

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1669 w/CS Hillsborough Co./Purchases
SPONSOR(S): Homan & others
TIED BILLS: None **IDEN./SIM. BILLS:** HB 1451, SB 3132, & SB 2386

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>20 Y, 0 N</u>	<u>Morris</u>	<u>Cutchins</u>
2) <u>State Administration</u>	<u>6 Y, 0 N w/CS</u>	<u>Brazzell</u>	<u>Everhart</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill authorizes public bodies operating solely within the boundaries of Hillsborough County to purchase goods and services based on bids submitted to other federal, state, and local governmental agencies, provided that any contract from which cooperative purchases are made is procured in compliance with the procuring entity's laws or regulations, which must provide for full and open competition.

The bill takes effect upon becoming a law.

This bill does not appear to have a fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1669c.sa.doc
DATE: April 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 287, F.S., governs the purchase of personal property and services by agencies, requiring competitive solicitation under certain circumstances. For purposes of that chapter with the exception of s. 287.055, F.S., an "agency" is defined in s. 287.012(1), F.S., as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. 'Agency' does not include the university and college boards of trustees or the state universities and colleges." Thus ch. 287, F.S., excepting s. 287.055, F.S., applies only to state executive branch entities.

Section 287.055, F.S., the "Consultants' Competitive Negotiation Act," regarding the procurement of certain professional services, does apply to many local government entities. It defines "agency" as "the state, a state agency, a municipality, a political subdivision, a school district, or a school board . . ."

Chapter 69-1119, Laws of Florida, provides for Hillsborough County and chartered municipalities, local public agencies, boards, and other authorities in that county to purchase from contracts procured by other such entities in the county under certain conditions. However, that chapter law does not specifically address purchasing by these entities from contracts procured by other governments outside Hillsborough County. It is possible that public bodies may grant themselves the power to purchase cooperatively if their charters or the laws creating those entities permit.

Proposed Changes

This bill authorizes all of the public bodies, as defined in the bill, operating solely within the boundaries of Hillsborough County to purchase goods and services under the terms of a bid submitted to other federal, state, and local governmental agencies, provided that any contract from which cooperative purchases are made is procured in compliance with the procuring entity's laws or regulations, which must provide for full and open competition. Public bodies will still be required to comply with the Consultants' Competitive Negotiation Act.

Some of the entities encompassed in the definition of "public body" include Hillsborough County; the cities of Tampa, Temple Terrace, and Plant City; various entities created by special act, such as the Aviation Authority, Tampa Sports Authority, Tampa Port Authority, and the Tampa Housing Authority; the Hillsborough County School Board; and the Sheriff, Clerk of Circuit Court, Supervisor of Elections, Tax Collector, State Attorney, and Public Defender.

C. SECTION DIRECTORY:

Section 1 defines "public body" and "bid."

Section 2 declares the purpose of this act.

Section 3 authorizes a public body to purchase goods and services from contracts procured by other governmental entities under certain conditions.

Section 4 exempts any cooperative purchase made under the provisions of this act from the public body's competitive solicitation requirements under certain conditions.

Section 5 states that this act provides an additional, supplemental, and alternative method of purchasing for public bodies and does not provide for an exemption from s. 287.055, F.S.

Section 6 provides that this act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN?

January 27, 2004.

WHERE?

Tampa, Hillsborough County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Director of Purchasing for the City of Tampa, this bill will authorize Hillsborough County and other public bodies within the county to operate more efficiently and effectively in the purchase of various goods and services. This bill will have minimal impact on local businesses or individuals because public bodies would continue to purchase goods and services at the local level if prices are competitive and available locally. Also, any cost savings incurred by a public body from purchasing goods or services outside of the area will save taxpayer dollars.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

Attorney General opinions 78-122 and 88-31 held that sheriffs and supervisors of elections, respectively, had independence in determining their purchasing methods. It appears that other county constitutional officers also have such independence. Thus the inclusion of entities "created by the Florida Constitution" in the definition of "public body" appears unnecessary. However, section 5 of the bill states that the act is to provide a supplemental purchasing method and is not to be in derogation of any powers now existing, so it should not limit their purchasing powers.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

HB 1669 was amended by the Committee on State Administration at its April 14, 2004, meeting. This amendment:

- Clarifies that the definition of "public body" does not include any entities which are subject to state purchasing law (ch. 287, F.S.).
- Deletes the definition of "publicly advertised competitive sealed bidding process."
- Adds a definition for "bid."
- Provides that any contract from which cooperative purchases are made must be procured in compliance with the procuring entity's laws, which must provide for full and open competition.
- Clarifies that the act is not exempting public bodies from compliance with the Consultants' Competitive Negotiation Act (s. 287.055, F.S.), by which the state and local governments procure certain professional services.

The bill was reported favorably with a committee substitute.