

By: Ritter

H.C.R. No. 224

HOUSE CONCURRENT RESOLUTION

1 WHEREAS, Goss Building Incorporated alleges that:

2 (1) In July 2001, Goss Building Incorporated submitted
3 a bid to the Texas Department of Transportation for a building
4 contract and posted a bid security of \$30,000 with its bid;

5 (2) At approximately 2 p.m., July 11, 2001, the Texas
6 Department of Transportation opened the bids for the building
7 contract, including the bid from Goss Building Incorporated;

8 (3) Shortly after the opening of the bids, Goss
9 Building Incorporated discovered a significant error in its bid for
10 the Texas Department of Transportation's building contract;

11 (4) Goss Building Incorporated notified the Texas
12 Department of Transportation of the error by telephone at
13 approximately 3:30 p.m., July 11, 2001, and was advised as to what
14 procedure to follow;

15 (5) Goss Building Incorporated also notified the Texas
16 Department of Transportation of the error in writing by letter
17 dated July 11, 2001, sent by overnight delivery, which the
18 department received on July 12, 2001;

19 (6) Despite the error, on July 18, 2001, the Texas
20 Department of Transportation advised Goss Building Incorporated
21 that it would recommend to the Texas Transportation Commission that
22 Goss be awarded the contract as the low bidder;

23 (7) On July 26, 2001, Anthony Goss, President of Goss
24 Building Incorporated, appeared before the Texas Transportation

1 Commission and explained how the error occurred;

2 (8) At the meeting on July 26, 2001, the Texas
3 Transportation Commission took the incorrect position that it had
4 no options once a bid was opened;

5 (9) On August 7, 2001, Goss Building Incorporated
6 returned the contract that was based on the flawed bid to the Texas
7 Department of Transportation unsigned and requested the return of
8 its bid security of \$30,000;

9 (10) The Texas Department of Transportation has
10 refused to return the \$30,000 bid security to Goss Building
11 Incorporated;

12 (11) In June 2003, through its counsel, Goss Building
13 Incorporated requested that the Texas Department of Transportation
14 discuss resolution of this matter and indicated that it would
15 request a hearing under Chapter 2260, Government Code;

16 (12) Through its counsel, the Texas Department of
17 Transportation responded and advised Goss Building Incorporated
18 that the contract was awarded under Chapter 223, Transportation
19 Code, so Chapter 2260, Government Code, did not apply and directed
20 Goss to 43 T.A.C. Section 9.2 for the department's dispute
21 resolution procedure;

22 (13) In July 2003, the Texas Department of
23 Transportation claimed that since Goss Building Incorporated did
24 not enter into the contract, the department's rules for resolving
25 contract disputes under Title 43 of the Texas Administrative Code
26 did not apply; and

27 (14) Goss Building Incorporated's attempts to resolve

1 this matter through informal and administrative procedures have
2 been unsuccessful; now, therefore, be it

3 RESOLVED by the Legislature of the State of Texas, That Goss
4 Building Incorporated is granted permission to sue the State of
5 Texas and the Texas Department of Transportation subject to Chapter
6 107, Civil Practice and Remedies Code; and, be it further

7 RESOLVED, That the attorney general and the Office of General
8 Counsel of the Texas Department of Transportation be served process
9 as provided by Section 107.002(a)(3), Civil Practice and Remedies
10 Code.