

BILL ANALYSIS

H.B. 1268
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Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, government entities are able to recover attorney's fees from lawsuits with contractors. The effect is that contractors are not able to recoup their fees while the government entity can. Thus, governmental entities are likely to use court action before all else.

HB 1268 provides a level playing field for contractor. The bill states that either neither one of the entities can recover legal fees or both can. HB 1268 leaves it up to the Governmental entity to opt in or opt out on recovering fees.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: Amends Subchapter Z, Chapter 2252 , Government Code by adding Section 2252.904 entitled Attorney's Fees.

(1) Defines "Governmental contract."

(2) Defines "Governmental entity."

(b) provides that a governmental contract may not provide attorney's fees to the governmental entity in a dispute in which the entity prevails unless both parties are provided with attorney's fees.

(c) A contract provision that violates the section is void and unenforceable.

SECTION 2: States that this act is not retroactive.

SECTION 3: Effective date, September 1, 2007

EFFECTIVE DATE

September 1, 2007.