

## AN ACT

relating to the award of certain state highway maintenance contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 223.042, Transportation Code, is amended to read as follows:

Sec. 223.042. PRIVATIZATION OF MAINTENANCE CONTRACTS. (a) Of the amount spent in a fiscal year by the department for maintenance projects, the department shall spend not less than 50 percent through contracts awarded by competitive bids.

(b) Money spent for maintenance projects to which this section does not apply are included when computing the amount of expenditures for maintenance projects in a fiscal year.

(c) The department may award a contract under this section as a purchase of service under Subtitle D, Title 10, Government Code, if the department:

(1) estimates that the contract will involve an amount less than \$15,000; and

(2) determines that the competitive bidding procedure in this chapter is not practical.

(d) The department shall consider all of its direct and indirect costs in determining the cost of providing the services. The department shall use the cost accounting procedures and instructions developed by the State Council on Competitive

1 Government under Section 2162.102(c)(2), Government Code, in  
2 determining its cost. On request, the State Council on Competitive  
3 Government shall provide technical assistance to the department  
4 about the cost accounting procedures and instructions.

5 (e) [~~(d)~~] Subsection (a) does not apply unless the  
6 department determines that a function of comparable quality and  
7 quantity can be purchased or performed at a savings by using private  
8 sector contracts.

9 (f) [~~(e)~~] The department shall file a report with the  
10 Legislative Budget Board on September 1 of each fiscal year  
11 detailing the contracts awarded by the department under this  
12 section during the previous fiscal year.

13 (g) [~~(f)~~] The commission shall adopt rules to administer  
14 this section.

15 (h) [~~(g)~~] In this section, "maintenance project" means any  
16 routine or preventive maintenance activity. The term includes  
17 mowing, concrete removal and replacement, illumination  
18 maintenance, guardrail repair, fence repair, litter pick-up,  
19 herbicide spraying, pothole repair, silt and erosion control or  
20 repair, sign installation, highway overlaying, paint and bead  
21 striping, rest area maintenance, and installation of raised  
22 pavement markings.

23 (i) [~~(h)~~] This section does not apply to the purchase of  
24 materials for maintenance projects.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.

David Newkirk

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 2092 was passed by the House on April 10, 2003, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2092 was passed by the Senate on May 22, 2003, by the following vote: Yeas 31, Nays 0.

Patricia Law

Secretary of the Senate

APPROVED:

18 JUNE '03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30pm O'CLOCK

JUN 18 2003  
Ann Shea  
Secretary of State