

By: Van Arsdale

H.B. No. 1268

A BILL TO BE ENTITLED

AN ACT

relating to the award of attorney's fees under the terms of certain contracts with a governmental entity.

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

SECTION 1. Subchapter Z, Chapter 2252, Government Code, is amended by adding Section 2252.904 to read as follows:

Sec. 2252.904. ATTORNEY'S FEES. (a) In this section:

(1) "Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

(2) "Governmental entity" means:

(A) the state;

(B) a municipality, county, public school district, or special-purpose district or authority;

(C) a district, county, or justice of the peace court;

(D) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education as defined by Section 61.003, Education Code;

(E) the legislature or a legislative agency; or

(F) the Supreme Court of Texas, the Texas Court of Criminal Appeals, a court of appeals, or the State Bar of Texas

1 or another judicial agency having statewide jurisdiction.

2 (b) A governmental contract may not provide for the award of  
3 attorney's fees to the governmental entity in a dispute in which the  
4 entity prevails unless the contract provides for the award of  
5 attorney's fees to each other party to the contract if that party  
6 prevails in the dispute.

7 (c) A contract provision that violates this section is void  
8 and unenforceable.

9 SECTION 2. The change in law made by this Act applies only  
10 to a contract executed on or after the effective date of this Act. A  
11 contract executed before the effective date of this Act is governed  
12 by the law in effect immediately before the effective date of this  
13 Act, and that law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2007.