
**HOUSE COMMITTEE ON GENERAL INVESTIGATING AND ETHICS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2006**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
80TH TEXAS LEGISLATURE**

**KEVIN BAILEY
CHAIRMAN**

**COMMITTEE CLERK
ROBERTA BILSKY**

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LISA M. GOMEZ**



Committee On
General Investigating and Ethics

January 29, 2007

Kevin Bailey
Chairman

P.O. Box 2910
Austin, Texas 78768-2910


The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

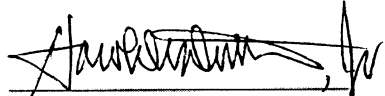
Dear Mr. Speaker and Fellow Members:

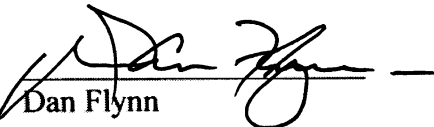
The Committee on General Investigating and Ethics of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

Respectfully submitted,


Kevin Bailey


Ken Paxton


Harold Dutton, Jr.


Dan Flynn


Terry Keel

Ken Paxton
Vice-Chairman

Members: Harold Dutton, Jr. Dan Flynn, Terry Keel

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INTRODUCTION

At the beginning of the 79th Legislature, the Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed five members to the House Committee on General Investigating and Ethics Committee. The committee membership includes the following members: Kevin Bailey, Chairman; Ken Paxton, Vice-Chairman; and members Harold Dutton, Dan Flynn and Terry Keel.

During the regular session of the 79th Legislature, the Committee conducted hearings and took testimony on several issues of importance to the State of Texas.

Chairman Bailey and the members would like to express appreciation to all who contributed their time and efforts on behalf of the State of Texas. We especially appreciate the research and assistance provided to the committee by the Texas Legislative Council. We would like also to express our appreciation to the University of Houston Law Center, Health Law & Policy Institute for the extensive legislative briefing provided concerning Anabolic Steroids.

HOUSE COMMITTEE ON GENERAL INVESTIGATING AND ETHICS
INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

1. Analyze the various education agency actions regarding the use of Anabolic Steroids by public school students.
2. Research, review and investigate the expenditures of taxpayer money by local government and school boards to lobby the Legislature. Research, review and investigate attempts by school district officials to skirt competitive bidding requirements with respect to facility renovation and construction contracts, and other relevant contracts, through the use of improper procurement contracts with associations or other school districts. (Joint Charge with House Public Education)
3. Monitor the use of nuisance abatement authority by the city of Dallas and investigate unresolved issues pertaining to allegations of possible civil rights violations that may have been committed under color of law by local government. (Joint Interim Charge with House Committee on Criminal Jurisprudence) Report previously printed and distributed.

The Committee has completed its hearings and investigations and issues the report that follows.

ANALYZE THE VARIOUS EDUCATION AGENCY ACTIONS REGARDING THE USE OF ANABOLIC STEROIDS BY PUBLIC SCHOOL STUDENTS.

HISTORY

In an opening speech given on March 17, 2005 by Chairman Tom Davis, Committee on Government Reform, 109th Congress:

"Fourteen years ago, anabolic steroids were added to the Controlled Substance Act as a Schedule III drug, making it illegal to possess or sell them without a valid prescription. Today, however, evidence strongly suggests that steroid use among teenagers – especially aspiring athletes – is a large and growing problem.

The Centers for Disease Control and Prevention tells us that more than 500,000 high school students have tried steroids, nearly triple the number just ten years ago. A second national survey, conducted in 2004 by the National Institute on Drug Abuse and the University of Michigan, found that over 40 percent of 12th graders described steroids as "fairly easy" or "very easy" to get, and the perception among high school students that steroids are harmful has dropped from 71 percent in 1992 to 56 percent in 2004.

This is but a snapshot of the startling data we face. Today we take the committee's first steps toward understanding how we got here, and how we begin turning those numbers around. Down the road, we need to look at whether and how Congress should exercise its legislative powers to further restrict the use and distribution of these substances.

Our specific purpose today is to consider MLB'S [Major League Baseball's] recently negotiated drug policy; how the testing policy will be implemented; how it will effectively address the use of prohibited drugs by players; and, most importantly, the larger societal and public health ramifications of steroid use.

USA Today reported that 79 percent of players surveyed believe steroids played a role in record-breaking performances by some high-profile players. While our focus is not on the impact of steroids on MLB records, the survey does underscore the importance of our inquiry.

A majority of players think steroids are influencing individual achievements – that's exactly our point. We need to recognize the dangerous vicious cycle that perception creates.

Too many college athletes believe they have to consider steroids if they're going to make it to the pros; high school athletes, in turn, think steroids might be the key to getting a scholarship. It's time to break that cycle, and it needs to happen from the top down.

When I go to Little League opening games these days, kids aren't just talking about their favorite teams' chances in the pennant race; they're talking about which pro players are on the juice.

After the 1994 MLB players strike, rumors and allegations of steroid use in the league began to surface. Since then, long standing records were broken. Along with these broken records came allegations of steroid use among MLB's star players. Despite the circulating rumors of illegal drug use, MLB and the Players Association did not respond with a collective bargaining agreement to ban the use of steroids until 2002. The result was an almost decade long question mark as to, not only the validity of the new MLB records, but also the credibility of the game itself.

In February of this year, former MLB All-Star Jose Canseco released a book that not only alleges steroid use by well known MLB players, but also discusses the prevalence of steroids in baseball during his 17-year career. After hearing Commissioner Bud Selig's public statements that MLB would not launch an investigation into Mr. Canseco's allegations, my Ranking Member Henry Waxman wrote me asking for a Committee hearing to, quote, "find out what really happened and to get to the bottom of this growing scandal.

I agreed before I'd even finished reading the letter.

MLB and the Players' Association greeted word of our inquiry first as a nuisance, then as a negotiation, replete with misstatements about the scope of the documents and information we've sought, and inaccurate "legalese" about the committee's authority and jurisdiction.

Fine. I understand their desire to avoid the public's prying eye. I understand this is not their preference. I understand they wish we would go away.

But I think they misjudged our seriousness of purpose. I think they misjudged the will of an American public who believes that sunshine is the best disinfectant. I think they mistakenly believed we got into this on a whim."

Congressional Committees have continued to hold hearings on the use of steroids by major league baseball players.

BACKGROUND

Even though we have seen Major League Baseball's players testify before Congress, there is an overwhelming sentiment with most parents and coaches that steroids do not affect their children or players. Over the past decade, high school steroid abuse has become a growing problem. The National Center for Disease Control reported that from 1991 to 2003, steroid use has more than doubled among high school students and more than 6% of students acknowledged that they have tried steroid pills or shots at least once. A Texas A&M University survey on substance abuse in 2002 found that nearly 42,000 Texas students in grades 7 through 12, about 2.3%, had taken steroids.

Last spring, nine students at Colleyville Heritage High School in suburban Fort Worth confessed to using the performance-enhancing drugs, making it one of the largest cases of confirmed steroid use at a United States

high school. Out of 1,674 Texas public high schools, only 93 were testing for performance-enhancing drugs in 2002. The University Interscholastic League (UIL) does not have any more recent statistics on steroid use among high school athletes. However, the National Institute on Drug Abuse has conducted a Monitoring for the Future (MTF) Survey which presents startling data for 2004.

Monitoring the Future (MTF) Survey [1]

MTF annually assesses drug use among the Nation's 8th, 10th, and 12th grade students. Annual [2] use of anabolic steroids remained stable at under 1.5 % for students in 8th, 10th, and 12th grades in the early 1990s, and then started to rise. Peak rates of annual use occurred in 2002 for 12th-graders (2.5 %), in 2000 and 2002 for 10th-graders (2.2 %), and in 1999 and 2000 for 8th-graders (1.7 %). Eighth-graders reported significant decreases in lifetime and annual steroid use in 2004, as well as a decrease in perceived availability of these drugs. A significant decrease in lifetime use was also measured among 10th-graders for 2004.

Most anabolic steroids users are male, and among male students, past year use of these substances was reported by 1.3 % of 8th-graders, 2.3 % of 10th-graders, and 3.3 % of 12th-graders in 2004. Note: total numbers of students surveyed was not included with the data.

**Anabolic Steroid Use by Students
Year 2004 Monitoring the Future Survey**

	8th-Graders	10th-Graders	12th-Graders
Lifetime	1.9%	2.4%	3.4%
Annual	1.1	1.5	2.5
30-day	0.5	0.8	1.6

Health Hazards

The major side effects from abusing anabolic steroids can include liver tumors and cancer, jaundice (yellowish pigmentation of skin, tissues, and body fluids), fluid retention, high blood pressure, increases in LDL (bad cholesterol), and decreases in HDL (good cholesterol). Other side effects include kidney tumors, severe acne, and trembling. In addition, there are some gender-specific side effects:

- For men — shrinking of the testicles, reduced sperm count, infertility, baldness, development of breasts, increased risk for prostate cancer.
- For women — growth of facial hair, male-pattern baldness, changes in or cessation of the menstrual cycle, enlargement of the clitoris, deepened voice.

1 These data are from the 2004 Monitoring the Future Survey, funded by the National Institute on Drug Abuse, National Institutes of Health, DHHS, and conducted by the University of Michigan's Institute for Social Research. The survey has tracked 12th-grader's illicit drug use and related attitudes since 1975; in 1991, 8th- and 10-th graders were added to the survey. The latest data are online at <http://www.drugabuse.gov>.

