

SUBJECT: Revising procedures for certain construction liability claims

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Julie Johnson, Flores, Moody, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Davis

WITNESSES: For —Geoffrey Tahuahua, Associated Builders and Contractors of Texas; Ryan McKee (*Registered, but did not testify*: Corbin Van Arsdale, AGC-Texas Building Branch; Scott Stewart, American Council of Engineering Companies of Texas; M. Paige Williams, Dallas Criminal District Attorney John Creuzot; Alina Carnahan, Real Estate Council of Austin; Jennifer Fagan, Texas Construction Association; Adam Leggett, Texas Water Infrastructure Network; Jami Sims, The Real Estate Council of Dallas, Real Estate Council of Greater Fort Worth; Andy Harris)

Against — Craig Eiland, Texas Trial Lawyers Association (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Bill Kelly, Mayor’s Office, City of Houston; Cicely Kay, Travis County Commissioners Court; Trey Duhon, Waller County)

BACKGROUND: Government Code ch. 2272 establishes that a governmental entity must provide each party with whom the entity has a contract for the design or construction of a structure affected by a construction defect with a written report by certified mail before asserting a claim, with certain exceptions.

Concerns have been raised that some governmental entities may attempt to require contractors to waive contract provisions that provide a process for right to repair prior to the entity filing a lawsuit.

DIGEST: CSHB 2965 would remove civil works projects as an exemption from the requirement that a government entity provide a written report of

construction defects. The bill would exempt contracts entered into by a river authority. The bill also would prohibit statute under Government Code ch. 2272 from being waived. A purported waiver would be in violation of these provisions and considered void.

The bill would take effect September 1, 2023