

1-1 By: Brimer S.B. No. 924
1-2 (In the Senate - Filed February 26, 2007; March 7, 2007,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 29, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 March 29, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 924 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to rules and policies adopted by state agencies regarding
1-11 engineering or architectural errors or omissions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter Z, Chapter 2252, Government Code, is
1-14 amended by adding Section 2252.904 to read as follows:

1-15 Sec. 2252.904. CERTAIN RULES OR POLICIES OF STATE AGENCIES.

1-16 (a) In this section:

1-17 (1) "Contract" means a contract awarded by a state
1-18 agency for general construction, an improvement, a service, or a
1-19 public works project, including a contract subject to Section
1-20 201.112, Transportation Code.

1-21 (2) "Private design professional" means an individual
1-22 registered as an architect under Chapter 1051, Occupations Code, or
1-23 a person licensed as an engineer under Chapter 1001, Occupations
1-24 Code, who provides professional architectural or engineering
1-25 services.

1-26 (3) "State agency" means a board, commission, office,
1-27 department, or other agency in the judicial or executive branch of
1-28 state government.

1-29 (b) A rule or policy adopted by a state agency relating to
1-30 the recovery of costs arising from an engineering or architectural
1-31 error or omission by a private design professional on a project
1-32 must:

1-33 (1) provide that the private design professional be
1-34 notified at the time a problem with project plans or specifications
1-35 is identified by the agency;

1-36 (2) provide an opportunity for the private design
1-37 professional to be involved in the resolution of a problem
1-38 identified under Subdivision (1);

1-39 (3) provide guidelines for distinguishing an error or
1-40 omission from other reasons for the submission of a change order;

1-41 (4) provide a formula for determining the cost of
1-42 errors or omissions by private design professionals;

1-43 (5) be consistent with the doctrine of negligence and
1-44 generally accepted standards of care required of similar private
1-45 design professionals;

1-46 (6) provide for an evaluation of the totality of
1-47 project services provided by private design professionals,
1-48 including the level of quality, performance, and value provided
1-49 over the term of the entire project;

1-50 (7) provide a process for filing an appeal of an agency
1-51 claim for costs before the State Office of Administrative Hearings
1-52 without requiring that the claim be paid before filing the appeal;

1-53 (8) provide a process for tracking the cost of errors
1-54 or omissions by agency employees; and

1-55 (9) recognize that a de minimis level of change is
1-56 likely to occur during a project.

1-57 SECTION 2. This Act takes effect September 1, 2007.

1-58 * * * * *