

1 AN ACT

2 relating to civil liability and responsibility for defects in the
3 plans, specifications, or other documents for the construction or
4 repair of roads, highways, and related improvements.

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

6 SECTION 1. Subtitle Z, Title 6, Transportation Code, is
7 amended by adding Chapter 473 to read as follows:

8 CHAPTER 473. RESPONSIBILITY FOR DEFECTS IN PLANS AND
9 SPECIFICATIONS

10 Sec. 473.001. DEFINITIONS. In this chapter:

11 (1) "Contract" means a contract for the construction
12 or repair of a road or highway of any number of lanes, with or
13 without grade separation, owned or operated by a governmental
14 entity and any improvement, extension, or expansion to that road or
15 highway, including:

16 (A) an improvement to relieve traffic congestion
17 and promote safety;

18 (B) a bridge, tunnel, overpass, underpass,
19 interchange, service road ramp, entrance plaza, approach, or
20 tollhouse; and

21 (C) a parking area or structure, rest stop, park,
22 or other improvement or amenity the governmental entity considers
23 necessary, useful, or beneficial for the operation of a road or
24 highway.

1 (2) "Contractor" means a person who is required to
2 perform work under a contract.

3 (3) "Governmental entity" means:

4 (A) the Texas Department of Transportation; or

5 (B) any political subdivision of the state that
6 is acting under Chapter 284, 366, 370, or 431.

7 (4) "Project specifications" means plans, reports,
8 designs, or specifications prepared by a governmental entity or by
9 a third party retained by a governmental entity under a separate
10 contract.

11 Sec. 473.002. APPLICABILITY. This chapter applies to a
12 governmental entity authorized by state law to make a contract and
13 to any contractor with whom a governmental entity enters into a
14 contract.

15 Sec. 473.003. LIMITATION ON CONTRACTOR'S RESPONSIBILITY
16 FOR CERTAIN DEFECTS. (a) A contractor who enters into a contract
17 with a governmental entity is not civilly liable or otherwise
18 responsible for the accuracy, adequacy, sufficiency, suitability,
19 or feasibility of any project specifications and is not liable for
20 any damage to the extent caused by:

21 (1) a defect in those project specifications; or

22 (2) the errors, omissions, or negligent acts of a
23 governmental entity, or of a third party retained by a governmental
24 entity under a separate contract, in the rendition or conduct of
25 professional duties arising out of or related to the project
26 specifications.

27 (b) A covenant or promise contained in a contract governed

1 by this chapter is void and unenforceable to the extent that the
2 covenant or promise conflicts with Subsection (a).

3 (c) This section does not apply to a consultant retained in
4 a separate contract by a governmental entity to expressly monitor
5 the compliance with project specifications by another contractor
6 with whom the governmental entity has entered into a contract.

7 (d) This section does not relieve a contractor from the
8 contractor's obligations or liability under a contract with a
9 governmental entity.

10 Sec. 473.004. ENGINEER'S OR ARCHITECT'S STANDARD OF CARE. A
11 governmental entity may not require that engineering or
12 architectural services be performed to a level of professional
13 skill and care beyond the level that would be provided by an
14 ordinarily prudent engineer or architect with the same professional
15 license and under the same or similar circumstances in a contract:

- 16 (1) for engineering or architectural services; or
17 (2) that contains engineering or architectural
18 services as a component part.

19 SECTION 2. (a) The changes in law made by this Act do not
20 apply to a contract that is entered into before the effective date
21 of this Act. Such a contract is governed by the law in effect when
22 the contract was entered into, and the former law is continued in
23 effect for that purpose.

24 (b) A contract subject to Chapter 473, Transportation Code,
25 as added by this Act, with a governmental entity that is entered
26 into before the effective date of this Act, and any subcontract or
27 purchase order for furnishing labor or materials associated with

1 that contract, regardless of whether the subcontract or purchase
2 order is entered into before, on, or after the effective date of
3 this Act, is governed by the law in effect when the original
4 contract was entered into, and the former law is continued in effect
5 for that purpose.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 2899 was passed by the House on April 30, 2019, by the following vote: Yeas 115, Nays 31, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2899 was passed by the Senate on May 15, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor