

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 583  
By: Ratliff  
Education  
3-31-97  
Committee Report (Substituted)

### **DIGEST**

Currently, state law allows school districts to choose from a list of purchasing methods, including competitive bidding, competitive sealed proposals, requests for proposals, and design-build contracts. The reference to design-build may have created confusion since prior to the recodification of the Education Code, a series of opinions issued by the attorney general held that public entities in Texas could not utilize design-build procedures because the practice was found to be incompatible with law prohibiting competitive bidding for professional services. This bill establishes procedural guidelines by which a school district can utilize design-build contracts for permanent improvements.

### **PURPOSE**

As proposed, C.S.S.B. 583 establishes procedural guidelines by which a school district can utilize design-build contracts for permanent improvements.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 44B, Education Code, by adding Section 44.0311, as follows:

Sec. 44.0311. DESIGN-BUILD CONTRACTS FOR FACILITIES. Defines "architect," "design-build contract," "design-build firm," "design criteria package," "engineer," and "facility." Requires the contracting school district and the design-build firm to follow procedures as outlined by Subsections (c) through (i), in entering into a contract for the construction of a facility using design-build delivery procedures. Authorizes the district to designate an engineer or architect to act as its exclusive representative and sets forth requirements of the engineer or architect. Requires the district to prepare a request for qualifications, including information to be included, and to prepare a design criteria package. Requires the design criteria package to be prepared by an engineer or architect, if the package includes engineering or architectural elements. Requires the district to publish the request for qualifications in a certain manner. Requires the district to evaluate proposals and select a design-build firm in two phases and sets forth the requirements of each phase. Requires the firm's engineers or architects to complete the design, meeting certain requirements, following selection of a design-build firm under Subsection (f). Requires an engineer to have responsibility for compliance with the engineering design requirements and all other requirements of the Texas Engineering Practice Act. Requires an architect to have responsibility for compliance with the requirements of Article 249a, V.T.C.S. Requires the design-build firm to supply a signed and sealed set of construction documents for the project and a record of the project as built to the district at the conclusion of construction.

SECTION 2. Amends Section 51.907, Education Code, as follows:

Sec. 51.907. COMPETITIVE BIDDING ON CONTRACTS. Sets forth procedures for bidding on all contracts, except as provided by Section 51.9071 of this code.

SECTION 3. Amends Chapter 51Z, Education Code, by adding Section 51.9071, as follows:

Sec. 51.9071. DESIGN-BUILD CONTRACTS FOR FACILITIES. Defines "architect," "design-build contract," "design-build firm," "design criteria package," "engineer," "facility," "institution," and "board." Requires the contracting institution and the design-build firm to follow procedures as outlined by Subsections (c) through (i), in entering into a contract for the construction of a facility using design-build delivery procedures. Authorizes the board to designate an engineer or architect to act as its exclusive representative and sets forth requirements of the engineer or architect. Requires the institution to prepare a request for qualifications, including information to be included, and to prepare a design criteria package. Requires the board or its representative to publish the request for qualifications in a certain manner. Requires the board or its representative to evaluate proposals and select a design-build firm in two phases and sets forth the requirements of each phase. Makes conforming changes.

SECTION 4. Effective date: September 1, 1997.

SECTION 5. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

#### **SECTION 1.**

Amends Section 44.0311, Education Code, to redefine "design-build firm," "design-criteria package," and "facility." Deletes a provision that prohibits a district's engineer or architect from being a member of any design-build team or firm that submits a proposal or is selected for the project. Authorizes the district, rather than the district's engineer or architect to prepare certain requests. Requires the design criteria package to be prepared by an engineer or architect, if the design criteria package includes engineering or architectural elements. Requires each offeror to certify to the district that the engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications. Requires the district to qualify a maximum of three potential offerors, rather than at least three potential offerors, to submit certain information. Deletes a provision that requires the district to reimburse qualified proposers for certain costs if the preparation of proposals requires engineering design. Requires the district, rather than the district and its designated engineer or architect, to evaluate certain characteristics of the proposers. Requires the district to reimburse qualified proposers for the costs of preparation of proposals that require engineering or architectural design. Requires an architect to comply with the requirements of Article 249a, V.T.C.S. Deletes proposed Subsection (i). Requires the design-build firm to supply a signed and sealed set of construction documents for the project and a record of the project as built to the district at the conclusion of construction.

#### **SECTION 2.**

Redesignates the effective date to SECTION 4. Sets forth procedures for competitive bidding on contracts, except as provided by Section 51.9071 of this code.

#### **SECTION 3.**

Redesignates the emergency clause to SECTION 5. Amends Chapter 51Z, Education Code, by adding Section 51.9071, regarding design-build contracts for facilities.

#### **SECTION 4.**

Sets forth the effective date.

#### **SECTION 5.**

Sets forth the emergency clause.