

- SUBJECT:** Expanding choice of law and venue for certain construction contracts
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Smithee, Farrar, Laubenberg, Murr, Neave, Rinaldi, Schofield  
0 nays  
2 absent — Gutierrez, Hernandez
- SENATE VOTE:** On final passage, May 4 — 29-2 (Hall, V. Taylor), on Local and Uncontested Calendar
- WITNESSES:** *On House companion bill, HB 1844:*  
For — Ben Westcott, State Bar of Texas Construction Law Section;  
(*Registered, but did not testify:* Peyton McKnight, American Council of Engineering Companies of Texas, Jon Fisher, Associated Builders and Contractors of Texas; TJ Patterson, City of Fort Worth; CJ Tredway, Independent Electrical Contractors of Texas; Sandy Hoy, Texas Apartment Association; Ned Munoz, Texas Association of Builders; Michael White, Texas Construction Association; David Lancaster, Texas Society of Architects; Perry Fowler, Texas Water Infrastructure Network; Tara Snowden, Zachy Construction Corporation)  
  
Against — None
- BACKGROUND:** Business and Commerce Code, ch. 272 governs certain contracts related to the construction or repair of an improvement to real property located in the state. Sec. 272.001 establishes that if such a contract contains a provision making the contract or any conflict arising under the contract subject to another state's law, litigation in the courts of another state, or arbitration in another state, that provision is voidable by the party promising to construct or repair the improvement.  
  
Interested parties note that the protections for certain construction-related contracts in Texas with respect to voiding a contract clause subjecting a

party to another state's law and litigation should be extended to other types of construction-related contracts.

**DIGEST:** CSSB 807 would change the type of construction-related contract in which certain provisions can be voided under Business and Commerce Code, sec. 272.001 from a contract principally for the construction or repair of an improvement to real property in Texas to a construction contract concerning real property located in Texas or an agreement collateral to or affecting the construction contract.

The bill would define a "construction contract" for the purposes of that chapter to include agreements such as those entered into by an owner, architect, engineer, material or supplier or equipment lessor for the design, construction, alteration, renovation, or remodeling of a building. Construction contract also would mean an agreement to which an architect, engineer, or contractor and an owner's lender were parties for an assignment of the construction contract or other modification.

The bill would take effect September 1, 2017, and would apply to a contract, or an agreement collateral to or affecting a contract, entered into on or after the effective date.

**NOTES:** A companion bill, HB 1844 by Workman, was placed on the General State Calendar for May 10.