2 "Lifetime" refers to use at least once during a respondent's lifetime. "Annual" refers to an individual's drug use at least once during the year preceding their response to the survey. "30-day" refers to an individuals drug use at least once during the month preceding their response to the survey.

-
- For adolescents — growth halted prematurely through premature skeletal maturation and accelerated puberty changes. This means that adolescents risk remaining short for the remainder of their lives if they take anabolic steroids before the typical adolescent growth spurt.

In addition, people who inject anabolic steroids run the added risk of contracting or transmitting HIV/AIDS or hepatitis, which can cause serious damage to the liver.

Scientific research also shows that aggression and other psychiatric side effects may result from abuse of anabolic steroids. Many users report feeling good about themselves while on anabolic steroids, but researchers report that extreme mood swings also can occur, including manic-like symptoms leading to violence. Depression often is seen when the drugs are stopped and may contribute to dependence on anabolic steroids. Researchers also report that users may suffer from paranoid jealousy, extreme irritability, delusions, and impaired judgment stemming from feelings of invincibility. [3]

Research also indicates that some users might turn to other drugs to alleviate some of the negative effects of anabolic steroids. For example, in 1999 a study of 227 men admitted to a private treatment center for dependence on heroin or other opiates found that 9.3 % had abused anabolic steroids before trying any other illicit drug. Of these 9.3 %, 86 % first used opiates to counteract insomnia and irritability resulting from the anabolic steroids. [4]

A more recent study done in 2004 to 2005 shows that "annual and 30-day" abuse of steroids decreased significantly among 12th-graders. Also, the perceived availability of steroids decreased significantly among 8th-graders. Though a downward trend is present among our children in the use of anabolic steroids, it should not be taken for granted that this trend will continue without being properly monitored and continuously addressed as a serious issue.

CONCLUSION

House Bill 3563, from the 79th Legislature, effective 06/18/2005, directs the University Interscholastic League (UIL) to implement a policy which prohibits a student from participating in a UIL athletic competition unless the student agrees not to use steroids and in addition submits a parental signature on a form acknowledging an understanding of the legal and medical implications of steroids. The legislation requires the UIL to develop and make available to school districts an educational program regarding the health affects of steroid use. It also mandates the UIL to study the effectiveness of said educational program and develop a plan for anabolic steroid testing of student athletes. Results of the above-mentioned survey, study, and plan must also be reported to the legislature. HB 3563 grants the Legislature authority to require the UIL to implement the steroid testing plan if the Legislature determines the educational program did not decrease significantly the use of illegal steroids. HB 3563 gives the UIL the authority to increase membership fees for participating schools in an amount necessary to offset costs of the above activities. HB 3563 also requires the Texas Education Agency to partner with the Department of State Health Services to

3 Pope, H.G., and Katz, D.L. Affective and psychotic symptoms associated with anabolic steroid use. *American Journal of Psychiatry* 145 (4):487-490, 1988.
4 *The New England Journal of Medicine* 320:1532, 2000.

develop and distribute materials which provide information about steroid use and the health risks associated with steroids, and requires school districts to provide information to develop the information for these materials.

The UIL's 2005-2006 Survey (due to the Legislature December 1, 2006) should identify the number of Texas high school students that illegally use anabolic steroids and the number of Texas school districts that currently test high school students for the presence of illegal steroids. The Legislature will use the Survey to determine whether to implement the UIL's Mandatory Steroid Testing Plan, due the same time as the Survey.

If it decides to implement a mandatory drug-testing plan, the Legislature must consider a number of issues that likely will be raised by the UIL in its Mandatory Steroid Testing Plan, including: (1) the students to whom the plan will apply (e.g., only student-athletes, all students who participate in any type of extracurricular activity, or all students who have a parking pass); (2) the individuals or organizations permitted to conduct the testing (e.g., school nurses, school physicians, or outside laboratories); (3) the consent process to be followed by students and their parents; (4) the procedures for collecting and testing student specimens; (5) the number of students who will be tested, the frequency of testing, and the procedures for selecting such students if not all students are tested; (6) the drugs the tests will detect (e.g., only testosterone, all anabolic steroids, or all anabolic steroids plus other recreational drugs); (7) the funds to be used to pay for the drug testing (e.g., appropriations from the legislature, fees charged to parents of athletes, direct payment by parents, direct payment by schools, corporate sponsorship, federal grants, or portion of ticket sales);[5] (8) the procedures to be followed by a student or parent who wishes to challenge a positive test result; (9) the standards for ensuring the confidentiality of test results; (10) the authorized recipients of a positive drug-test result; and (11) the disciplinary action to be imposed on students who test positive or refuse to consent to testing (e.g., suspension from extracurricular activities). Recent legislation passed by New Jersey and considered by other states, as well as permissive drug-testing programs implemented by Texas school districts such as Katy ISD, may be helpful in this regard.[6] One of the largest barriers to implementing steroid testing is cost. According to one estimate by the UIL, if only one high school varsity athlete per playoff team each season were tested, the cost would be \$2,000,000. [7]

The UIL also is required to develop a comprehensive steroid education program for students engaged in extracurricular athletic activities, their parents, and their coaches. The UIL may wish to consider the anabolic steroid use prevention and education materials that are already available through federal and Texas administrative agencies and private organizations. At the federal level, the Substance Abuse and Mental Health Services Administration (SAMHSA) and the National Institute on Drug Abuse (NIDA) have endorsed the Athletes Training and Learning to Avoid Steroids (ATLAS) program, a drug-abuse prevention program designed for male athletes, as well as the Athletes Targeting Healthy Exercise and Nutrition Alternatives (ATHENA), a drug-abuse prevention program designed for female athletes. Schools in 29 states and Puerto Rico reportedly have adopted the ATLAS and ATHENA programs.

[5] See Bill Farney, *Steroid Issue Remains in the Headlines*, UIL LEAGUER (April/May 2005), at 15, available at http://www.uil.utexas.edu/leaguer/2005/april_may_2005.pdf (listing possible sources of funding for steroid testing programs).

[6] See generally Charles Breithaupt, *No Easy Answer: Steroid Issue Raises Many Concerns with No Clear Simple Solution*, UIL LEAGUER (March, 2005), at 14, available at http://www.uil.utexas.edu/leaguer/2005/march_2005.pdf (discussing many of the issues raised by anabolic steroid testing).

[7] Farney, *supra* note 72, at 15.

At the state level, the Texas Commission on Alcohol and Drug Abuse has local Prevention Resource Centers, Local Councils on Drug and Alcohol Abuse, and a series of online resources available to the public. [8] The Taylor Hooton Foundation for Fighting Steroid Abuse - a private organization formed in 2004 in memory of Taylor Hooton, the 17-year old baseball player from Plano who took his own life due to the physical and psychological effects of steroid abuse - makes available a wealth of information relating to anabolic steroid use, prevention and education. [9] Dr. Joseph Chorley, Professor of Pediatrics at Houston's Baylor College of Medicine and Board Certified in both pediatrics and sports medicine, has developed a comprehensive PowerPoint slideshow about steroid use in the adolescent age group that is online and available to the public. [10]

RECOMMENDATIONS

- Schools should present to students a balanced picture of what these drugs can do for them and to them. Most adolescents know that anabolic steroids build muscles and can increase athletic prowess. Research has shown that failure to acknowledge these potential benefits creates a credibility problem and can actually make youths more likely to try the drugs.
- Schools should make use of the authority of coaches and the team ethos. In the most promising program currently under study, coaches and team leaders are trained to educate team members about the effects of anabolic steroid abuse, both desirable and adverse, in the general context of training. They also provide information about nutrition and, of course, exercise and other training techniques for improving performance by as much as 50 percent without the steroid abuse and also for reducing alcohol abuse among teammates.
- It is uncertain whether drug testing programs can discourage anabolic steroid abuse. However, the first scientific studies of this practice are currently under way. The Legislature should monitor all results of the scientific studies to ascertain the overall affect of anabolic steroid drug testing.
- The Texas Legislature should continue to monitor the various Education/ Health agencies and University Interscholastic League regarding the implementation of programs that deal with Anabolic Steroid use by our public school students.
- Legislation should be considered which establishes a mandatory system of steroid testing for students participating in an athletic competition sponsored or sanctioned by the league. The league should be given authority to impose a fee for spectators at sponsored events in order to pay the costs of a steroid testing program.

[8] The Texas Commission on Alcohol and Drug Abuse's anabolic steroid use prevention materials are *available at* <http://dwb.unl.edu/TeacherNSF/C10/C10Links/www.tcada.state.tx.us/research/facts/steroid>.

[9] Information from the Taylor Hooton Foundation is *available at* <http://www.taylorhooton.org>

[10] Dr. Chorley's PowerPoint is *available at*

<http://www.texaschildrenshospital.org/Professionals/Telehealth/PDFs/SteroidUseandtheAdolescentAthlete.pdf>

**Parent and Student Notification/Agreement Form
Illegal Steroid Use**

Texas state law prohibits possessing, dispensing, delivering or administering a steroid in a manner not allowed by state law.

Texas state law also provides that body building, muscle enhancement or the increase in muscle bulk or strength through the use of a steroid by a person who is in good health is not a valid medical purpose.

Texas state law requires that only a medical doctor may prescribe a steroid for a person.

