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Bill Analysis
Legislative Service Commission

H.B. 359

123rd General Assembly
(As Introduced)

**Reps. Krebs, Tiberi, Willamowski, Netzley, Van Vyven, Corbin, Trakas,
Evans, Callender, Olman**

BILL SUMMARY

- Eliminates the requirement that public agencies at the state and local level award separate contracts for each separate trade or type of labor on public works projects.
- Increases the competitive bidding threshold on public works contracts from \$10,000 to \$50,000.
- Eliminates specialty contracts from consideration in calculating minority business set asides.

CONTENT AND OPERATION

Elimination of separate contracts and increase in the bidding threshold

Under current law, whenever more than \$10,000 is to be spent for a construction or renovation project over which the Director of Administrative Services has general supervision, the agency responsible for the project must engage an architect or engineer to prepare plans, specifications, cost estimate, and other data. The bill exempts from the requirement all contracts for the employment of an architect or engineer that amount to less than \$50,000. (Sec. 153.01.)

Current law requires separate contracts for each separate and distinct trade or labor, business, or employment entering into a public works project. The bill eliminates the requirement that separate plans, specifications, and blueprints be prepared or separate contracts, for labor or otherwise, be let for state public works projects and specifically for projects undertaken by county commissioners, municipalities, school districts, community college districts, university branch districts, technical college districts, and the adjutant general. (Secs. 153.50,

153.51, 153.52 (repealed by the bill), 307.02, 715.011, 3318.10, 3354.16, 3355.12, 3357.16, 3747.06, and 5911.04.)

Awarding of contracts to minority businesses

Current law requires that every state construction contract, including those set aside for minority bidding only, include a provision mandating minority business enterprise participation in the contract as follows:

(1) In the case of specialty contracts (those for plumbing and gas fitting; heating, ventilating, and steam power plants; and electrical equipment), the contract must stipulate that the total value of subcontracts awarded to minority businesses and materials and services purchased from minority businesses will equal at least 7% of the value of the contract. Further, for purposes of meeting the 7% requirement, the purchase of services may be not more than 5% of the total value of the contract. That is, at least 2% must be allocated to minority subcontractors or for the purchases of materials from minority businesses.

(2) In the case of construction contracts other than specialty contracts, the contractor must stipulate that he will award subcontracts to minority businesses having an aggregate value of at least 5% of the total value of the contract and that the combined value of subcontracts awarded to minority subcontractors and materials purchased from minority businesses will equal 7% of the total value of the contract. Current law does not permit purchases of services to count in fulfilling the 7% minority participation in the case of nonspecialty contracts.

Moreover, while current law actually requires contracts to have 7% minority business participation (unless waived by the state Set Aside Review Board), any contractor awarded a state construction contract is to "make every effort" to ensure 10% minority business participation "wherever possible." In the case of specialty contracts, the purchase of services from minority providers may form one component of the 10% total, but this component may not exceed 5% of the total value of the contract. In the case of all other contracts, the value of minority business subcontracts must equal at least 5% of the value of the contract, and the purchase of services from minority businesses does not count in calculating the 10%. That is, purchase of materials may count up to 5% of the total value of the contract.

The bill eliminates specialty contracts from consideration in calculating set asides for the award of subcontracts to and the purchases of materials and services from minority businesses. (Sec. 123.151.)

HISTORY



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Introduced	05-25-99	p. 707

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