

By: Corte

H.B. No. 3054

A BILL TO BE ENTITLED

AN ACT

relating to the adjudication of claims arising under written contracts with local governmental entities.

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

SECTION 1. 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 2. 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

1 money awarded in an adjudication brought against a local
2 governmental entity for breach of a contract subject to this
3 subchapter is limited to the following:

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

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

11 (3) interest as allowed by law.

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

16 (1) consequential damages, except as expressly
17 allowed under Subsection (a)(1);

18 (2) exemplary damages; or

19 (3) damages for unabsorbed home office overhead.

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

25 (1) monetary damages as provided by Subsection (a);

26 (2) contractual remedies, including actual damages,
27 compensatory damages, consequential damages, liquidated damages,

1 and specific performance; or

2 (3) equitable relief, including injunction and writ of
3 mandamus.

4 SECTION 3. The changes in law made by this Act apply to a
5 claim that arises under a contract executed before the effective
6 date of this Act only if sovereign immunity from suit and from
7 liability has not been waived with respect to the claim before the
8 effective date of this Act. A claim that arises under a contract
9 executed before the effective date of this Act and with respect to
10 which sovereign immunity from suit and from liability has been
11 waived is governed by the law in effect on the date the contract was
12 executed, and the former law is continued in effect for that
13 purpose.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2007.