

Amend SB 533 (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION _____. Section 114.001, Civil Practice and Remedies Code, is amended by amending Subsection (2) to read as follows:

Sec. 114.001. DEFINITIONS. In this chapter: (2) "Contract subject to this chapter" means a written contract stating the essential terms of the agreement for providing goods or services to the state agency that is properly executed on behalf of the state agency. The term does not include a contract [~~that is subject to Section 201.112, Transportation Code~~] to which the Texas Department of Transportation is a party.

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;

(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.

SECTION _____. Section 2260.003, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (c), an award of damages under this chapter may include attorney's fees if:

(1) the claim is for breach of a written contract for:

(A) engineering, architectural, or construction services; or

(B) materials related to the services described by Paragraph (A); and

(2) the amount in controversy is less than \$250,000, excluding penalties, costs, expenses, prejudgment interest, and attorney's fees.

SECTION _____. Section 2260.003, Government Code, as amended by this Act, applies only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.