Any violation of state law concerning steroids is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

HEALTH CONSEQUENCES ASSOCIATED WITH ANABOLIC STEROID ABUSE

(source: National Institute on Drug Abuse)

- *In boys and men*, reduced sperm production, shrinking of the testicles, impotence, difficulty or pain in urinating, baldness, and irreversible breast enlargement (gynecomastia).
- *In girls and women*, development of more masculine characteristics, such as decreased breast size, deepening of the voice, excessive growth of body hair, and loss of scalp hair.
- *In adolescents of both sexes*, premature termination of the adolescent growth spurt, so that for the rest of their lives, abusers remain shorter than they would have been without the drugs.
- *In males and females of all ages*, potentially fatal liver cysts and liver cancer; blood clotting, cholesterol changes, and hypertension, each of which can promote heart attack and stroke; and acne. Although not all scientists agree, some interpret available evidence to show that anabolic steroid abuse—particularly in high doses—promotes aggression that can manifest itself as fighting, physical and sexual abuse, armed robbery, and property crimes such as burglary and vandalism. Upon stopping anabolic steroids, some abusers may experience symptoms of depressed mood, fatigue, restlessness, loss of appetite, insomnia, headache, muscle and joint pain, and the desire to take more anabolic steroids.
- *In injectors*, infections resulting from the use of shared needles or non-sterile equipment, including HIV/AIDS, hepatitis B and C, and infective endocarditis, a potentially fatal inflammation of the inner lining of the heart. Bacterial infections can develop at the injection site, causing pain and abscess.

Student Certification

I have read the above information and agree that a prerequisite of my participation in UIL athletic activities is that I refrain from illegal steroid use. As a prerequisite to participation, I agree that I will not use illegal steroids. I understand that failure to provide accurate and truthful information could subject me to penalties as determined by UIL.

Student Signature

Date

Parent/Guardian Certification

I have read the above information and acknowledge that a prerequisite of my student's participation in UIL athletic activities is that they refrain from illegal steroid use. I understand that failure to provide accurate and truthful information could subject the participant in question to penalties as determined by UIL.

Parent/Guardian Signature

Date



**House Sub-Committee on General Investigating and Ethics
House Sub-Committee on Public Education**

August 30, 2006

Ken Paxton
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

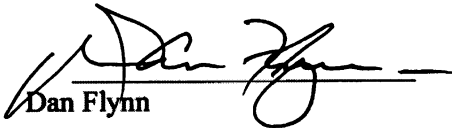
The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
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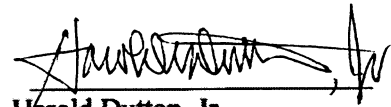
Dear Mr. Speaker and Fellow Members:

The Sub-Committee on General Investigating and Ethics and the Sub-Committee on Public Education of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

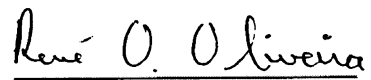
Respectfully submitted,


Ken Paxton


Dan Flynn


Harold Dutton, Jr.

Bill Keffer


Rene Oliveira

**RESEARCH, REVIEW AND INVESTIGATE THE EXPENDITURES OF TAXPAYER MONEY
BY LOCAL GOVERNMENT AND SCHOOL BOARDS TO LOBBY THE LEGISLATURE.
(JOINT CHARGE WITH HOUSE PUBLIC EDUCATION)**

HISTORY AND BACKGROUND

Many Texas taxpayers have noted a recent and increasing trend of local governments using millions of taxpayer dollars to hire lobbyists to advocate certain policy positions in Austin. These taxpayers are alarmed and frustrated to find that their tax dollars are being used by local governments to pay hundreds of hired-gun lobbyists to lobby directly against these taxpayers' own interests and desires. The fear is that the voices of individual citizens are being overshadowed by lobbyists that are funded with public money.

Although the public disclosure of public expenditures on lobbying is insufficient (as discussed below), it is clear that this is a booming industry. Some reports show that Texas cities have over 140 lobbyists registered on their behalf, with contracts worth as much as \$9 million annually for these lobbying activities. County-related taxing entities reportedly pay over 100 registered lobbyists as much as \$5 million, while individual counties reportedly pay over 25 lobbyists registered as much as \$1 million. Independent school districts in Texas reportedly pay over 25 registered lobbyists close to \$1,000,000. Finally, to single out just two associations, the Texas Municipal League (TML) pays 14 lobbyists, and the Texas Association of Counties (TAC) 15 lobbyists, hundreds of thousands of dollars for their lobbying activities.

There is some question as to whether some of these lobbying activities are even legal. Texas Local Government Code section 89.002 provides that commissioners courts "...may spend, in the name of the county, money from the county's general fund for membership fees and dues of a nonprofit state association of the counties if...neither the association nor an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature". Associations such as TAC claim that their activities in Austin are not attempts to "influence legislation", but this claim does not stand up to even cursory examination. A lawsuit has been filed against one county for such expenditures, and this case is pending.

Another, and more fundamental, question is whether these taxpayer-funded lobbying activities are democratic. Some citizens quote Thomas Jefferson, who said that "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical." A review of the positions lobbied for by local governments with taxpayer money reveals that these positions are almost uniformly in favor of increased governmental spending and authority, while public opinion surveys show that Texans are broadly and increasingly in favor of more efficient and accountable government. Taxpayers often travel to Austin to advocate for property tax reductions, appraisal caps and local tax and expenditure limitations, increased local government fiscal transparency and accountability, restraints on eminent domain authority and "truth in taxation" disclosure requirements, only to find that their own tax dollars are being spent to hire lobbyists to lobby against these very ideas.

Some citizens are troubled even by the lobbying activities of local government officials themselves. Citizens who use personal resources to travel to Austin to advocate are often frustrated to see an army of local public

officials using their tax dollars to travel to Austin to advocate an opposing agenda. Some citizens feel that local governmental officials should be prohibited from this lobbying and should, instead, be restricted strictly to the role of 'expert input', and only when their input is requested by the Legislature. However, the potential for abuse and misrepresentation does exist.

These concerned citizens believe that the Legislature should enact a strict ban on local governments expending taxpayer dollars to travel to Austin and lobby, and/or expending taxpayer dollars to hire lobbyists.

This committee appreciates the frustration of these citizen lobbyists, and agrees that far too often local governments inappropriately expend taxpayer dollars to lobby directly against the wishes of a majority of their citizens. However, the committee also recognizes and supports the principle of local control, and concludes that these types of bans would be a violation of this important principle.

When citizens elect a mayor or school board member, the constituency is arguably selecting these elected officials to not only meet the needs of the local communities, but to also represent these communities when issues of concern are discussed at the state and federal levels. Because actions of the Legislature can have a direct effect on how well local governments can fulfill their duties to their communities, citizens should expect their local officials to participate in the policy process and to advocate for state policies that they feel will help their local communities succeed. In addition, because the legislative process can move so quickly, many local governments find that having an on-the-ground presence in Austin is vital for providing timely input to legislators on the potential impact of bills. And so, a growing number of local governments and school boards believe they need to hire professional lobbyists to significantly reduce the amount of time local officials spend in Austin.

So, this committee will not recommend any new ban on local government officials expending taxpayer dollars to lobby in Austin, or any new ban on them expending taxpayer dollars to hire lobbyists to do so for them.

However, this committee strongly believes that local governments can and should be required to fully disclose these lobbying activities, so that citizens can see and judge these lobbying activities for themselves, and then decide whether or not they want to support such activities when they cast a vote in their next local election. There is valid concern that, under the current disclosure system, citizens cannot obtain accurate information regarding how much of their tax dollars are used to lobby the legislature, and what positions are being advocated by their local governments using these tax dollars.

As discussed below, part of the problem is a flawed disclosure system, and part of the problem is the very definition of lobbying. Because local government officials are statutorily exempt from registering as lobbyists, they can technically argue that their activities are not lobbying and do not need to be reported. Because of this technicality, local officials can spend an unlimited amount of tax dollars in salary and expenses to personally influence legislation without having to report the expenses as lobbying either to the Texas Ethics Commission or to their taxpayers. Taxpayers have no way of knowing exactly how much taxpayer money officials are expending on influencing legislation or exactly what positions their local officials are advocating in Austin with this money. This committee strongly believes that Texas statutes and rules must be strengthened so that this facet of government is fully disclosed and made accountable to the citizenry, and we make concrete recommendations to accomplish this below.

In addition, because local governments are establishing contracts for lobbying, the committee also looked at standards for establishing such contracts. As the Sunset Commission's staff recent report on The Office of State-Federal Relations notes, such contracts for the unique service of providing access to public officials entail certain risks, making clear guidelines and standards necessary to avoid potential abuse.

RESEARCH METHODOLOGY

The committee conducted extensive research to answer the question of its charge. First, it undertook the task of a survey of local governments in an attempt to discern their involvement in lobbying activities. Sixty-one cities were surveyed. The list was generated by culling through the Ethics Commission reports and compiling a list of cities with a registered lobbyist in 2005.

Also, one-hundred and five school districts were surveyed. School districts were sorted into four lists according to small, mid-sized and large districts. Then, a random sample of roughly 10% was selected from each list.

Finally, sixteen counties were surveyed. The counties were selected intentionally to represent a diverse list of large and small counties from each major region of the state.

The committee chose not to survey special districts (hospital districts, water districts, etc.) under the assumption that the issues of public disclosure that apply to cities, counties and school districts could equally apply to any public entity.

Addendum one to this report contains the list of questions addressed to each of these public entities. A summary of the responses is also attached in three various spreadsheets.

