

BILL ANALYSIS

C.S.H.B. 3156
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Transportation (TxDOT) contracts with professional firms to oversee roadway, bridge, and other transportation facility construction projects; TxDOT can perform this service but often contracts this work out. This oversight service is known as construction engineering and inspection services, or "CEI." It is important to note that CEI firms solely provide observation and reporting services on behalf of TxDOT and are not the project designer, nor do they control a contractor's methods of construction or maintenance. However, CEI firms have been brought into lawsuits relating to highway construction projects that involve matters outside of their control and purview. This has resulted in higher insurance premiums for CEI firms. Furthermore, TxDOT has the right to review a CEI firm's work and fire them without liability for anything other than completed work; these firms are required to follow the standards and procedures set by TxDOT and acting on behalf of TxDOT for services that would ordinarily be performed by TxDOT itself, which benefits from sovereign immunity. C.S.H.B. 3156 seeks to address this issue by exempting CEI firms from certain liability.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3156 amends the Civil Practice and Remedies Code to exempt a professional firm or an officer or employee of a professional firm that provides monitoring and inspection services for the Texas Department of Transportation (TxDOT) as a consultant or subconsultant to TxDOT to monitor and inspect work on a transportation construction or maintenance project performed by a contractor from liability for personal injury, property damage, or death arising from an action that meets the following:

- is performed in the course and scope of the firm's duties to TxDOT to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions; and
- does not involve gross negligence or willful and wanton misconduct by the firm.

The exemption applies only to a professional firm providing monitoring and inspection services for TxDOT and does not apply to a professional firm engaged by TxDOT for the design or construction of a transportation construction or maintenance project.

C.S.H.B. 3156 applies only to a cause of action that accrues on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3156 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced limits the liability of a professional entity and the entity's officers and employees, the substitute limits the liability instead of a professional firm and such a firm's officers and employees. The substitute omits a specification included in the introduced that the contractor whose work on a transportation construction or maintenance project is monitored and inspected is a private contractor.

Whereas the introduced included reporting to TxDOT regarding the contractor's compliance with TxDOT requirements for the project as a condition of the professional entity's exemption from liability, the substitute specifies instead that the consulting duties in which the firm's performance of an action, as a condition of the exemption, are duties to TxDOT to ensure that the project is constructed in conformity with the project's plans, specifications, and contract provisions. Additionally, the substitute includes as a condition for the exemption that the action performed by the firm does not involve gross negligence or willful and wanton misconduct by the firm, which was not included in the introduced.

The substitute includes a provision absent from the introduced establishing that the exemption applies only to a professional firm providing monitoring and inspection services for TxDOT and does not apply to a professional firm engaged by TxDOT for the design or construction of a transportation construction or maintenance project.