



House of Representatives  
Committee on Transportation

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RQ-0526-JC

March 20, 2002

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OPINION COMMITTEE

The Honorable John Cornyn  
Texas Attorney General  
209 W. 14th Street  
Austin, Texas 78711-2548

FILE # ML-42527-02  
I.D. # 42527

**Re: Opinion Request on Section 2258.022 of the Texas Government Code as Amended by Senate Bill 311, 77th Regular Session**

Dear General Cornyn:

The Texas Legislature passed Senate Bill 311 during its 77th Regular Session. Senate Bill 311 was filed in response to the Texas Sunset Advisory Commission's review of the General Services Commission. The legislation also addressed several statutes governing Texas procurement law, as well as state agency procedures for contracting for goods and services.

Section 14.05 of Senate Bill 311 amended Chapter 2258 of the Texas Government Code (the "Code"). This chapter governs the prevailing wage rates paid to workers constructing public works. Amendments to Section 2258.022 of the Code establish the procedures for a "public body" to determine the prevailing wage rates. Senate Bill 311 added a new paragraph (b) to Section 2258.022 of the Code, creating a special procedure for determining the prevailing wage rate for both a county bordering the united Mexican States and a county bordering the county bordering the United Mexican States ("Border County").

I respectfully request your opinion regarding the following questions on Section 2258.022 of the Code, amended by Senate Bill 311:

1. Does paragraph (b) of Section 2258.022 of the Code only apply to a contract for public work awarded by the state as opposed to a contract for public work awarded by a political subdivision of the state?
2. Does paragraph (a) or paragraph (b) of Section 2258.022 of the Code govern the prevailing wage rates if a highway or road is located in both a Border County and a non-Border County?



Cheryl Jourdan,  
Committee Clerk

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3. As set out in paragraph (b) of Section 2258.022 of the Code, may the State of Texas be a public body for the purposes of determining the general prevailing rate of per diem wages in the locality in which the public work is to be performed?

4. If the survey, made in accordance with the Davis -Bacon Act (40 U.S.C. Section 276a et.seq.), used to determine that rate was not conducted within a three-year period preceding the date the public body calls for bids for the public work, how shall the public body subject to paragraph (b) of Section 2258 of the Code determine the general prevailing wage in the locality?

Thank you for your time and attention to this matter. Please contact me if I may provide you with additional information.

Sincerely,

A handwritten signature in cursive script that reads "Clyde Alexander".

Clyde Alexander  
Chairman  
House Committee on Transportation

CA/cl