

- SUBJECT:** Recovery of attorneys' fees in breach of contract suit against a city
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 10 ayes — Hunter, Hughes, Alonzo, Branch, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez
- 0 nays
- 1 absent — Woolley
- WITNESSES:** For — Corbin Van Arsdale, AGC, Texas Building Branch; (*Registered, but did not testify*: Jon Fisher, Associated Builders and Contractors of Texas; Harold Freeman, Texas Construction Association; Kathy Grant, Texas Society of Architects)
- Against — Bennett Sandlin, Texas Municipal League; (*Registered, but did not testify*: David Holt, City of Odessa)
- BACKGROUND:** Local Government Code, sec. 271.153(a) limits the money awarded in breach of contract suit brought against a municipality, public school or junior college district, or other special-purpose district or authority to the balance due and owed by the local government under the contract, any amount owed for change orders or additional work a local governmental entity had directed a contractor to perform, and interest as allowed by law.
- DIGEST:** HB 3203 would allow reasonable, necessary, equitable, and just attorneys' fees to be awarded in a breach of contract suit brought against a local governmental entity.
- The bill would take effect September 1, 2009.
- SUPPORTERS SAY:** Current law allows for the recovery of attorneys' fees in breach of contract suits brought against counties, and HB 3203 would allow for the same treatment for cities and other local governmental entities. The inability to recover attorneys' fees means that smaller contractors are less likely to pursue these suits even when a city has broken a contract. The bill would allow those contractors and other groups to seek reasonable and equitable

attorneys' fees should a judge decide that a city unlawfully had violated a contract to provide services.

**OPPONENTS  
SAY:**

HB 3203 could increase the number of frivolous lawsuits brought against cities. Allowing for the recovery of attorneys' fees would remove the existing barrier to unnecessary legal action and could cost cities and other local government entities more money and time spent in court. The bill also does not make explicit whether cities and other local governmental entities would be allowed to recover attorneys' fees in breach of contract cases where they prevail.