Additionally, because the Sunset Commission has been studying what this committee believes is a closely parallel issue (the Office of State-Federal Relations), the committee staff spent time with Sunset staff and relied on some of their research and findings to help formulate this report.

The committee staff also conducted interviews with representatives of citizens groups, lobbyists who represent public entities, representatives from different associations and relevant state agency personnel.

Finally, a hearing was convened on December 6, 2006 at which testimony was taken regarding this charge.

SUMMARY OF FINDINGS

Problems with the current reporting system

This committee realized that there are many flaws in the reporting system when it worked to identify exactly who is lobbying the legislature. There are three key issues which contribute to this lack of clarity:

inadequacies in the registration process, confusion regarding the expenses and the reporting of direct expenses incurred by local officials, and funds spent on association dues.

Registration of Lobbyists: When the committee surveyed cities concerning their lobbying activities, several discrepancies were discovered. In particular, this committee identified three major problems in the registering of lobbyists, including the following:

- Conflicting reports from local governments and registered lobbyists pertaining to lobbying activities;
- Inconsistencies in the listing of names for local entities; and
- Accessibility of lobby activity information to the public.

Several cities reported not having a registered lobbyist, which directly contradicts the Ethics Commission reports that show lobbyists advocating for these cities. In each of these cases, the committee learned that the lobbyist was actually being paid by another entity (usually a Chamber of Commerce or an Economic Development Corporation) to lobby on the cities' behalf. The language in the Government Code Sec. 305.005(f) (3) states that lobbyists are to disclose on whose behalf they lobby as well as who reimburses, retains, or employs them. Because of this language, lobbyists will register both the Chamber or the EDC and the local government, even if the local government has no official knowledge that they are being represented by a lobbyist. Because the committee found that it is not an uncommon practice for a lobbyist to be retained by one party on behalf of another and because the statute makes this distinction, we would recommend that the lobby registration process be altered to reflect this distinction.

An additional problem the committee found was the way local entities are listed in the registry. The Ethics Commission list has an appalling lack of consistency. For example, one particular municipality may be listed in different ways, such as a listing under "C" for "City of ..." and under "V" for "Village of ..." At least one municipality was found listed in no fewer than four different locations. The reason for this is that clients are reported by the Ethics Commission just as they are printed by the registrant in the on-line process, misspellings and all. At this time there is no mechanism for standardizing these entries at the Ethics Commission nor is there a requirement that registrants list their clients only as they appear in Incorporation or other relevant legal documents.

An obvious solution to this problem would be to tighten the rules regarding the entry of clients' names. In instructions to registrants, they should be directed to use only full, legal names of their clients.

The committee looked at ways the lobby registration system could be made more accessible to the public. The first, obvious step would be to make the lobby list completely searchable. Ethics Commission staff reports that because the registration is now done on-line, accomplishing this would be a fairly easy task and has, in fact, been on their project wish-list for some time. However, to make the list completely searchable may require a small amount of hardware enhancement as well as the staff programming time. For the sake of the Committee's work the Ethics Commission staff roughly estimated that programmer time, hardware, software, and other related expenses would cost the agency under \$100,000 per year to comply with these requests.

The Ethics Commission should also be directed to add a field to the report to indicate whether the client is a public entity. Adding this field would be a very helpful and necessary first step if the Legislature chooses to

make further distinctions in the filing requirements when public funds are involved.

Direct Lobbying: As well as paying outside lobbyists, local governments spend money so that employees and officers can communicate directly with state officials. On any given day of the legislative session, dozens of mayors, superintendents, city managers, county employees, etc. can be found in Austin talking with elected officials. However, these local officials are specifically exempt from registering as lobbyists. Yet, it is arguable that unless a particular official is specifically invited to give expert input, then those local government officials are actually engaging in lobbying activities, i.e. engaging in efforts to persuade members of the legislative or executive branch to take specific actions (See Gov. Code, Chap. 305.001). While the committee has already stated that it believes this activity is acceptable, taxpayers should at least be able to easily access information on the amount of taxpayer funds that are spent on these activities.

One solution for improving accessibility to this data and to aid citizens in their attempts to track and hold their local governments accountable would be to require local governments to report a summary of all funds that were used to enable communication with members of the legislative or executive branch of state government. This would entail compiling travel and expense reports, salary data for days spent in Austin, and other miscellaneous expenses incurred in order to communicate with state governmental officials. Requiring a separate line item in budget reports that combine and total the various expenses related to lobbying is a straight-forward and easy alteration to existing detailed accounting systems. The Legislature could define a specific list of such expenses. A potential list may contain the following:

- Lobbying contracts;
- Dues paid to organizations that engage in lobbying;
- Expenses related to direct communication with elected officials by city employees or elected officials (including travel, hotel, meals, and entertainment); and
- The proportional amount of salary used in preparing for and/or engaging in communication with elected officials.

This system is in line with what Governor Perry has mandated for school districts' financial accountability and reporting system in Executive Order RP47, issued August 22, 2005. This executive order states that the financial accountability system must offer a "clear and concise accounting of ... expenditures" of funds provided to any person or organization for the purpose of lobbying as well as funds provided to any non-instructional committee or organization.

While the Texas Education Agency (TEA) has issued rules for a part of this Executive Order, they have not yet released their response to these two aspects of the accountability and reporting system, though a survey has been sent to all districts to gather the required information. TEA staff reports that because altering the Public Education Information Management System (PEIMS) is a process that takes up to 3 years, their intent is to do a stand-alone survey of all districts in the state on these two questions. However, the TEA did not include any instructions to the district concerning the definition of "lobbying" or what expenses should be included. Because the governor's language included 'any person or organization' it should include travel related expenses for district employees who travel to Austin to advocate before the Legislature or executive branch. Yet a representative of the Texas Association of School Boards testified that these activities were not technically lobbying. The committee assumes that without instructions from the TEA, districts will rely

on the strictest definition of lobbying and report only on contracts with registered lobbyists. While the Committee believes that this survey could be an an important intermediate solution if better instructions were given, PEIMS should be altered so that there is one, uniform reporting of lobby expenses. This list should contain the same elements in the definition of lobby expenses applied to other entities and would include the following:

- Lobbying contracts
- Dues paid to organizations that engage in lobbying
- Expenses related to direct communication with elected officials by city employees or elected officials (including travel, hotel, meals, and entertainment)
- The proportional amount of salary used in preparing for and/or engaging in communication with elected officials.

School districts, however, appear to face an additional demand for accountability not shared by most other local government bodies. While virtually all of the revenue that funds most local governments comes from local taxes and fees, school districts receive a significant percentage of their budget directly from the state. Because of this, Government Code Chapter 556.0055 must be taken into account. This section prohibits the use of state funds to pay for lobbying expenses incurred by the recipient of state funds. Therefore school districts need to be able to show in their accounting systems that lobbying expenses were paid only with local funds.

While a suggested list of expenses to be included as ‘lobby expenses’ is listed above, the committee acknowledges that this is one of the most complicated and potentially difficult aspects of this report. One might make a parallel to the rule imposed on a state agency’s communication with federal officials. If any state agency employee makes a trip to Washington D.C. they are required to report to the Office of State-Federal Relations that the trip was made. However, they are not required to report other forms of communication. Local governments could argue that this gives a precedent for a narrow definition of what expenses should be included in the ‘lobbying line item’ as only including actual travel and expenses to Austin.

On the other hand, the Ethics Commission rules clearly state that compensation received for preparing to communicate directly with a member of the legislative or executive branch is to be included in calculating compensation for purposes of registration and reporting (TEC Rule 34.2). If the broadest possible definition applied to registered lobbyists were also applied to direct lobbying, staff time spent on preparing information to be used by an official should also be reported. While a suggested list of expenses to be included is listed above, the committee believes the legislature should fully debate what level of reporting citizens should receive and establish a uniform reporting requirement for all local government entities in the state.

Association Dues: The final area which confuses the question of who is lobbying with taxpayer funds is the question of statewide associations and the dues paid to those associations by government entities.

There is currently a statute that prohibits county governments from using county dues to pay association dues if the association or an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature (Local Government Code 89.002). The

committee has looked at evidence that this statute is being ignored.

On the other hand, there is also statute that specifically allows other local governments to use taxpayer funds to pay dues to certain statewide associations which do engage in lobbying (Government Code 305.026(d)).

To be consistent with the committee's general findings, we must conclude that association dues should not be uniformly banned. However, any dues paid to an association which does engage in lobbying should be reported to the citizens as a lobbying expense.

What is being advocated by local governments?

This is the question which raises the most interest (and sometimes anger) from citizens who have contacted the committee. A citizens' group interested in limiting the use of public indigent health care funds for illegal aliens is angered by public officials who have advocated for such funds. Another group interested in establishing caps on the revenue growth of local governments has been angered by local governments' attempts to defeat such legislation. Yet another group interested in limiting the growth of the amount of money spent on public education decries the number of superintendents who are in attendance every time the Public Education Committee meets.

Again, the committee acknowledges the right of these local governmental entities to advocate in the manner they deem appropriate. At the same time, local citizens should have accessible tools to hold their local government officials accountable. This could be accomplished through the proposed new system for local government reporting of lobbying expenses, discussed above. The Legislature could require that this new reporting must also include a detailed description of the issues and positions being advocated using taxpayer funds.

How much local tax revenue is being spent on Lobbying?

