

Amend CSHB 447 by inserting the following appropriately numbered ARTICLE and renumbering ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . WAIVER OF SOVEREIGN IMMUNITY

SECTION \_\_.01. Section 271.151(2), Local Government Code, is amended to read as follows:

(2) "Contract subject to this subchapter" means a written contract that is properly executed on behalf of a local governmental entity and states ~~[stating]~~ the essential terms for an ~~[of the]~~ agreement:

(A) for providing goods or services to or from the local governmental entity;

(B) for utility services or infrastructure;

(C) affecting real property;

(D) relating to annexation, including an agreement to forgo annexation;

(E) under Chapter 311, Tax Code; or

(F) under Chapter 212, 245, 372, 375, 378, 383, or 395 ~~[that is properly executed on behalf of the local governmental entity]~~.

SECTION \_\_.02. Section 271.153, Local Government Code, is amended to read as follows:

Sec. 271.153. LIMITATIONS ON ADJUDICATION AWARDS. (a) Except as provided by Subsection (c), the ~~[The]~~ total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract; and

(3) interest as allowed by law.

(b) Except as provided by Subsection (c), damages ~~[Damages]~~ awarded in an adjudication brought against a local governmental entity arising under a contract subject to this subchapter may not

include:

- (1) consequential damages, except as expressly allowed under Subsection (a)(1);
- (2) exemplary damages; or
- (3) damages for unabsorbed home office overhead.

(c) In an adjudication brought against a local governmental entity for a breach of a contract involving the provision of services by the local governmental entity or involving a contract described by Section 271.151(2)(B)-(F), the relief awarded, including the total amount of money awarded, is limited to:

- (1) monetary damages as provided by Subsection (a);
- (2) contractual remedies, including actual damages, compensatory damages, consequential damages, liquidated damages, and specific performance; or
- (3) equitable relief, including injunction and writ of mandamus.

SECTION \_\_.03. Notwithstanding any other section of this Act, the changes in law made by this Article apply to a claim that arises under a contract executed before the effective date of this Act only if sovereign immunity from suit and from liability has not been waived with respect to the claim before the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act and with respect to which sovereign immunity from suit and from liability has been waived is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose.