

- SUBJECT:** Defining certain land agreements as contracts, providing for adjudication
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 5 ayes — Deshotel, Leman, Burrows, Craddick, Spiller
- 3 nays — Romero, Rosenthal, Thierry
- 1 absent — Biedermann
- WITNESSES:** For — Michael Elliott; (*Registered, but did not testify:* Wayne Hamilton, Centurion American Development Group; J.D. Hale, Texas Association of Builders; Daniel Gonzalez and Julia Parenteau, Texas Realtors)
- Against — (*Registered, but did not testify:* Tammy Embrey, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Josh Schroeder, City of Georgetown; Christine Wright, City of San Antonio; Monty Wynn, Texas Municipal League)
- BACKGROUND:** Interested parties have raised concerns about enforceability of certain development agreements between municipalities and landowners in the extraterritorial jurisdictions of certain municipalities. Some have suggested clarifying provisions of the Local Government Code with respect to development agreements between landowners and municipalities.
- DIGEST:** CSHB 1929 would specify that agreements governing certain land in a municipality’s extraterritorial jurisdiction would be considered contracts for development agreements and provide for adjudication of claims related to these contracts. Under the bill, contracts would be considered development programs as authorized by Tex. Const. Art 3, sec. 52-a.
- The bill would define “adjudication” of a claim to mean the bringing of a civil suit and prosecution to final judgment in county or state court and would include the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory

procedures established in the contract agreement for the proceedings.

Annexation by a municipality of land subject to a contract would not invalidate the enforceability of the contract or infringe on the rights of a party to adjudicate a claim arising under the contract. A municipality that entered into a contract would waive immunity from suit for the purpose of adjudicating a claim for breach of the contract.

Actual damages, specific performance, or injunctive relief could be granted in an adjudication brought against a municipality for a breach of a contract. The total amount of money awarded in an adjudication brought against a municipality would be limited to:

- the balance due and owed by the municipality under the contract as it may have been amended;
- any amount owed by the landowner as a result of the municipality's failure to perform under the contract, including compensation for the increased cost of infrastructure as a result of delays or accelerations caused by the municipality;
- reasonable attorney's fees; and
- interest as allowed by law, including interest on overdue payment for certain goods and services.

Damages awarded in an adjudication brought against a municipality for a breach of a contract could not include consequential damages, unless expressly allowed by the bill, or exemplary damages.

A contract between a municipality and a landowner entered into prior to the effective date of any amendment to Local Government Code sec. 212.172 and that complied with this statute would be validated, enforceable, and could be adjudicated subject to the terms and conditions of subch. G pertaining to extraterritorial land agreements, as amended.

The bill would take effect September 1, 2021.