

BILL ANALYSIS

C.S.H.B. 3511
By: Ritter
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently there is no remedy if a local governmental entity breaches a contract regarding the sale or delivery of reclaimed water intended for industrial use. C.S.H.B. 3511 allows for adjudication of a claim for breach of contract by a local governmental entity regarding the sale or delivery of reclaimed water intended for industrial use.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3511 amends the Local Government Code to specify as a contract subject to provisions governing adjudication of claims arising under written contracts with local governmental entities a written contract, including a right of first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use. The bill authorizes actual damages, specific performance, or injunctive relief to be granted in an adjudication brought against a local governmental entity for breach of such a contract.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3511 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 271.151(2), Local Government Code, is amended to read as follows:

(2) "Contract subject to this subchapter" means:

(A) a written contract stating the essential terms of the agreement for providing goods or services to the local governmental entity that is properly executed on behalf of the local governmental entity; or

(B) a written contract, including a right of

HOUSE COMMITTEE SUBSTITUTE

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(B) a written contract, including a right of

first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water intended for industrial use.

SECTION 2. Section 271.153, Local Government Code, is amended by adding subsection (c) as follows:

(c) For a contract under Section 271.151(2)(B), remedies may include specific performance or injunctive relief or both.

No equivalent provision.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use.

SECTION 2. Section 271.153, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the [The] total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

- (1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;
- (2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract;
- (3) reasonable and necessary attorney's fees that are equitable and just; and
- (4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

(c) Actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against a local governmental entity for breach of a contract described by Section 271.151(2)(B).

SECTION 3. The changes in law made by this Act apply to a claim that arises under a contract executed on or after the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose.

SECTION 4. Same as introduced version.