HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 1. Section 271.904, Local Government Code, is amended to read as follows: Sec. 271.904. ENGINEERING OR ARCHITECTURAL SERVICES CONTRACTS: INDEMNIFICATION LIMITATIONS; DUTIES OF ENGINEER OR ARCHITECT. (a) A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify, hold harmless, or defend the governmental agency against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.	SECTION 1. Section 271.904, Local Government Code, is amended to read as follows: Sec. 271.904. ENGINEERING OR ARCHITECTURAL SERVICES CONTRACTS: INDEMNIFICATION LIMITATIONS; DUTIES OF ENGINEER OR ARCHITECT. (a) A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or[,] hold harmless[, or defend] the governmental agency against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control. (b) Except as provided by Subsection (c), a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, the agency's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the governmental agency exercises control. A covenant or promise may provide for the reimbursement of a governmental agency's reasonable attorney's fees in	
(b) If a contract for engineering or architectural services to which a governmental agency is a party contains an		

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indemnification covenant or promise authorized under Subsection (a), the covenant or promise may not provide for a duty to defend but may provide that the governmental agency may seek the reimbursement of reasonable attorney's fees after a final adjudication of liability due to an act described by Subsection (a).	proportion to the engineer's or architect's liability.	
	(c) Notwithstanding Subsection (b), a governmental agency may require in a contract for engineering or architectural services to which the governmental agency is a party that the engineer or architect name the governmental agency as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.	
(c) A contract for engineering or architectural services to which a governmental agency is a party must require a licensed engineer or registered architect to perform services:	(d) A contract for engineering or architectural services to which a governmental agency is a party must require a licensed engineer or registered architect to perform services:	
(1) with the professional skill and care ordinarily provided by engineers or architects practicing in the same or similar locality and under the same or similar circumstances; and	(1) with the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license; and	
(2) as expeditiously as is prudent considering the ordinary professional skill and care of an engineer or architect and the orderly progress of the project.	(2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.	
(d) In a contract for engineering or architectural services to which a governmental agency is a party, a provision establishing a different standard of care than a standard described by Subsection (c) is void and unenforceable.	(e) In a contract for engineering or architectural services to which a governmental agency is a party, a provision establishing a different standard of care than a standard described by Subsection (d) is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described by Subsection (d) applies.	
(e) In this section, "governmental agency" has the meaning assigned by Section 271.003.	(f) In this section, "governmental agency" has the meaning assigned by Section 271.003.	

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SECTION 2. Section 271.904, Local Government Code, as amended by this Act, applies only to a contract for which a request for proposals or a request for qualifications is first published or distributed on or after the effective date of this Act. A contract for which a request for proposals or a request for qualifications is first published or distributed before the effective date of this Act is governed by the law in effect on the date the request was published or distributed, and the former law is continued in effect for that purpose.	SECTION 2. Same as House version.	
SECTION 3. This Act takes effect September 1, 2015.	SECTION 3. Same as House version.	