

By: Solomons

H.B. No. 1963

A BILL TO BE ENTITLED

AN ACT

relating to rules and policies adopted by state agencies regarding engineering or architectural errors or omissions.

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. CERTAIN RULES OR POLICIES OF STATE AGENCIES.

(a) In this section:

(1) "Contract" means a contract awarded by a state agency for general construction, an improvement, a service, or a public works project, including a contract subject to Section 201.112, Transportation Code.

(2) "Private design professional" has the meaning assigned by Section 2166.001(3).

(3) "State agency" means a board, commission, office, department, or other agency in the judicial or executive branch of state government.

(b) A rule or policy adopted by a state agency relating to the recovery of costs arising from an engineering or architectural error or omission by a private design professional on a project must:

(1) provide that the private design professional be notified at the time a problem with project plans or specifications is identified by the agency;

1 (2) provide an opportunity for the private design
2 professional to be involved in the resolution of a problem
3 identified under Subdivision (1);

4 (3) provide guidelines for distinguishing an error or
5 omission from other reasons for the submission of a change order;

6 (4) provide a formula for determining the cost of
7 errors or omissions by private design professionals;

8 (5) be consistent with the doctrine of negligence and
9 generally accepted standards of care required of similar private
10 design professionals;

11 (6) provide for an evaluation of the totality of
12 project services provided by private design professionals,
13 including the level of quality, performance, and value provided
14 over the term of the entire project;

15 (7) provide a process for filing an appeal of an agency
16 claim for costs in a district court or before the State Office of
17 Administrative Hearings without requiring that the claim be paid
18 before filing the appeal;

19 (8) provide a process for tracking the cost of errors
20 or omissions by agency employees; and

21 (9) recognize that a de minimis level of change is
22 likely to occur during a project.

23 SECTION 2. This Act takes effect September 1, 2007.