Just as the question of 'who' is lobbying with taxpayer funds is difficult to answer, the answer to the question of how much local taxpayer money is being spent is equally elusive. Current rules and reporting requirements made answering that question impossible for the committee. If a committee of state legislators can not answer the question, it is safe to assume that a lone, concerned citizen can not.

It should be easy to at least determine how much is being spent on contracts with outside lobbyists. However, because of the current reporting standards, a "guess" is as best as one can do. That should be unacceptable when discussing accountability of public funds.

In the area of direct lobbying, the committee found that even local government entities do not know how much they spend on lobbying activities or what should be included when totaling lobby expenses. Being able to report such figures to citizens is simply impossible without reforms to the system that have already been mentioned, such as establishing clear accounting rules for what is to be included as lobbying expenses, etc.

One final area of cost to local government deserves discussion. The committee was asked to examine the

use of government-owned computer networks for the purpose of individual lobbying. Legislators typically receive many emails urging them to take one position or another from employees of local government entities and school districts sent from official email accounts on government-owned computer networks.

To develop a position on this practice, the committee looked to parallel policies in place at state agencies. Fourteen of the largest state agencies were surveyed. Virtually all recognize the use of email to be the same as the use of a telephone. Incidental personal use which does not interfere in agency business or incur any additional cost to the agency is permitted. However, virtually all make specific exception for the use of state-owned email accounts for campaigning or lobbying by imposing an absolute ban on such use regardless of the fact that they may not incur any additional cost to the agency.

Summary & Conclusion:

This committee finds that it would be a violation of the principle of local control to ban lobbying by local public officials or to ban the use of local revenue to hire an outside consultant or lobbyist or to join an association. The committee also finds that citizens deserve but cannot reasonably gain information concerning the lobbying activity of local governments and the cost of such activities to local taxpayers.

Therefore, the committee determines that steps should be taken to require a complete and uniform disclosure of lobbying activity and cost. As well, uniform contracting guidelines for hiring outside consultants should be established.

RECOMMENDATIONS

This committee offers the following recommendations to address its charge:

- Implement contracting guidelines, either by statute, or by direction to the Ethics Commission, for local government entities and school boards who enter into contracts with lobbyists and government consultants.
- Change the Lobby Registration process to add a specific field to identify registrants who are paid with local taxpayer funds as well as those who may be paid by other entities but are retained for the benefit of a public entity. When a registration involves a public entity, additional information should be required including the exact amount of the contract (as opposed to just a range), and a more detailed listing of issues covered in the lobby contract.
- Enact legislation requiring public accounting systems to contain a clear and concise line item which includes amounts expended on lobbying including contracts for lobbying services, direct lobbying expenses (such as travel expenses for public officials) and dues paid to organizations which engage in lobbying, and to include a detailed description of the issues and positions being advocated using taxpayer funds.
- Continue researching the use of government resources to lobby or encourage lobbying. For example, the committee received inquiries from other legislators and from citizens regarding the appropriateness of school district employees using the school's network and their school district email address to lobby members of the legislature.

ADDENDUM 1

Survey Questions for Local Governments:

1. Does your county/city/ISD currently have a contract with registered outside lobbyists?
2. Does your county/city/ISD currently pay dues to any statewide organization/s which acts on your behalf concerning issues before the Texas Legislature? Please list those organizations (such as TML, TAC, TASA, TASB, TRAPS, SWANA, ICMA, CAPS, or any other organization not listed).
3. How many county/city/ISD employees as a part of their job description may be requested to perform the following?
 - (a) Preparation of fact sheets or opinion shaping information to influence Legislation for use by others.
 - (b) Have direct contacts with the registered outside lobbyist or legislators.
 - (c) The practice of giving staff of any county department paid time off in order to lobby.
4. Does your county/city/ISD currently detail in your budget the contract with a registered outside lobbyist and statewide organization(s).
5. Do any elected official or county/city/ISD employees have expense account payments or reimbursements for employee business expenses when they are required to visit members of the legislature?
6. A complete estimate of expense accounts which a government-owned credit card or other methods of direct payments were made to hotels, airlines, or any other expenditure to and from Austin between January 2003 through August 19, 2005. I do not intend to include training, routine state agency transactions, conferences, etc. Also, if the county was requested by a State Representative or Senator to appear before the legislature, the county should make note of that.
7. A complete estimate for employee and elected official expense reports that include reimbursement for travel, lodging and/or meals to and from Austin between January 2003 through August 19, 2005. Again, I do not intend to include training, routine state agency transactions, conferences, etc.
8. How does your county/city/ISD track, report and disclose lobbying?

ADDENDUM 2

**School District
SMALL**

Q # 1 Q #2 Q #3 Q #4 Q #5 Q #6 Q # 7 Q # 8

WESTHOFF	No	Yes	0,0,0	No	No	No	No	No
MONTAGUE ISD	No	Yes	0,0,0	No	No	No	No	No
SPRING CREEK ISD								
STAR ISD	No	Yes	0,0,0	No	No	No	No	No
HALLSBURG ISD	No	Yes	0,1,1	No	No	\$220.00	No	No
LOOP ISD	No	Yes	0,0,0	Yes	No	No	No	No
FORT ELLIOTT CISD	No	Yes	0,1,0	No	Yes	\$4,636.3 2	\$763.46	No
ADRIAN ISD	No	Yes	0,0,0	No	No	No	No	No
DEVERS ISD	No	Yes	0,1,0	No	Yes	No	\$400.00	No
LORAIN ISD	No	Yes	0,0,0	Yes	No	No	No	No
LAZBUDDIE ISD	No	Yes	0,0,0	Yes	Yes	\$1,020.6 5	\$122.34	No
LEFORS ISD	No	Yes	0,0,0	No	No	No	No	No
GORDON ISD	No	Yes	0,0,0	No	No	No	No	No
AMHERST ISD	No	Yes	0,0,0	No	No	No	No	No
SILVERTON ISD	No	Yes	0,0,0	No	No	No	No	No
CHILlicothe ISD								
ROXTON ISD	No	Yes	0,0,0	Yes	No	No	No	No
SABINE PASS ISD								
KRESS ISD	No	Yes	0,1,0	No	Yes	\$450.00	No	No
MEADOW ISD	No	Yes	0,0,0	Yes	Yes	No	No	No
VERIBEST ISD								
SLIDELL ISD	No	Yes	0,0,0	No	No	No	No	No
CAMPBELL ISD	No	Yes	0,0,0	No	No	No	No	Yes
SAINT JO ISD	No	Yes	0,0,0	Yes	No	No	No	No
SHAMROCK ISD								
CHRISTOVAL ISD								
CLAUDE ISD	No	Yes	0,0,0	No	No	No	No	No
GRUVER ISD	No	Yes	0,0,0	No	No	No	No	No
AVERY ISD	No	Yes	0,0,0	No	No	No	No	No
BENAVIDES ISD	No	Yes	1,1,1	No	No	No	No	No
BROADDUS ISD	No	Yes	0,0,0	No	No	No	No	No
BOSQUEVILLE ISD	No	NO	0,0,0	No	No	No	No	No
SUNRAY ISD	No	Yes	0,0,0	No	No	No	No	No
MEMPHIS ISD	No	Yes	0,0,0	No	No	No	No	No
CLARENDON ISD	No	Yes	0,0,0	No	Yes	No	No	No
THRALL ISD								
TIMPSON ISD								
TOLAR ISD	No	NO	0,0,0	No	No	No	No	No
CROSS ROADS ISD	No	Yes	0,0,0	No	No	No	No	No
SEYMOUR ISD	No	Yes	0,0,0	No	No	No	No	No
HONEY GROVE ISD	No	Yes	0,0,0	No	No	No	No	No
ITALY ISD	No	Yes	0,0,0	No	No	No	No	No
CHICO ISD	No	Yes	0,0,0	No	No	No	No	No
MOODY ISD								

HAWLEY ISD								
AXTELL ISD	No	Yes	0,0,0	No	Yes	No	\$200.00	No
STOCKDALE ISD	No	Yes	0,0,0	No	No	No	\$100.00	No
HIGHLAND PARK ISD	No	Yes	0,0,0	No	No	No	No	No
BRAZOS ISD	No	Yes	0,0,0	No	No	No	No	No
HOLLIDAY ISD	No	Yes	0,0,0	No	No	No	No	No
EAST BERNARD ISD	No	Yes	1,1,1	No	No	No	No	No
CRANE ISD	Yes	Yes	1,1,0	No	Yes	\$800.00	\$200.00	Yes
ELYSIAN FIELDS ISD	No	Yes	0,0,0	No	No	No	No	No
CLARKSVILLE ISD	No	Yes	0,0,0	No	No	No	No	No
HENRIETTA ISD	No	Yes	0,0,0	No	No	No	No	No
JIM HOGG COUNTY ISD	No	Yes	0,0,0	No	No	No	No	No
QUEEN CITY ISD	No	***	***	***	***	***	***	***
COTULLA ISD								
TRINITY ISD	No	Yes	0,0,0	No	No	No	No	No
AUBREY ISD	No	Yes	0,0,0	Yes	No	No	No	No
TROY ISD	No	Yes	0,1,0	No	No	No	No	Yes
BRADY ISD	No	Yes	0,0,0	No	No	No	No	No
VAN ALSTYNE ISD	No	Yes	0,0,0	No	No	No	No	No
NAVARRO ISD	No	Yes	0,0,0	No	No	No	No	No
EDNA ISD	No	Yes	0,0,0	No	No	No	No	No
PILOT POINT ISD	No	Yes	0,0,0	No	No	No	No	No
GLEN ROSE ISD	No	Yes	0,0,0	No	No	\$157.34	\$208.38	No
ORANGE GROVE ISD	No	Yes	0,1,0	No	Yes	No	No	No

