

Amend CSSB 20 (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering SECTIONS of the bill accordingly.

SECTION _____. Section 114.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 114.002. APPLICABILITY. This chapter applies only to a claim for breach of a written contract for engineering, architectural, or construction services or for materials related to engineering, architectural, or construction services brought by a party to the written contract~~[, in which the amount in controversy is not less than \$250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees]~~.

SECTION _____. Section 114.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 114.003. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A state agency that is authorized by statute or the constitution to enter into a contract and that enters into a contract subject to this chapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach ~~[of an express provision]~~ of the contract, subject to the terms and conditions of this chapter.

SECTION _____. Section 114.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 114.004. LIMITATIONS ON ADJUDICATION AWARDS. (a) The total amount of money awarded in an adjudication brought against a state agency for breach ~~[of an express provision]~~ of a contract subject to this chapter is limited to the following:

(1) the balance due and owed by the state agency 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 ~~[if the contract expressly provides for that compensation]~~;

(2) the amount owed for ~~[written]~~ change orders or additional work the contractor is directed to perform by a state agency in connection with the contract;

(3) reasonable and necessary attorney's fees that are equitable and just ~~[based on an hourly rate that are equitable and~~

~~just if the contract expressly provides that recovery of attorney's fees is available to all parties to the contract]; and~~

(4) interest at the rate specified by the contract or, if a rate is not specified, the rate for postjudgment interest under Section 304.003(c), Finance Code, but not to exceed 10 percent.

(b) Damages awarded in an adjudication brought against a state agency arising under a contract subject to this chapter may not include:

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

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

SECTION _____. Chapter 114, Civil Practice and Remedies Code, as amended by this Act, applies only to a claim arising 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 applicable to the claim immediately before the effective date of this Act, and that law is continued in effect for that purpose.