

By: Uresti

H.B. No. 3486

A BILL TO BE ENTITLED

1 AN ACT
2 relating to requirements regarding commissioning agent fees
3 related to school district contracts for construction services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 44, Education Code, is
6 amended by adding Section 44.0332 to read as follows:

7 Sec. 44.0332. COMMISSIONING AGENT FEES RELATED TO SCHOOL
8 DISTRICT CONTRACTS FOR CONSTRUCTION SERVICES. (a) In this
9 section:

10 (1) "Commissioning agent" means a person who, in
11 connection with a school district construction contract:

12 (A) is retained by the school district to verify
13 that a construction project and building systems conform to the
14 district's requirements and the architects' and engineers' design
15 specifications; and

16 (B) is responsible for leading and managing the
17 design or construction process and works closely with the design,
18 construction, or operational teams throughout the design,
19 construction, or post-construction phases of a construction
20 project.

21 (2) "Project cost" means a cost or expense incurred in
22 relation to a school district construction project. The term:

23 (A) includes:

24 (i) the cost of design, planning, and

1 engineering;

2 (ii) construction cost; and

3 (iii) the cost of machinery, equipment, and
4 other capital assets incidental and related to the operation,
5 maintenance, and administration of the project; and

6 (B) does not include a fee for leading and
7 managing the design or construction process of the project.

8 (b) A commissioning agent may not receive a fee of more than
9 1.5 percent of the project cost under a contract for construction
10 services unless the commissioner:

11 (1) approves the fee; and

12 (2) monitors the services provided to the school
13 district by the commissioning agent.

14 (c) A commissioning agent that is subject to monitoring
15 under Subsection (b)(2) shall provide the commissioner with any
16 documentation the commissioner requests for purposes of monitoring
17 the commissioning agent's services.

18 SECTION 2. Section 44.0332, Education Code, as added by
19 this Act, applies only to a commissioning agent fee related to a
20 school district construction contract executed on or after the
21 effective date of this Act. A commissioning agent fee related to a
22 school district construction contract executed before the
23 effective date of this Act is governed by the law in effect when the
24 contract was executed, and the former law is continued in effect for
25 that purpose.

26 SECTION 3. This Act takes effect September 1, 2017.