MID-SIZED

SPRING HILL ISD	No	Yes	0,0,0	No	No	No	No	No
DIBOLL ISD	No	Yes	0,0,0	No	No	\$450.00	\$490.00	No
ATLANTA ISD	No	Yes	0,0,0	No	No	No	No	No
PERRYTON ISD	No	Yes	0,0,0	Yes	No	No	No	No
RIO HONDO ISD	No	Yes	0,0,0	Yes	No	No	No	No
PEARSALL ISD	No	Yes	0,0,0	No	No	No	No	No
HUDSON ISD	No	Yes	0,0,0	Yes	No	No	No	No
SNYDER ISD	No	Yes	0,0,0	Yes	No	No	No	No
LIBERTY-EYLAU ISD	No	Yes	0,0,0	No	No	No	No	No
WYLIE ISD	No	Yes	0,0,0	No	No	No	No	No
GAINESVILLE ISD	No	Yes	0,0,0	No	No	No	No	No
CASTLEBERRY ISD	No	Yes	0,1,0	No	No	No	No	No
BARBERS HILL ISD	No	Yes	0,0,0	No	No	No	\$505.00	No
PLEASANTON ISD	No	Yes	0,0,0	Yes	No	\$110.00	\$625.00	No
LA MARQUE ISD	No	Yes	0,0,0	No	?	?	?	No
LAKE DALLAS ISD	No	Yes	0,0,0	No	No	No	No	b
SULPHUR SPRINGS ISD	No	Yes	0,0,0	No	No	No	No	No
FORNEY ISD	No	Yes	0,1,0	No	No	\$301.20	\$659.70	No
MONTGOMERY ISD	No	Yes	0,1,0	No	No	No	No	No
GREENVILLE ISD	No	Yes	1,1,1	No	No	No	No	No

LARGE

TEXAS CITY ISD	YES	Yes	0,0,0	No	No	No	No	No
ANGLETON ISD	No	Yes	0,0,0	No	No	No	No	No
COPPERAS COVE ISD	No	Yes	0,0,0	No	Yes	\$42.00	\$1,293.59	No
CHANNELVIEW ISD	No	Yes	0,0,0	No	No	No	No	No
TEMPLE ISD	No	Yes	0,0,0	No	No	\$150.00	Yes	No
SOUTH SAN ANTONIO ISD								
ROCKWALL ISD								
HARLANDALE ISD	No	Yes	0,0,0	No	No	No	No	No
WESLACO ISD	No	Yes	0,0,0	No	No	No	No	No
GOOSE CREEK CISD	No	Yes	0,0,0	No	No	No	No	No
MANSFIELD ISD	No	Yes	1,1,0	No	Yes	No	No	No
AMARILLO ISD	No	Yes	0,0,0	No	No	\$120.00	\$471.85	No
SPRING BRANCH ISD								
ROUND ROCK ISD	No	Yes	0,3,0	No	No	No	No	No
SAN ANTONIO ISD	Yes	Yes	0,0,0	No	No	\$792.72	\$792.72	No
ALDINE ISD	No	Yes	0,1,0	No	No	No	No	No
CYPRESS-FAIRBANKS ISD	No	Yes	1,1,0	No	No	No	No	No
HOUSTON ISD	No	Yes	?,1,0	No	Yes	No	\$6,894.93	No
MESQUITE ISD	No	Yes	2,?,0	No	Yes	\$1,642.29	\$219.00	No

ADDENDUM 3

County	Q									
	Q1	Q2	Q 3a	Q 3b	3c	Q4	Q5	Q6	Q7	Q8
Bexar	Yes	Yes - #6	2	2	0	Yes	None	None	\$22,380	Indirect disclosure No activity to report
Brazoria	No	Yes	0	0	0	No	None	None	None	Indirect disclosure
Cameron	No	Yes - #5	1	1	0	No	None	2881.31	17,780.62	Indirect disclosure
Collin	No	Yes - #2	0	0	0	No	None	Incomplete answer	89,906	No activity to report
Dallas	No	Yes - #4	1	1	0	No		34,871.33	65,064.33	No activity to report
El Paso	Yes	Yes - #2	varies	varies	0	No	Yes	Incomplete answer	Incom.	Indirect disclosure
Harris	Yes	Yes - #7	8 to 15	8 to 15	***	No	Yes	Unavailable	55,196.00	Indirect disclosure
Kaufman	No	Yes - #4	0	0	0	No	None	None	None	No activity to report
Kleberg	No	Yes - #1	0	0	0	No	None	None	None	No activity to report
Lubbock	No	Yes - #25	0	0	0	No	None	308.35	None	No activity to report
Nueces	Yes	Yes - #3	2 or 3	Varies	0	Yes	Yes	Unavailable	Unavailable	Indirect disclosure
San Patricia	No	Yes - #3	0	0	0	No	Yes	None	105	Indirect disclosure
Tarrant	No	Yes - #5	1	1	0	Yes	Yes	4412.6	38,504.17	Indirect disclosure
Travis	Yes	Yes - #4	28	28	0	Yes	None	None	None	Indirect disclosure
Van Zandt	No	Yes - #2	0	0	0	Yes	None	None	None	No activity to report
Williamson	No	Yes - #51	0	0	0	Yes	None	None	None	No activity to report

ADDENDUM 4

CITIES WITH LOBBYIST	Q #1	Q#2	Q#3	Q#4	Q#5	Q#6	Q#7	Q#8
Abilene	Yes	Y #3	5,5,5	Yes	Yes	None	None	see statement
Arlington	Yes	Y#21 7	55,3,?	Yes	Yes	2921.81	see #6	see statement
Austin	Yes	Y #8	5,3,5	Yes	Yes	None	None	Yes
Balch Springs	No	Y #1	0,0,0	No	No	None	None	No
Brownwood	Yes	Y#19	0,0,0	Yes	Yes	614.77	see #6	Yes
Burleson	Yes	Y #1	1,1,2	Yes	Yes	not provided	not provided	see statement
Carrollton								
Cleburne	No	Y #1	0,0,0	Yes	Yes	not totaled	not totaled	see statement
College Station	Yes	Y#58	1,1,1	Yes	Yes	\$3,063.17	213.89	see statement
Corpus Christi	Yes	Y#44	32,4,32	No	No	No	17,600	see statement
Dallas	Yes	Y#3	2.2.2	No	No	\$5,500.00	See statement	see statement
Denton	No	Y#28	30,3,10 0	Yes	Yes	See # 7	\$15,063.00	see statement
Dumas	No	Y#15	5,5,5	Yes	No	not totaled	not totaled	No
Edinburg	Yes	Y #1	1,3,1	Yes	Yes	No	\$1,000.00	No
Eules	No	Y#1	3,2,?	No	Yes	No	\$9,700.00	No
Farmers Branch	No	Y#7	2,04	Yes	Yes	None	\$2,227.96	No
Fort Stockton	No	Y#44	1,3,7	No	Yes	None	\$8,000.00	see statement
Fort Worth	Yes	Y#32 5	3,3,5	Yes	Yes	None	\$552,666.0 0	No
Frisco	No	Y#1	?,?,?	No	Yes	None	\$5,378.38	No
Galveston	Yes	No	0,0,0	Yes	Yes	\$1,300.00	\$700.00	No
Garland	No	Y#2	?,?,?	No	Yes	None	\$30,000.00	see statement
Grand Prairie	Yes	Y#97	3+,4+,?	Yes	Yes	None	\$4,200.00	see statement
Grapevine	Yes	Y#38	?,?,?	No	Yes	None	\$5,000.00	see statement
Gunter	No	Y#1	0,0,1	No	No	None	None	No
Harlingen	Yes	Y#1	2,2,4	Yes	No	None	\$42,500.00	No
Houston	Yes	Y#15	26,?,?	No	No	None	\$88,070.50	see statement
Hurst	No	Y#18	0,?,0	No	No	None	\$249.50	see statement
Irving	Yes	Y#24	1,1,40	Yes	No	None	\$2,000.00	see statement
Jacksboro	No	Y#1	1,0,1	Yes	No	None	None	see statement

