

- SUBJECT:** Setting the accrual of a cause of action for certain construction claims
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Leach, Krause, Middleton, Schofield, Smith
4 nays — Davis, Dutton, Julie Johnson, Moody
- WITNESSES:** For — Ben Westcott, AGC-TBB; Corbin Van Arsdale, AGC-Texas Building Branch; (*Registered, but did not testify:* Scott Stewart, American Council of Engineering Companies of Texas; Joey Bennett, Armko Industries, Inc.; Will McAdams, Associated Builders and Contractors of Texas; Lee Parsley, Texans for Lawsuit Reform; Raymond Risk, Texas Construction Association; Becky Walker, Texas Society of Architects)

Against — (*Registered, but did not testify:* Craig Eiland, Texas Trial Lawyers Association)
- BACKGROUND:** Government Code ch. 2272 requires governmental entities, before filing a suit in connection with an alleged construction defect, to submit a report to potential opposing parties and provide such parties with an opportunity to inspect and cure alleged defects. Sec. 2272.003 requires that the report clearly identify the specific construction defect on which the claim is based, describe the present physical condition of the affected structure, and describe any modification, maintenance, or repairs to the affected structure made since the affected structure was initially occupied or used.

The 86th Legislature in 2019 enacted HB 1999 by Leach, which allows contractors and design professionals to repair construction defects on public facilities before a public entity can sue them for construction or design defects. Interested parties have suggested that an accrual date be defined for the associated cause of action.
- DIGEST:** HB 3221 would establish that a cause of action under Government Code ch. 2272 for a construction defect on a public building or public work would accrue on the date the report to potential opposing parties was

postmarked by the U.S. Postal Service.

The date of accrual of a cause of action for all other purposes, including the date of an occurrence under an applicable insurance policy and the date a cause of action accrued for determining whether the action was barred by a statute of limitations or repose, would be unaffected by the bill's provisions.

The bill would take effect September 1, 2021.