

BILL ANALYSIS

Senate Research Center

C.S.H.B. 172
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Jurisprudence
5-17-97
Committee Report (Substituted)

DIGEST

Sovereign immunity protects the state from lawsuits. In Texas, to seek legal redress against the state, a party must seek permission to sue the state from the legislature. A critical exception to the governmental immunity doctrine is that the state waives its immunity from liability when it contracts. However, even if there is no dispute about the state's liability in a breach of contract claim, the doctrine of sovereign immunity still bars a suit against the state unless the state has expressly given its consent to be sued. This bill will provide regulations regarding project contract claims against a unit of state government.

PURPOSE

As proposed, C.S.H.B. 172 provides regulations regarding project contract claims against a unit of state government.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 111, as follows:

CHAPTER 111. CONTRACT CLAIMS AGAINST THE STATE

Sec. 111.001. DEFINITION. Defines "unit of state government," "project contract," and "contractor."

Sec. 111.002. CLAIMS. Authorizes a contractor to make a claim against a unit of state government for breach of a project contract. Sets forth regulations for filing a claim. Sets forth regulations regarding a mediation and appeal of a claim. Requires the unit of state government to refer the claim to the State Office of Administrative Hearings for a contested case hearing pursuant to Section 2003 et seq., Government Code, as to the issues raised in the appeal. Requires the proposal for decision, if the proposal issued by the administrative law judge at the State Office of Administrative Hearings makes an award of some portion of the claim, to be forwarded to certain persons as a recommendation for an appropriation to pay the amount of the award in the next appropriation to the unit of state government.

Sec. 111.003. AWARDS. Prohibits an award based on a claim made under this chapter from exceeding the total value of the consideration the contractor was to receive under the contract. Prohibits an award from being made for consequential or similar damages or exemplary or punitive damages. Provides that Article 5069-1.05 V.T.C.S., applies to an award under this chapter. Requires a contractor to make any claim under the project contract not later than 90 days after the project contract is completed.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 111.001, Civil Practice and Remedies Code, to redefine "unit of state government," and to define "project contract" and "contractor."

Amends Section 111.002, Civil Practice and Remedies Code, to delete proposed text. Sets forth regulations regarding claims.

Amends Section 111.003, Civil Practice and Remedies Code, to delete proposed text. Sets forth regulations regarding awards.

SECTION 3.

Makes a nonsubstantive change.