

By: Raney

H.B. No. 3087

A BILL TO BE ENTITLED

AN ACT

relating to responsibility for defects in the plans, specifications, or other documents for the construction or repair of highways, bridges, or real property.

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

SECTION 1. Chapter 472, Transportation Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RESPONSIBILITY FOR DEFECTS IN PLANS AND SPECIFICATIONS

Sec. 472.051. DEFINITIONS. In this subchapter:

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

(2) "Governmental entity" means:

(A) the department;

(B) a regional tollway authority created under Chapter 366;

(C) a regional mobility authority created under Chapter 370; or

(D) a corporation organized under Chapter 431.

Sec. 472.052. APPLICABILITY. (a) This subchapter applies only to a contract between a governmental entity and a contractor for:

(1) the construction or repair of a highway:

(A) owned or operated by the governmental entity;

1 (B) of any number of lanes; and
2 (C) with or without grade separations; and
3 (2) any improvement, extension, or expansion of a
4 highway described by Subdivision (1), including:

5 (A) an improvement to relieve traffic congestion
6 and promote safety;

7 (B) a bridge, tunnel, overpass, underpass,
8 interchange, service road ramp, entrance plaza, approach, or
9 tollhouse; and

10 (C) a parking area or structure, rest stop, park,
11 or other improvement or amenity that the governmental entity
12 determines is necessary, useful, or beneficial to the operation of
13 the highway.

14 (b) This subchapter applies to:

15 (1) a governmental entity authorized by state law to
16 enter into a contract to which this subchapter applies; and

17 (2) a contractor who enters into a contract with a
18 governmental entity described by Subdivision (1).

19 Sec. 472.053. CONTRACTOR NOT RESPONSIBLE FOR CERTAIN
20 DEFECTS. Notwithstanding any other law, a contractor operating
21 under a contract with a governmental entity to which this
22 subchapter applies is not responsible for defects or the
23 consequences of defects in the accuracy, adequacy, sufficiency, or
24 suitability of plans, specifications, or other design or bid
25 documents provided to the contractor by:

26 (1) the governmental entity; or

27 (2) a third party under a separate contract with the

1 governmental entity.

2 SECTION 2. (a) The changes in law made by this Act apply
3 only to a contract entered into on or after the effective date of
4 this Act. A contract entered into before the effective date of this
5 Act is governed by the law in effect when the contract was entered
6 into, and the former law is continued in effect for that purpose.

7 (b) An original contract with a governmental entity that
8 owns or operates a highway that is entered into before the effective
9 date of this Act, and a subcontract or purchase order for providing
10 labor or materials associated with that original contract, whether
11 the subcontract or purchase order is entered into before, on, or
12 after the effective date of this Act, is governed by the law in
13 effect when the original contract was entered into, and the former
14 law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2019.