

By: Wentworth

S.B. No. 1017

Substitute the following for S.B. No. 1017:

By: King

C.S.S.B. No. 1017

A BILL TO BE ENTITLED

AN ACT

relating to the ability of a county to sue and be sued.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 89.004(a), Local Government Code, is amended to read as follows:

(a) A person may not file suit [~~sue~~] on a claim against a county or an elected or appointed county official in the official's capacity as an appointed or elected official unless the person has presented the claim to the commissioners court and the commissioners court neglects or refuses [~~has neglected or refused~~] to pay all or part of the claim before the 60th day after the date of the presentation of the claim.

SECTION 2. Subchapter A, Chapter 262, Local Government Code, is amended by adding Section 262.007 to read as follows:

Sec. 262.007. SUIT AGAINST COUNTY ARISING UNDER CERTAIN CONTRACTS. (a) A county that is a party to a written contract for the sale of goods or for engineering or construction services may sue or be sued, plead or be impleaded, or defend or be defended on a claim arising under the contract. A suit on the contract brought by a county shall be brought in the name of the county, and a suit on the contract brought against a county shall identify the county by name.

(b) The total amount of money recoverable from a county on a claim for breach of the contract may not exceed an amount equal to

1 the sum of:

2 (1) the balance due and owed by the county under the
3 contract as it may have been amended, including any amount owed as
4 compensation for owner-caused delays or acceleration;

5 (2) the reasonable value of change orders or
6 additional work performed; and

7 (3) reasonable attorney's fees.

8 (c) Except as allowed under Subsection (b), an award of
9 damages under this section may not include:

10 (1) consequential damages; or

11 (2) exemplary damages.

12 (d) This section does not waive a defense or a limitation on
13 damages available to a party to a contract, other than a bar against
14 suit based on sovereign immunity.

15 SECTION 3. This Act takes effect September 1, 2003.