Jamaica Beach	Yes	Y#1	0,0,2	No	No	None	None	see statement
Jarrell	No	Y#1	0,0,0	Yes	No	None	None	No
Kennedale								
Killeen	Yes	Y#38	3,3,3	No	No	None	\$1,000.00	see statement
Laredo	Yes	Y#?	12,4,12	Yes	Yes	None	\$6,300.00	see statement
Lewisville	Yes	Y#51	2,3,?	Yes	Yes	None	\$12,550.00	No
Liberty Hill	No	Y#?	0,0,0	Yes	No	None	None	No
Lubbock	Yes	Y#?	1,1,1	Yes	Yes	Not sent	Not sent	see statement
Mansfield	Yes	Y#1	5,5,5	Yea	Yes	None	\$4,300.00	see statement
Marble Falls	Yes	Y#1	2,2,2	No	No	None	None	see statement
Marshall	Yes	Y#1	2,2,2	No	No	None	\$4,050.00	see statement
McAllen								
McKinney	Yes	Y#1	2,2,2	Yes	Yes	\$1,295.00	\$3,000.00	see statement
Mesquite	Yes	Y#12	1,0,0	Yes	Yes	None	\$12,000.00	see statement
Midland	Yes	Y#1	2,2,2	Yes	Yes	None	\$5,000.00	see statement
Pflugerville								
Plano	Yes	Y#1	2,2,2	No	No	?	\$28,409.44	see statement
Port Arthur	Yes	Y#1	0,0,0	Yes	No	Not Sent	Not sent	see statement
Port Isabel	Yes	Y#1	3,1,1	Yes	Yes	None	\$6,817,17	see statement
Rolling Wood	No	Yes	1,0,1	Yes	No	No	None	No
Round Rock	Yes	Y#32 5	16,3,16	Yes	Yes	\$15.00	\$50.00	see statement
Royse City	No	No	0,0,0	No	No	None	None	No
San Antonio	Yes	Y#7	?,?,?	No	Yes	None	\$22,000.00	see statement
Snyder	Yes	Y#17	0,0,0	Yes	No	None	\$987.56	see statement
South Padre Island	Yes	Y#1	2,2,8	Yes	Yes	None	\$2,000.00	see statement
Stafford	Yes	Y#?	1,1,1,	Yes	Yes	None	\$373.88	see statement
Sunset Valley	Yes	Y#1	0,0,0	Yes	No	No	None	No
Temple	Yes	Y#1	1,1,11	Yes	Yes	None	\$2,500.00	see statement
Texarkana	Yes	Y#1	0,2,10	Yes	Yes	None	\$1,616,78	see statement
Uvalde	Yes	Y#1	2,2,2	No	No	None	None	see statement
Victoria	No	Y#?	1,1,1	No	Yes	None	\$9,500.00	see

								statement
Waco	Yes	Y#2	0,0,0	Yes	No	None	\$600.00	see statement
Willow Park	No	Y#1	0,0,0	No	No	None	None	see statement



**House Sub-Committee on General Investigating and Ethics
House Sub-Committee on Public Education**

August 30, 2006

Kevin Bailey
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

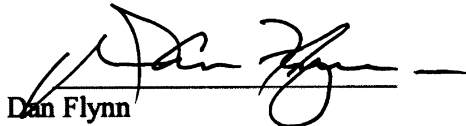
The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

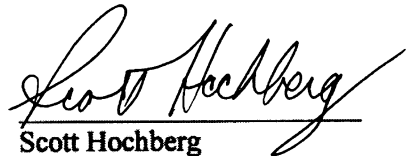
Dear Mr. Speaker and Fellow Members:

The Sub-Committee on General Investigating and Ethics and the Sub-Committee on Public Education of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

Respectfully submitted,


Kevin Bailey


Dan Flynn


Scott Hochberg


Dan Branch


Anna Mowery

RESEARCH, REVIEW AND INVESTIGATE ATTEMPTS BY SCHOOL DISTRICT OFFICIALS TO SKIRT COMPETITIVE BIDDING REQUIREMENTS WITH RESPECT TO FACILITY RENOVATION AND CONSTRUCTION CONTRACTS, AND OTHER RELEVANT CONTRACTS, THROUGH THE USE OF IMPROPER PROCUREMENT CONTRACTS WITH ASSOCIATIONS OR OTHER SCHOOL DISTRICTS. (JOINT CHARGE WITH HOUSE PUBLIC EDUCATION)

HISTORY AND BACKGROUND

The charge for the committee was review the procedures in current law that deal specifically with facility renovation and construction contracts. In doing so, special emphasis is given to competitive procurement requirements for each of the six contracting methods that are used for facility renovation and construction contracts.

Each statute, bill, and attorney general opinion referenced in this report is attached in the order referenced. Also included as an attachment is an October 2005 district court ruling related to job order contracting for construction services under an interlocal contract. Related information in this report, explanations for both interlocal contracts and job order contracts, addresses the joint interim charge for the joint committee.

Contracting Methods Generally

Contracting methods for school facility renovation and construction contracts are the same as those for nearly all large school district purchasing contracts. Section 44.031(a), Education Code, requires all school district contracts valued at \$25,000 or more in the aggregate for a 12-month period, with the exception of contracts for the purchase of produce and vehicle fuel, to be made using one of 10 methods specified in the statute and to be made by the method, from that list, that provides the best value for the district. The law does not specify which contracting methods are to be used for school renovation and construction contracts, but as this report will show, every contracting method used for school renovation and construction, with the exception of interlocal contracts, includes competitive procurement requirements.

Section 44.031(b), Education Code, lists factors that a school district may use in determining to whom to award a contract. Subsection (d) authorizes a district's board of trustees to adopt rules and procedures for acquiring goods and services. Subsection (g) requires a district to give notice of bidding opportunities and allow a sufficient amount of time for prospective bidders to respond. Subsection (h) provides that if part of a school facility is destroyed or severely damaged or suffers a major operational or structural failure, contracts may be made by methods other than those in Subsection (a) if the delay posed by each of those prescribed methods would prevent or substantially hinder holding classes or other necessary school activities.

Additionally, the Education Code sets forth guidelines specific to evaluating bids and proposals for construction services. Section 44.035, Education Code, requires the board of trustees of a school district, before advertising a bid or proposal, to determine which contracting method provides the best value for the district and to include in the bid specifications the criteria that will be used to evaluate the bids or proposals as provided by Section 44.031(b). The board must make its selection based on the predetermined and

published criteria and make the evaluations public not later than seven days after the contract is awarded.

Of the 10 school district contracting methods authorized by Section 44.031 (a), Education Code, four are not used for school facility renovation and construction contracts. Requests for proposals are used to procure professional services, such as services of an architect or engineer, but are prohibited from being used for construction services. Catalog purchases as provided by Subchapter B, Chapter 2157, Government Code, are used exclusively for purchasing automated information systems. The reverse auction procedure as defined by Section 2155.062(d), Government Code, is used mostly for buying goods rather than services. Finally, the formation of a political subdivision corporation under Section 304.001, Local Government Code, was included among the permissible contracting methods in Section 44.31(a), Education Code, to allow school districts to purchase electricity through such a corporation and generally does not apply to contracting for construction services.

The remaining six contracting methods are discussed in the order in which they are listed in Section 44.031(a), Education Code.

Competitive Bidding

This contracting method requires that bids be evaluated and awarded based solely on bid specifications, terms, and conditions. Its chief advantage is that it may result in lower costs for a school facility project because price is the deciding factor in selecting a contractor. Disadvantages are that project plans must be complete before the bid is advertised and that contractors do not have input into the project design before bidding.

Section 44.040, Education Code, requires a school district using this contracting method to select an engineer or architect to prepare construction documents for the project and to award a competitively bid contract at the bid amount to the bidder offering the best value according to selection criteria established by the district. Note that Section 2254.003, Government Code, prohibits any governmental entity, including a school district, from competitively bidding a contract for the services of the engineer or architect but instead requires the selection of such professional services providers on the basis of demonstrated competence and qualifications to perform the service.

Texas Attorney General Opinion No. JC-0037 (1999) ruled that if a school district chooses to competitively bid a contract to construct, rehabilitate, alter, or repair a facility, the district must comply with all provisions of the competitive bidding statutes in Subchapter B, Chapter 271, Local Government Code (Sections 271.021 through 271.030, relating to competitive bidding on certain public works contracts), 271.025 (advertisement for bids), and 271.027(b) (awarding contract to lowest responsible bidder). However, the Texas Legislature, with the passage of Senate Bill 669 (Chapter 1225, Acts of the 76th Legislature, Regular Session, 1999) amended Section 44.040, education Code, to state that, unless otherwise specifically provided by that subsection, Subchapter B, Chapter 271, Local Government Code, as a whole does not apply to school district competitive bidding for construction services but that only Sections 271.026, 271.027(a), and 271.0275 are applicable in these cases.

Competitive Sealed Proposals

This is probably the most commonly used contracting method for school facility renovation and construction contracts. It requires the same terms and conditions as competitive bidding but allows changes in the nature of a proposal and prices after proposal opening. A district using this contracting method weighs price along with other factors to determine which contractor provides the best overall value.

Section 44.039, Education Code, requires a school district to prepare a request for competitive sealed proposals that include construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The district must publicly open the proposals and, within 45 days, evaluate and rank each proposal in relation to the published selection criteria. The district then selects the vendor that presents the best value based on the selection criteria and the ranking evaluations and negotiates the contract with that vendor. The negotiations may include discussions of options for a scope or time modification and any price change associated with such modification. If those negotiations fail, the district must formally end those negotiations and proceed to the next vendor in evaluation rank order until a contract is reached.

Interlocal Contracts

This contracting method allows school districts to pool their collective purchasing power by entering into interlocal contracts with other local governments, the state, or a state agency. Interlocal contracts are governed by the Interlocal Cooperation Act, Chapter 791, Government Code, whose purpose is to increase the efficiency and effectiveness of local governments by authorizing them to contract, to the greatest possible extent, with one another and with agencies of the state. Section 791.025(c), Government Code, provides that a local government that purchases goods and services under an interlocal cooperation contract satisfies the requirement to seek competitive bids for the goods and services. A school district is defined as a local government for this purpose under Section 271.202, Local Government Code.

