

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 481 Charitable Youth Organizations
SPONSOR(S): Waters, and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2248

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration		Bond	Everhart
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Current law requires state and local governments to utilize competitive bidding procedures when purchasing goods and services, with certain exceptions. This bill adds an additional exception to the competitive bidding requirements whereby certain not-for-profit charitable youth organizations may be granted no-bid public service contracts valued at up to \$250,000 per annum.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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: Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 255, F.S., relates to public property and publicly-owned buildings. This chapter includes competitive bidding requirements and procedures for construction, maintenance and repairs to public lands and public buildings. Contained within the chapter are certain bidding and contract requirements, including:

- Section 255.041, F.S., provides for certain contract specifications for construction if the contract amount is in excess of \$10,000.
- Section 255.0525, F.S., requires competitive bidding for state construction projects valued in excess of \$200,000. Section 255.20, F.S., similarly provides for competitive bidding for local government projects valued in excess of \$200,000.
- Section 255.102, F.S., requires agencies to consider participation by minority-owned businesses in the bidding process.
- Section 255.28, F.S., authorizes the Department of Management Services to promulgate administrative rules to further define competitive bidding and procurement in order to protect the state.

Chapter 287, F.S., relates to state government purchasing of personal property and services. It does not apply to local governments. Contained within ch. 287, F.S., are certain bidding and contract requirements, including:

- Section 287.012(9), F.S., defines the “contractual services” to which ch. 287, F.S., applies. It specifies that a contract for the “construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property” entered into under ch. 255, F.S. is not governed by ch. 287, F.S.
- Sections 287.032 and 287.042, F.S., require the Department of Management Services to promulgate administrative rules, and monitor procurement by state agencies, in order to assist and protect such agencies.

- Section 287.057, F.S., requires competitive sealed bidding for any contract to which ch. 287, F.S., applies, which contract is in excess of \$25,000.¹ As the value of the contract increases beyond certain thresholds, the process, procedure, control, and review levels are increased. The threshold at which the highest level of review is instituted is \$250,000.²
- Sections 287.084 and 287.087, F.S., provide for purchasing preferences to Florida-based businesses and to drug-free workplaces, respectively.
- Sections 287.094-.0947, F.S., provide for preference in contracting with minority-owned businesses.
- Sections 287.132-.134, F.S., require integrity and honesty in the public contracting and purchasing process, and provide for civil and criminal sanctions for dishonesty in public contracting by private contractors.

In 1997, the Legislature created the youth work experience program to provide young men and women an opportunity to obtain public service work and training experience that protects the state's valuable resources and encourages participation in other community enhancement projects. Under this program, the Department of Transportation is authorized to contract with public agencies and nonprofit organizations for construction and maintenance work on transportation-related facilities by youths enrolled in a youth work experience program.³ That law does not, however, exempt such programs from general competitive bid requirements.

Effect of Bill

This bill provides a broad exemption to the competitive bid requirements of ch. 255, F.S., and ch. 287, F.S., to authorize state and local governments to contract with a not-for-profit⁴ charitable youth organization that is organized exclusively to provide public service work such as highway and park maintenance by at-risk youths enrolled in a work-study program. Any such contract must be production-based, and may not exceed the annual sum of \$250,000.

C. SECTION DIRECTORY:

Section 1 creates a new section of law providing a limited exception to local government competitive bid requirements.

Section 2 provides an effective date of upon becoming law.

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 This is termed a CATEGORY TWO contract, which is any contract valued in excess of \$25,000, by s. 287.017(1)(b), F.S.

² This is termed a CATEGORY FIVE contract by s. 287.017(1)(e), F.S.

³ Section 334.351, F.S.

⁴ To qualify as a not-for-profit organization under this bill, the organization must be qualified as a not-for-profit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

1. Revenues: None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

This bill creates a relatively large exception (\$250,000) that could represent a substantial percentage of the highway and park maintenance budgets of some smaller local governments. The general policy behind competitive bidding requirements is to ensure that governments obtain the best possible price for goods and services in the open market, and limiting political pressure in the awarding of contracts. Certain exceptions have been carved out of the general competitive bid requirements, most notably for smaller purchases where the cost of the bidding process, and the risk of an adverse outcome as a percentage of total government expenditures, does not warrant the extra cost of complying with competitive bid requirements.

Allowing no-bid contracts to these certain types of entities may place such entities at a competitive advantage over private for-profit corporations who seek to provide such services to state or local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.