

BILL ANALYSIS

Senate Research Center
76R3366 MDR-D

S.C.R. 24
By: Carona
Jurisprudence
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As Filed

DIGEST

DalMac Construction Company, Inc. (DalMac) was awarded a contract to build a recreational sports building by Texas A&M University (A&M) on February 13, 1993. Almost immediately after work began, DalMac discovered that it was impossible to construct the building from A&M's plans and specifications, which required DalMac to make numerous changes at its own expense. Despite faulty plans, and A&M's insistence upon performance that exceeded initial contractual requirements, DalMac fully satisfied its contractual obligations, and A&M accepted DalMac's complete performance.

About one month before the building was completed, DalMac submitted the first of many requests for equitable adjustment to A&M authorities. After three rejections, DalMac and A&M submitted their dispute to a non-binding alternative dispute resolution process, whose decision on March 25, 1997, addressed only three of the issues in dispute because A&M was unwilling to arbitrate the remaining issues. On April 14, 1997, A&M offered a \$19,000 settlement on DalMac's \$2.4 million claim. Subsequently, DalMac was allowed only 45 minutes to appeal its claim. On July 30, 1997, A&M offered \$204,461 as its final offer on DalMac's claim, which now exceeded \$3 million.

Finally, DalMac sought relief through the courts, but was once again denied due to A&M's claim of sovereign immunity. A&M has failed to pay DalMac construction costs and expenses incurred as a result of A&M's own mistakes. Therefore, DalMac must now seek permission from the legislature to sue the State of Texas and A&M for actual and monetary damages, including court costs and attorney's fees. S.C.R. 24 would grant DalMac permission to sue the State of Texas and Texas A&M University.

PURPOSE

As proposed, S.C.R. 24 submits the following resolutions:

That DalMac Construction Company, Inc. is granted permission to sue the State of Texas and Texas A&M University subject to Chapter 107, Civil Practice and Remedies Code.

That the president of Texas A&M University be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.