The best example of a local government purchasing cooperative that uses interlocal contracts is the "Buy Board" administered by the Texas Association of School Boards (TASB). School districts, local governments, nonprofits, and other political subdivisions pay an annual fee and sign an interlocal contract to purchase goods and services as a cooperative. At the BuyBoard website ([link below](#)) members are told, "All catalogs, or items available for purchase on the BuyBoard have been competitively procured according to Texas statutes. ... [Accordingly,] cooperative members don't have to be concerned with bidding themselves." The website points out that the competitive procurement may have originated with the purchasing cooperative or with another entity such as a school district, city or county. The BuyBoard product list features supplies and equipment for building maintenance, repair, and operation and also includes modular construction buildings. www.tasb.org/services/cooperative_purchasing/buyboard/

The BuyBoard also offers job order contracting for construction, repair, and remodeling projects to cooperative members under the interlocal contract. (We will further explain this contacting method later in this overview.) The BuyBoard's job order contractor is Jamail Construction Company of Houston, and the competitive procurement of the company originated with Houston ISD. TASB representatives testified at a November 30, 2005, joint public hearing that Houston ISD followed the competitive procurement requirements for job order contracting found in Section 44.041, Education Code. They also testified that

Houston ISD determined that Jamail Construction Company had the most competitive proposal among the vendors in all 20 education service regions.

As a member of the purchasing cooperative, Galveston ISD executed a job order contract with Jamail Construction Company in 2005 for the second phase of a large middle school renovation project without following the procedures prescribed by competitive procurement requirements and instead relying on the BuyBoard interlocal contract to select the contractor for the project. A court hearing on the legality of the contract revealed that Jamail Construction was paying TASB and Houston ISD a service fee of two percent. Critics expressed concern that Galveston taxpayers were compensating another school district for school construction. A district judge ruled that the school district had violated the state's competitive procurement laws by using an interlocal contract to bypass the competitive procurement requirements for job order contracting.

In 2005, with passage of House Bill 1826 (Chapter 979m Acts of the 79th Legislature, Regular Session, 2005), the Texas Legislature added Section 11.168, Education Code, to prohibit the board of trustees of a school district from entering into an agreement authorizing the use of school district employees, property, or resources in design, construction, or renovation of real property not owned or leased by the district.

Design-Build Contracts

Under this contracting method, a school district contracts with a single entity to take responsibility for both the design and construction of a project. One of the chief benefits can be increased speed of construction. Another benefit is that the district is not required to referee disputes between the designer and contractor. However, design-build is not commonly used by school districts because of a perceived lack of control over quality since the designer is participating as part of the construction team instead of as an independent check on design or construction quality. Critics of this contracting method express concern that the design-builder will sacrifice quality for speed and that the method does not always produce the lowest-priced facility.

Section 44.036, Education Code, provides for a competitive procurement process for design-build contracts that differs from competitive bidding. The statute requires a school district to prepare two items in connection with each project: a request for qualifications and a design criteria package. The request for qualifications must contain information to assist a potential design-builder in submitting a proposal for the project. The district or its representative, using a two-phased evaluation and selection process, must first narrow the list of qualified vendors to not more than five finalists and then select the proposal that will provide the best value to the district. Once the district has selected a design-build firm, the statute requires the selected firm's engineers or architects to complete the design and, before or concurrently with construction, to submit all design elements for review.

Texas Attorney General Opinion, No. JC-0037 (1999) ruled that if a school district chooses to use the design-build contracting method, it must award the contract in accordance with the two-phase provision of Section 44.036(e), Education Code, and Section 2254.0994(a) (1), Government Code. Section 2254.004(a) requires a government entity seeking to procure architectural, engineering, or land surveying services to (1) select the most highly qualified provider based on demonstrated competence and qualification and (2) attempt to negotiate a fair and reasonable price with that provider and, if those negotiations fail, to proceed with the next most qualified vendor. The ruling in effect means that a school district should use a combination of

competitive procurement and requests for proposals when awarding a design-build contract so as not to circumvent the Professional Services Procurement Act.

Construction Manager Contracts

This contracting method became available to school districts in 1997 with passage of Senate Bill 583 (Chapter 1179, Acts of the 75th Legislature, regular Session, 1997), relating to the construction or repair of facilities by school districts and institutions of higher education. The bill amended Section 44.031, Education Code; to authorize school districts and higher education institutions to use construction manager-agent contracts as well as construction manager-at-risk contracts and added Sections 44.307 and 44.038, Education Code, to establish procedural requirements for those methods.

Section 44.307(b), Education Code, describes the construction manager-agent as an entity that provides consultation to the school district regarding construction, rehabilitation, alteration, or repair of the facility. A construction manager-agent represents the district in a fiduciary capacity, helping the district to spend its money wisely. Subsection (d) requires the district to procure construction manager-agent services on the basis of demonstrated competence and qualifications in the same manner that the services of architects, engineers, and land surveyors are procured. Subsection (e) requires the construction manager-agent to procure by applicable law a general contractor, trade contractors, or subcontractors.

The construction manager-at-risk method is more commonly used than the construction manager-agent method because the construction manager-at-risk typically provides a guaranteed maximum price and a guaranteed completion date. Both methods provide services to a district during design, including identification of constructability concerns and possible cost savings. However, the construction manager-at-risk method also allows the district to participate in selecting subcontractors. And because there is a guarantee regarding the price and completion date, the construction manager-at-risk method may provide the best value for complex and time-sensitive projects.

A construction manager-at-risk is selected in much the same way as a design-build contractor. Section 44.038(e), Education Code, requires the district to use either a one-step or a two-step process. If a one-step process is used, the district may request the vendor to provide information about proposed fees and prices. If a two-step process is used, the district may not request fee or price information in step one, but in step two the district may request that five or fewer vendors, selected solely on the basis of qualification, provide additional information, including proposed fees and prices.

Section 44.038(h), Education Code, requires the construction manager-at-risk to publicly advertise and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work and requires the district or its representatives to review the bids or proposals with the construction manager-at-risk. To guarantee the project price and completion date, the statute requires the construction manager-at-risk to provide performance and payment bonds to the district.

Job Order Contracts

This contracting method became available to school districts in 1997 as the result of the passage of Senate Bill 583 (Chapter 1179, Acts of the 75th Legislature, regular Session, 1997), which also added Section

44.041, Education Code, to establish the necessary procedural requirements for job order contracts for facilities construction or repairs. This section was amended in 1999 with the passage of Senate Bill 669 (Chapter 1225, Acts of the 76th Legislature, Regular Session, 1999) to allow job order contracts to be used for construction as well as repairs and alterations.

Section 44.041, Education Code, authorizes a school district to award job order contracts for "the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of proscribed and prepriced tasks." School districts often use job order contracting to keep a contractor in place to perform a series of smaller construction projects that may arise. Examples include adding small bathrooms, installing new lights, and paving parking lots. Typically, these projects are beyond a district's maintenance capabilities and are in the cost range of a few thousand dollars to \$350,000.

When Galveston ISD procured a job order contact under an interlocal contact for a \$7 million-\$8 million for a middle school renovation project (see related discussion under "Interlocal Contracts"), the school district maintained in court proceedings that the cost was within range of a minor repair. The district also asserted that the word "minor" in the statute only modifies the word "construction" and that the words "repair, rehabilitation, and alteration" stand alone. The judge rejected this argument, noting that the word "minor" predated the later addition of the word "construction" and that, thus, the modifier applied to all four nouns in the series.

Section 44.041, Education Code, authorizes districts to establish contractual unit prices that apply for the term of the job order contract and specifies how this may be accomplished. One way is by using the prices in one or more published construction unit price books. The RS Means pricing guide, for example, offers unit prices for a broad range of construction tasks and includes regional modifiers to adjust pricing for different parts of the country. The other way is by asking vendors to propose one or more multipliers to the prices in a unit price book to reflect geographic variations in price. As an example, a Houston school district might identify a particular pricing manual, such as *RS Means Site Work and Landscape Cost Data 2006*, and require vendors to base prices for drainage, paving, and sewerage work on a proposed percentage of the Houston-adjusted unit prices in the manual.

Competitive Procurement requirements for job order contracting include the requirement in Section 44.041(c), Education Code, for a district to advertise for and publicly open sealed proposals. Subsection (h) provides that if a district fails to advertise the base term of the contract, term is limited to two years and may not be renewed without further advertisement and solicitation of proposals. Most contractors support shorter contracts for up to two years to lower the risk that fuel costs, material shortages, and other factors will affect their profit since unit prices for the work are established in advance. They further maintain that shorter contracts promote greater competition for contracts.

CONCLUSION

The Sub-Committee and the General Investigating and Ethics Committee were charged with investigating whether school district officials were skirting the competitive bidding process particularly relating to facility renovations and construction.

This Sub-Committee held two hearings on this subject and primarily focused on Job Order Contracting, (JOC). The committee has reviewed all aspects of JOC and those entities involved and believes that Job Order Contracting is a valuable tool for school districts to utilize for certain types of repair work.

RECOMMENDATIONS

This committee offers the following recommendations to address its charge:

- In addition to conditions established under Education Code § 44.041, job order contracts may also be awarded for emergency repairs.
- All JOC contracts must be approved by the governing body in regular, special or emergency session, prior to being awarded.
- All individual JOC projects exceeding \$500,000 shall be approved by the governing body in regular, special or emergency session, prior to being awarded.
- All bids for job order contracts shall be opened and read aloud in public.
- The Committee recommends further study of a system of registration for a construction manager-agent as defined by VTCA, Education Code § 44.037, which provides consultation to the school district regarding construction, rehabilitation, alteration, or repair of the facility.