

BILL ANALYSIS

Senate Research Center
81R2063 TJS-D

S.B. 1228
By: Hinojosa
State Affairs
4/4/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1228 will give parties clear guidance as to what types of contracts and claims for goods and services may be brought before the State Office of Administrative Hearings (SOAH). Further, the proposed legislation will enable parties to challenge a jurisdictional ruling by SOAH in a district court.

By clarifying SOAH's jurisdiction and ensuring that jurisdictional issues are resolved early in the administrative proceeding, the proposed legislation will potentially save staff time and resources and make claims under Chapter 2260 (Resolution of Certain Contract Claims Against the State) a more efficient process.

As proposed, S.B. 1228 provides that SOAH does not have jurisdiction over a claim brought by a contractor that has not complied with certain notice requirements with respect to the claim. This bill also provides that compliance with notice requirements is a prerequisite to a contested case hearing. The bill sets forth procedures for making a determination regarding SOAH's jurisdiction in certain matters.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2260.001, Government Code, by adding Subdivisions (2-a) and (3-a), to define "goods" and "services."

SECTION 2. Amends Section 2260.051, Government Code, by adding Subsection (e), as follows:

(e) Provides that a contractor that does not comply with the notice requirements of this section with respect to a claim waives the right to assert the claim. Provides that compliance with notice requirements of this section is a prerequisite to a contested case hearing under Subchapter C (Contested Case Hearing).

SECTION 3. Amends Subchapter C, Chapter 2260, Government Code, by adding Section 2260.1045, as follows:

Sec. 2260.1045. JURISDICTION OF OFFICE. (a) Provides that the State Office of Administrative Hearings (SOAH) does not have jurisdiction over a claim brought by a contractor that has not complied with the notice requirements of Section 2260.051 (Claim for Breach of Contract; Notice) with respect to the claim.

(b) Requires the administrative law judge, on the motion of any party, to conduct a hearing to determine whether the office has jurisdiction over a claim.

(c) Requires the administrative law judge, within a reasonable time after the conclusion of the hearing, to issue a written decision.

(d) Authorizes any party, after issuance of the administrative law judge's decision, to seek immediate review of the decision in a Travis County district court by filing a petition not later than the 30th day after the date on which the decision is issued. Requires the administrative law judge to stay proceedings in the contested case hearing pending the outcome of the review by the district court.

(e) Provides that Subchapter G (Contested Cases: Judicial Review), Chapter 2001 (Administrative Procedure), does not apply to a hearing under this section.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2009.