

## **BILL ANALYSIS**

Senate Research Center

H.B. 2312  
By: Bosse (Cain)  
Administration  
5/4/2001  
Engrossed

### **DIGEST AND PURPOSE**

During the 76th legislative session, the legislature established an administrative procedure for disputes arising on contract claims against the state. In February 2001 the Texas Supreme Court ruled in *General Services Commission v. Little-Tex Insulation Company Inc.* that the administrative procedure established by the legislature for certain breach of contract claims against the state was intended to be the exclusive method available for resolving those cases. This decision narrowed the ability of the legislature to waive sovereign immunity. H.B. 2312 clarifies the ability of the legislature to waive sovereign immunity.

### **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 2260.002, Government Code, to provide that this chapter does not apply to a contract executed or awarded on or before August 30, 1999, or a contract that does not include the contract provision required by Section 2260.004.

SECTION 2. Amends Section 2260.003(a), Government Code, to prohibit the total amount of money recoverable on a claim for breach of contract under this chapter from, after deducting the amount specified in Subsection (b), exceeding an amount equal to the sum of the amount or fair market value of orders or requests for additional work made by a unit of state government to the extent that the orders or requests for additional work were actually performed.

SECTION 3. Amends Section 2260.005, Government Code, to provide that the procedures contained in this chapter, subject to Section 2260.007, are exclusive and required prerequisites to suit in accordance with Chapter 107, Civil Practice and Remedies Code.

SECTION 4. Amends Chapter 2260A, Government Code, by adding Section 2260.007, as follows:

Sec. 2260.007. LEGISLATIVE PERMISSION TO SUE. Provides that the legislature, notwithstanding Section 2260.005, has the authority to deny or grant a waiver of immunity to suit against a unit of state government by statute, resolution, or any other means the legislature may determine appropriate. Provides that does not and may not be interpreted to:

- divest the legislature of the authority to grant permission to sue a unit of state government on the terms, conditions, and procedures that the legislature may specify in the measure granting permission;
- require that the legislature, in granting or denying permission to sue a unit of state government, comply with this chapter; or

- limit in any way the effect of a legislative grant of permission to sue a unit of state government unless the grant itself provides that this chapter may have that effect.

SECTION 5. Effective date: upon passage or September 1, 2001.

Makes application of this Act prospective, except for Section 2260.002(2), Government Code, as amended by this Act, which applies according to its own terms.