

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 247 Purchase of Commodities and Contractual Services by Local Governments

SPONSOR(S): Military & Local Affairs Policy Committee, Pafford

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 712

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Fudge	Hoagland
2)	Economic Development & Community Affairs Policy Council	14 Y, 0 N	Fudge	Tinker
3)	Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Counties and municipalities, under their home rule powers, establish competitive procurement requirements through ordinance. These local regulations generally include the authority to purchase from competitively awarded contracts of other local governments, referred to as the "piggyback" process.

However, a special district has only those powers expressly provided by, or which can be reasonably implied from, the authority provided in the district's charter. Upon creation, special districts are generally given purchasing authority usually with competitive procurement requirements.

The bill authorizes special districts to purchase commodities or contractual services, except certain professional services subject to the Consultants' Competitive Negotiations Act, from purchasing agreements of other special districts, municipalities, or counties that were competitively procured in compliance with general law and that meet the procurement requirements of the purchasing special district.

The bill is effective on July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Counties and municipalities, under their home rule powers, establish competitive procurement requirements through ordinance.¹ The local regulations generally include the authority to purchase from competitively awarded contracts of other local governments, referred to as "piggybacking".²

However, a special district has only those powers expressly provided by, or which can reasonably implied from, the authority provided in the district's charter. Upon creation, special districts are generally given purchasing authority usually with competitive procurement requirements.

To share the cost savings of competitive bidding, the Department of Management Services ("DMS") has designated special districts as eligible users³ who "may purchase commodities and contractual services from purchasing agreements established and state term contracts procured, pursuant to s. 287.057, by the [DMS]."⁴

Effect of Proposed Changes

The bill authorizes special districts to purchase commodities or contractual services, except services subject to s. 287.055, F.S.,⁵ from purchasing agreements of other special districts, municipalities, or counties that were competitively procured in compliance with general law and that meet the procurement requirements of the purchasing special district. The bill would allow special districts to avoid the time and expense of a competitive bid process for goods and services previously procured by other local governments.

B. SECTION DIRECTORY:

Section 1: Creates s. 189.4221, F.S., authorizing special districts to purchase commodities or contractual services, except those subject to s. 287.055, F.S., from purchasing agreements of other

¹ See Op. Att'y Gen. Fla. 71-366 (1971).

² See *Accela, Inc. v. Sarasota County*, 993 So.2d 1035, 1039 (Fla. 2d DCA 2008).

³ Rule 60A-1.005, F.A.C., defines "eligible users" as "all governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the state of Florida.

⁴ Section 287.056(1), F.S.

⁵ Section 287.055, F.S., is known as the "Consultants' Competitive Negotiations Act" and includes professional services such as those within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping.

local governments that were competitively procured in compliance with general law and that meet the procurement requirements of the purchasing special district.

Section 2: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may reduce the procurement costs for certain goods and services.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 4, 2009, the Military & Local Affairs Policy Committee adopted an amendment to grant this purchasing authority to only special districts.