By: Murphy, Workman, Flynn, Harper-Brown, et al.

H.B. No. 611

Substitute the following for H.B. No. 611:

By: Callegari

C.S.H.B. No. 611

A BILL TO BE ENTITLED

AN ACT

relating to the provision of certain professional services by certain governmental entities.

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

SECTION 1. The heading to Subtitle E, Title 10, Government Code, is amended to read as follows:

SUBTITLE E. GOVERNMENT RESOURCES [PROPERTY]

SECTION 2. Subtitle E, Title 10, Government Code, is amended by adding Chapter 2202 to read as follows:

CHAPTER 2202. LIMITATION ON USE OF GOVERNMENT SERVICES

Sec. 2202.001. DEFINITION; APPLICABILITY. (a) In this chapter, "governmental entity" means:

(1) a board, commission, department, office, or other agency of this state, other than an institution of higher education as defined by Section 61.003, Education Code;

(2) a special district or authority with a governing board appointed by the governor; or

(3) a regional planning commission under Chapter 391, Local Government Code.

(b) This chapter applies only to commercially available services that consist of:

(1) the practice of engineering within the meaning of Chapter 1001, Occupations Code;

(2) the practice of architecture within the meaning of
Chapter 1051, Occupations Code;

(3) construction services;

(4) construction management services; or

(5) environmental document preparation services.

Sec. 2202.002. LIMITATION ON PROVISION OF CERTAIN PROFESSIONAL SERVICES BY GOVERNMENTAL ENTITY. (a) A governmental entity may not provide, through its officers or employees, a commercially available service for an improvement to real property unless the property:

(1) is owned, leased, or operated by the entity; or

(2) is held by the entity under an easement or other agreement with the property owner that provides for access to the property.

(b) A nonprofit corporation created by a river authority under Chapter 152, Water Code, is considered, with the river authority, a single governmental entity for purposes of this section.

(c) This section does not apply to:

(1) construction services in an amount less than $25,000 provided for a project;

(2) contract management or project management services provided by a governmental entity's employees;

(3) water and water quality technical assistance activities, operation, or maintenance provided by a river authority within its service area;

(4) activities necessary to ensure compliance with the administration of federal funds;
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(5) incidental sampling and testing of construction or
maintenance materials provided at a commercial quarry or a
commercial fabrication plant by a state agency for another
governmental entity that pays the cost of that service at a location
where the state agency provides regular testing or inspection for
state agency projects; or

(6) a public calamity or emergency that requires the
provision of services prohibited under this section to preserve
life, health, safety, welfare, or property.

SECTION 3. The change in law made by Section 2202.002,
Government Code, as added by this Act, does not apply to services
provided on or after September 1, 2011, under a contract for
services entered into before that date.

SECTION 4. This Act takes effect September 1, 2011.