

BILL ANALYSIS

Senate Research Center
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S.B. 1025
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Jurisprudence
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As Filed

DIGEST

Currently, a party must seek legislative permission to sue the state. If the legislature waives its sovereign immunity, and a plaintiff prevails against the state, the state still remains immune from liability. S.B. 1025 creates provisions and procedures for contract claims for engineering or construction services against a unit of state government.

PURPOSE

As proposed, S.B. 1025 creates provisions and procedures for contract claims for engineering or construction services against a unit of state government.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 110, as follows:

CHAPTER 110. CONTRACT CLAIMS AGAINST THE STATE

Sec. 110.001. DEFINITION. Defines “unit of state government” (USG). Excludes a county, municipality, court of a county or municipality, special purpose district, or other political subdivision from the USG definition.

Sec. 110.002. RIGHTS OF CONTRACTING PARTIES. Authorizes a claimant to proceed in a claim against a USG involving a breach of contract for certain services. Waives sovereign immunity to a suit for an appeal under Section 110.006, Civil Practice and Remedies Code.

Sec. 110.003. CLAIM. Authorizes a claim to be made by filing a petition with certain officers of state government.

Sec. 110.004. NEGOTIATION AND MEDIATION. Requires certain authorities to examine the claim and attempt to resolve the claim. Sets forth provisions, including deadlines, for the claim’s mediation. Sets forth provisions for an unsuccessful, terminated mediation, and sets forth requirements for certain USG authorities should mediation fail.

Sec. 110.005. CONTESTED CASE HEARING. Authorizes an unsatisfied claimant to file an appeal with the USG, and sets forth appeal requirements. Requires the USG to refer the claim to the State Office of Administrative Hearings, upon receipt of an appeal.

Sec. 110.006. APPEAL TO COURT. Authorizes the final USG order to be appealed, and authorizes the court to which the claim is appealed to make a complying award.

Sec. 110.007. AWARD. Prohibits an award from exceeding the total value due the claimant under the contract, including any charge accepted by a USG. Prohibits the award from including certain damages.

Sec. 110.008. VENUE. Requires an appeal under Section 110.006 to be brought in Travis County.

Sec. 110.009. SERVICE OF CITATION. Requires certain processes to be made on the attorney general and certain USG authorities with whom the claimant contracted.

Sec. 110.010. PREJUDGMENT INTEREST. Expands the application of Chapter 304, Finance Code, to include a judgment awarded under this chapter, and prohibits the rate of interest from exceeding six percent.

Sec. 110.011. SETTLEMENT. Authorizes the attorney general to settle an appeal brought under Section 110.006, Civil Practice and Remedies Code.

Sec. 110.012. PAYMENT OF JUDGMENT OR SETTLEMENT. Authorizes a USG to pay a judgment from money originally appropriated for the contract services or property on which the suit was based. Sets forth provisions for another method of payment.

Sec. 110.013. EXECUTION ON STATE PROPERTY NOT AUTHORIZED. Limits this chapter's authorization regarding USG owned property.

Sec. 110.014. APPLICATION OF OTHER LAWS. Prohibits the application of Chapter 107, Civil Practice and Remedies Code, to an appeal brought under Section 110.006.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.