

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 24, 2019

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2901 by Leach (relating to civil liability and responsibility for the consequences of defects in the plans, specifications, or related documents for the construction or repair of an improvement to real property.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code regarding liability of a contractor in construction, repairs, and improvements to real property. The bill would insulate a contractor from civil liability for deficiencies in the accuracy, adequacy, sufficiency, or suitability of plans, specifications, or other documents provided by either the person who hired the contractor or that person's designee. The bill would apply only to contracts entered into on or after September 1, 2019, the effective date of the bill.

The bill would also prohibit a governmental entity to require in a contract that engineering or architectural services be performed to a level of professional skill and care beyond that which would be provided by an ordinary prudent engineer or architect with the same professional license under the same or similar circumstances.

According to the Texas Department of Transportation, it is unknown if or when a defect in a construction project involving real property will occur and if any lawsuits, losses and/or liability will result from such defects.

According to the Texas Facilities Commission, under the provisions of the bill, a public owner would not be able to shift the liability to a vendor providing services and may have to revert back to more conventional contract provisions with regard to architect/engineer error and omissions and standard of care.

Based on the analysis of the Office of Court Administration, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 303 Facilities Commission, 601 Department of Transportation

LBB Staff: WP, SLE, MW, DA, PBO