have at least 20 years of active or reserve military service; or
- be or have been a member of the Texas National Guard who has completed the required initial active duty training.

The VLB is authorized to change the definition of veteran by rule.

Government Code, ch. 2155 authorizes the Texas Building and Procurement Commission (TBPC) to acquire goods and services exceeding \$15,000 on behalf of state agencies. Subchapter C allows the Commission to delegate purchasing functions to a state agency, and directly delegates purchasing authority over certain specialized purchases to specific agencies.

Under sec. 2155.074, purchases by the TBPC or other state agencies must provide the best value to the state. To determine best value, agencies may consider price; product specifications; installation and life cycle costs; quality and reliability of the goods or services; delivery terms; indicators of probable vendor performance, including past performance, financial resources, and experience; cost of employee training associated with the purchase; the effect of the purchase on productivity; the vendor's anticipated economic impact to the state or a subdivision of the state; and other relevant factors.

Government Code, ch. 2166, authorizes the TBPC to plan, construct, and equip buildings and other projects for the state. Sec. 2166.003(a) exempts many projects from TBPC's oversight, including projects by the Texas Department of Transportation, the Parks and Wildlife Department, state institutions of higher learning, and several others.

**DIGEST:**

CSHB 1057 would delegate purchasing decisions on veterans homes and veterans cemeteries to the Veteran's Land Board (VLB) and would allow the board to use any procurement method that provided the best value to the board, based on the best value standards in Government Code, sec. 2155.074. The VLB could direct the Building and Procurement Commission to execute these purchases on its behalf. The bill also would exempt projects constructed by and for the VLB from TBPC oversight under Government Code, ch. 2166.

The bill would remove the requirement that a veteran's 90 days of service be continuous in order for the veteran to be eligible for the VLB's programs.

The bill would take effect September 1, 2005. Provisions of the bill relating to purchases and construction would only apply to contracts or projects for which the VLB were to first solicit a bid or proposal after September 1, 2005.

SUPPORTERS  
SAY:

CSHB 1057 would enable the Veteran's Land Board more efficiently to construct and operate veterans' homes and cemeteries by removing these federally regulated projects from the oversight of the Texas Building and Procurement Commission. While TBPC oversight is appropriate in most cases to ensure that the state receives the best value for its money, TBPC regulation of these homes and cemeteries is redundant because these projects already are subject to strict VA rules on purchasing and construction. The VLB is better informed about the federal requirements, and the TBPC already defers to the board's judgment on these projects.

The VLB would continue to ensure that the state receives the best value for its money because the bill would require the board to adhere to the same best value considerations as the TBPC. Moving the purchasing authority of these goods and services from TBPC would not decrease the state's purchasing power nor affect the best price the state could negotiate in its bulk contracts because these projects require unique goods and services for which the state does not generally have pre-existing contracts.

Although the TBPC directly could delegate purchasing authority to the VLB, this authority would have to be re-delegated each time a new administration came into office. It is simpler to address this issue one time through a statutory change.

Changing the definition of a veteran to anyone who has served at least 90 *cumulative* rather than *consecutive* days would better reflect the current reality of the armed forces, which is filled with many reservists activated temporarily and ensure that these important members of our armed forces receive the same benefits as other members. This change already has been made under VLB rule-making authority, so it would not affect the availability of the board's services to veterans. Putting this change into statute merely would ensure the continuation of this rule.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute added the change in the definition of a veteran to require 90 days cumulative rather than consecutive service.

The companion bill, SB 581 by Van de Putte, passed the Senate by 28-0 on March 31 and was reported favorably, as substituted, by the House Defense Affairs and State-Federal Relations Committee on April 14, making it eligible to be considered in lieu of HB 1057.