

## **BILL ANALYSIS**

H.B. 2128  
By: Cyrier  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note inconsistencies regarding a party's ability to recover attorney's fees and damages against a governmental entity for breach of certain service contracts, depending on the entity involved. H.B. 2128 seeks to remove these inconsistencies from the law relating to adjudication of claims arising from certain written contracts with state agencies.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 2128 amends the Civil Practice and Remedies Code to remove the specification that the breach of contract for which a state agency, including a public university system or a system of higher education, authorized by state law to enter into certain contracts related to engineering, architectural, or construction services waives sovereign immunity to suit for the purpose of adjudicating a claim is a breach of an express provision of the contract. The bill changes the limitations on the total amount of money awarded in such an adjudication based on change orders from the amount owed for written change orders to the amount owed for change orders or additional work the contractor is directed to perform by a state agency in connection with the contract and changes those limitations on the total amount of money awarded based on attorney's fees from reasonable and necessary attorney's fees based on a specified hourly rate, if the contract expressly provides that recovery of such fees is available to all parties to the contract, to reasonable and necessary attorney's fees that are equitable and just.

### **EFFECTIVE DATE**

September 1, 2017.