

By: Hinojosa

S.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 473. RESPONSIBILITY FOR DEFECTS IN PLANS AND SPECIFICATIONS

Sec. 473.001. DEFINITIONS. In this chapter:

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

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

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

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

(2) "Contractor" means a person who is required to perform

1 work under a contract.

2 (3) "Governmental entity" means (A) the Texas Department of
3 Transportation or (B) any political subdivision of the state that
4 is acting under Chapter 284, Chapter 366, Chapter 370, or Chapter
5 431 of the Transportation Code.

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

9 Sec. 473.002 APPLICABILITY OF CHAPTER TO GOVERNMENTAL ENTITIES.

10 This chapter applies to a governmental entity authorized by state
11 law to make a contract and to any contractor with whom a
12 governmental entity enters into a contract.

13 Sec. 473.003. LIMITATION ON CONTRACTOR'S RESPONSIBILITY FOR

14 CERTAIN DEFECTS. (a) A contractor who enters into a contract as
15 defined by this chapter with a governmental entity is not civilly
16 liable or otherwise responsible for the accuracy, adequacy,
17 sufficiency, suitability, or feasibility of any project
18 specifications and is not liable for any damage that is caused by:

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

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

25 (b) A covenant or promise in a contract governed by this
26 chapter is void and unenforceable to the extent it conflicts with
27 subsection (a).

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

6 (b) A contract subject to this chapter with a governmental
7 entity that is entered into before the effective date of this Act,
8 and any subcontract or purchase order for furnishing labor or
9 materials associated with that contract, regardless of whether the
10 purchase order is entered into before, on, or after the effective
11 date of this Act, is governed by the law in effect when the original
12 contract was entered into, and the former law is continued in effect
13 for that purpose.

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