

BILL ANALYSIS

Senate Research Center
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S.B. 1382
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Intergovernmental Relations
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law specifies that a local government entity that is authorized to enter into certain contracts waives its right to sovereign immunity for a breach of contract claim relating to that contract. This waiver allows a contractor to sue that local governmental entity for nonpayment. Other statutory provisions specify the types of recovery available to plaintiffs in such a breach of contract dispute.

In general, a contractor, subcontractor, or supplier is entitled under state law to receive interest, commonly called prompt pay interest, on past due payments for work performed on a public construction project owned by the state or other governmental entity. Some interested parties contend that recent court decisions have misinterpreted Texas law on whether prompt pay interest on public jobs is barred by government immunity. S.B. 1382 seeks to clarify that issue.

S.B. 1382 amends the Local Government Code to specify that interest included in the total amount of money awarded in an adjudication brought against a local governmental entity for a breach of contract includes any interest accrued on the unpaid balance of a disputed invoice submitted by the vendor, according to the dispute's resolution.

As proposed, S.B. 1382 amends current law relating to limitations on awards in an adjudication brought against a local governmental entity for breach of contract.

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 271.153(a), Local Government Code, as follows:

(a) Provides that the total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to certain costs, including interest as allowed by law, including interest for a disputed payment as provided by Section 2251.042 (Disputed Payment), Government Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.