

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 17, 2005

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2039 by Nixon (Relating to the adjudication of claims arising under written contracts with local governmental entities.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would add Subchapter I to Chapter 271, Local Government Code, to require that a local governmental entity as defined by the bill would waive sovereign immunity to suit for the purpose of adjudicating a claim for breach of an express or implied provision of a contract the entity has entered into for goods or services. The bill would provide certain limitations on adjudication awards. Attorney's fees would not be awarded to any party in the adjudication unless the local governmental entity has entered into a written agreement that expressly authorizes the prevailing party to recover its reasonable and necessary attorney's fees.

The bill would specify that Subchapter I would not waive sovereign immunity to a claim arising from a cause of action for negligence.

The bill would take effect September 1, 2005, and would apply only to a claim arising under a contract executed on or after that date.

Local Government Impact

If a contract is adjudicated through alternative dispute resolution proceedings, in court or in an arbitration proceeding, the local governmental entity would incur, at a minimum, legal expenses for defending itself. If adjudication of the contract results in the local governmental entity paying damages within the limits of the proposed statute, the entity would incur additional costs. Those costs would vary depending on the terms and costs of the contract.

Source Agencies:

LBB Staff: JOB, SR, JB, DLBa