

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1376

By: Ellis

Jurisprudence

4-14-97

Committee Report (Substituted)

DIGEST

Currently, the Texas Department of Transportation has rules governing an internal contract claims process. This process has been extremely effective in that, over the last nine fiscal years, only seven highway construction claims have escalated to the point of a contested case proceeding. In an unpublished court opinion, the court held that the court had no jurisdiction to hear a contract claim against the department. Therefore, it is necessary to explicitly grant jurisdiction to district courts to hear contract claims involving the department. This bill will provide procedures for contract claims with the Texas Department of Transportation.

PURPOSE

As proposed, C.S.S.B. 1376 provides procedures for contract claims with the Texas Department of Transportation.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Transportation Commission in SECTION 1 (Section 201.112(a), Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 201C, Transportation Code, by adding Section 201.112, as follows:

Sec. 201.112. CONTRACT CLAIMS. Authorizes the Texas Transportation Commission, by rule, to establish procedures for the informal resolution of a claim arising out of a contract described by Section 22.018, Chapter 223, or Chapter 2254, Government Code. Authorizes a person to request a formal administrative hearing to resolve the claim if the person is dissatisfied with the Texas Department of Transportation's (department) resolution of the claim. Requires an administrative law judge's proposal for decision rendered under Chapter 2001, Government Code, to be submitted to the executive director of the department (executive director) for adoption. Authorizes the executive director, notwithstanding any law to the contrary, to change a finding of fact or conclusion of law made by the administrative law judge, or to vacate or modify an order issued by the administrative law judge. Requires the executive director to provide a written statement containing the reason and legal basis for a change made under this subsection. Provides that the executive director's final order is subject to judicial review under Chapter 2001, Government Code, under the substantial evidence rule. Provides that this section does not waive state immunity from liability.

SECTION 2. Requires the procedure prescribed by SECTION 1 of this Act, notwithstanding any other law, to constitute the exclusive remedy at law for the resolution of a claim governed by that section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 201.112(a), Transportation Code, to authorize the commission, by rule, to establish procedures for the informal resolution of a claim arising out of a contract described by Section 22.018, Government Code, among others.

SECTION 2.

Requires the procedures in SECTION 1 to constitute the exclusive remedy at law for the resolution of a claim governed by that section.

SECTION 3.

Makes application of this Act prospective. Renumbers SECTION 3 as SECTION 4.