

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 712

INTRODUCER: Community Affairs Committee and Senator Pruitt

SUBJECT: Commodities & Contractual Services/Local Governments

DATE: March 3, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/CS
2.			GO	
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS/SB 712 authorizes special districts to purchase commodities and contractual services from the purchasing agreements of other special districts, counties, and municipalities under certain conditions. Landscape architectural services, surveying and mapping services, and architectural and engineering services are excluded.

The CS creates section 189.4221, Florida Statutes.

II. Present Situation:

Uniform Special District Accountability Act – chapter 189, F.S.

Pursuant to s. 189.403, F.S., a special district is a local unit of special purpose within a limited boundary and created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.¹ The purposes of the special district are implemented by specialized functions and

¹ Pursuant to subsection (1) of s. 189.403, F.S., school districts, community college districts, special improvement districts within the reservations set aside for the Seminole and Miccosukee Tribes, a municipal service taxing or benefit unit, or a

related prescribed powers. For purposes of ad valorem tax exemptions, special districts are treated the same as municipalities. However, chapter 189 does not contain provisions governing the purchase of commodities and contractual services by special districts.

State procurement of personal property and services

Subsection (12) of s. 287.012, F.S., provides that an "eligible user" is any person or entity authorized by the Department of Management Services pursuant to rule to purchase commodities and contractual services from state term contracts or to use the online procurement system. The Consultants' Competitive Negotiation Act (CCNA), s. 287.055, F.S., sets forth requirements for the procurement and contracting of professional architectural, engineering, landscape architectural, or land surveying services by governmental agencies. Section 287.056, F.S., provides that eligible users may purchase commodities and contractual services from purchasing agreements established and state term contracts procured by the department pursuant to general law. General law contains various requirements related to competitive bids, competitive sealed proposals, and exemptions from competitive-solicitation requirements based on the type or cost of the commodities or services being purchased.²

Rule 60A-1.005, Florida Administrative Code, as adopted by the department, defines an "eligible user" as "all governmental agencies as defined in s. 163.3164³ which have a physical presence in the State of Florida." Section 163.3164, F.S., includes any county or municipality, or any school board or other special district in the definition of "governmental agencies." Under the state procurement system, counties, municipalities, and special districts may purchase commodities and contractual services from state purchasing agreements. No provision is made in chapter 287 for counties, municipalities, or special districts to purchase commodities or contractual services from the purchasing agreements of other counties, municipalities, or special districts.

III. Effect of Proposed Changes:

The CS creates s. 189.4221, F.S., to authorize special districts to purchase commodities and contractual services from the purchasing agreements of other special districts, counties, and municipalities if:

- The purchasing agreements of other special districts, counties, and municipalities are procured pursuant to competitive bids, requests for proposals, or competitive negotiations, and
- The purchasing agreements of other special districts, counties, and municipalities are otherwise in compliance with general law and the purchasing agreement of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district.

board providing electrical service that is part of a city or part of a political subdivision of a city are not considered special districts.

² See s. 287.057, F.S., relating to the procurement of commodities or contractual services.

³ Section 163.3164, F.S., provides definitions for the "Local Government Comprehensive Planning and Land Development Regulation Act."

Landscape architectural services, surveying and mapping services, and architectural and engineering services are excluded.

If enacted into law, the CS will take effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent that special districts can purchase commodities and contractual services from agencies under the Department of Management Services' procurement process, and will be able to purchase commodities and contractual services from other counties, municipalities and special districts without having to go through the competitive bid process, procurement costs for such commodities and services may be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs Committee on March 3, 2009

The CS removes provisions of the bill authorizing municipalities and counties to purchase commodities and services from other special districts, municipalities, or counties because municipalities and counties may already perform this activity using home rule powers.

- B. **Amendments:**

None.