



Legislative Update - 89th Session

February 6, 2026

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KEY POINTS

- **2025 89th Session Results**
 - **What didn't pass**
 - **What did pass**



Tort Reform Bill

- **SB 30: Schwertner (R) Georgetown**
 - **New disclosure requirements**
 - **Impacted admissible evidence regarding proving and contesting reasonableness of medical expenses**
 - **Defined noneconomic damages terms and other various terms**
 - **Provided guide rails for determining noneconomic damages**



Tort Reform Bill

- So what happened?
 - Passed Senate with strong support
 - Significantly amended in the House
 - Moody Amendment
 - Failed to get out of Senate Conference Committee



NON-ECONOMIC DAMAGES CAPS

- HB 939:
 - Greater of 5x economic damages or \$5m



NON-ECONOMIC DAMAGES CAPS

- HB 1419:
 - Past/future physical pain and suffering
3x past/future medical expenses.
 - Past/future mental or emotional pain and
anguish
 - (1) \$1m if claim arises from event
primarily causing emotion injury or
 - (2) \$250,000 if claim arises from an
event primarily causing bodily injury.
 - Cap indexed by 1.75% beginning
1/1/2027.



CONSTRUCTION CONTRACTORS

- **HB 1069:**
 - Requires classification of each individual providing construction services as either an employee or independent contractor to TWC.
 - Imposes admin penalties for misclassifying/failing to classify employees
 - \$100 per individual
 - \$1000 per individual for each subsequent violation
 - If designating an independent contractor:
 - Will need to file with the IRS the independent contractor's 1099 or equivalent form



NEW CAUSE OF ACTION

- HB 1177 (R – Humble):
 - Creates a criminal offense for diverting surface water that damages another's property.



BUSINESS PRACTICES

- SB 501/HB 1335:
 - Underground utilities operator shall provide its residential customers general information on excavation activities
 - Current reporting only needed if servicing 1+ million customers



PROCEDURE

- HB 2100 (D – Dallas)
 - Require trial court “to consider all evidence on the record or otherwise before the court” when ruling on a No-Evidence MSJ
 - Rule 166a(c) specifically says that evidence attached to the motion or response or “otherwise on file” can be used to defeat traditional summary judgment.
 - Rule 166a(i) does not have that provision. It requires the non-movant to “produce” evidence raising a fact issue.





CH. 2272 CHANGES

- **HB 2021:**
 - **Excludes the applicability of Ch. 2272 to “critical infrastructure facility”**
 - **Extends applicability to damage caused by an alleged construction defect in a private construction contract exceeding \$10 million**
 - **Allows private owners with an interest in the contract to assert a construction defect claim against a contractor, subcontractor, supplier, or design professional.**
 - **Adds private owners to the existing requirement of providing/receiving a 2272.003 Report**
 - **Party to a private construction contract exceeding \$10 million has the right to inspect and cure.**
 - **Adds dismissal of construction defect claim for failure to comply with report and inspect and cure requirements to add a non-compliant private party.**



PRE-SUIT DEPOSITIONS

- **SB 953 (D - Dallas):**
 - **Permits pre-suit depositions on oral examination or written questions to obtain the person's own testimony or that of any other person for use in an anticipated action, or to investigate a potential claim or action.**
 - **Prohibits pre-suit depositions if the requestor has not sustained actual damages or will not reasonably sustain actual damages in the anticipated action.**
 - **Requestor is liable for attorney's fees incurred in challenging an illegal request.**

CONSTRUCTION CONTRACTORS

- **HB 875:**
 - Municipality won't require construction contractor be covered by workers' comp or obtain a performance bond if the project is for an amount less than 1% of the municipality's most recently adopted budget.





BUSINESS PRACTICES

- **HB 386:**
 - **Prior Law:**
 - contract with original price of \$1m+ can't be increased by more than 25%
 - if contract is changed from less than \$1m to \$1m+, subsequent changes can't be more than 25%
 - **Amended Law:**
 - increased amount from \$1m+ to \$5m+
 - Contract for less than \$5m can't be increased more than the greater of 50% or \$1m
 - Governing body can grant authority to approve contract increase/decrease of \$250k

CONSTRUCTION CONTRACTORS

- SB 324/HB 1308:
 - Prohibits a state agency from awarding a contract for goods or services to a contractor/subcontractor unless they register with and participate in the E-verify program.



The 2nd. State Capit.
site of the present
Burned in 1881.

EXTENDED PROTECTIONS

- **SB 687:**
 - Extends architect/engineer protections to registered land surveyors
 - Land surveyor contracts can no longer contain certain duty-to-defend and duty-to-indemnify provisions
 - Defined contractual duty of care
 - Effective Sep. 1, 2025



TCTFA “QUALIFIED ASSIGNEE”

- SB 841:
 - Addressed issue of non-payment of downstream subcontractors/suppliers
 - Clarifies and expands the scope of beneficiaries entitled to construction trust funds
 - Strict requirements for assigning trust fund interest
- Effective Sep. 1, 2025



TCTFA “QUALIFIED ASSIGNEE”

- **Fact Scenario:**
 - Contractor Carl pays Downstream Dave
 - Downstream Dave doesn't use those funds to pay Vendor Vic as intended
 - Historically, Contractor Carl could step into Vendor Vic's shoes and seek recovery from Downstream Dave
 - In re RTX Custom Homes tells Vendor Vic his trust fund claim is not assignable to Contractor Carl



TCTFA “QUALIFIED ASSIGNEE”

- **Strict Requirements:**
 - Assignment made in writing;
 - Assignment made after assignee has paid in full
 - Assignment made to another beneficiary, trustee, or property owner; and
 - Written notice within seven days

- **Effective Sep. 1, 2025**

FLORES	● ● ●	JOHNSON, J.D.	●
FRANK	● ● ●	JOHNSON, J.E.	●
FRAZIER	● ● ●	JONES, J.	●
GÁMEZ	● ● ●	JONES, V.	●
GARCIA	● ● ●	KACAL	●
GATES	● ● ●	KING, K.	●
GERDES	● ● ●	KING, T.	●
GEREN	● ● ●	KITZMAN	●
GERVIN-HAWKINS	● ● ●	KLICK	●
GOLDMAN	● ● ●	KUEMPEL	●
GONZÁLEZ, J.	● ● ●	LALANI	●
GONZÁLEZ, M.	● ● ●	LAMBERT	●
GOODWIN	● ● ●	LANDGRAF	●
GUERRA	● ● ●	LEACH	●
GUILLEN	● ● ●	LEO-WILSON	●
HARLESS	● ● ●	LONGORIA	●
HARRIS, C.E.	● ● ●	LOPEZ, J.	●
HARRIS, C.J.	● ● ●	LOPEZ, J.	●
HARRISON	● ● ●	LOPEZ, J.	●
HAYES	● ● ●	LOPEZ, J.	●
HEFNER	● ● ●	LOPEZ, J.	●
HERNANDEZ	● ● ●	LOPEZ, J.	●
HERRERO	● ● ●	LOPEZ, J.	●
HINOJOSA	● ● ●	LOPEZ, J.	●

CONSTRUCTION LEGAL PROCEDURE

- **HB 1922:**
 - **Relates to accrual of a cause of action for certain construction liability claims under Ch. 2272 Gov. Code**
 - **Cause of action by a governmental entity against a contractor for an alleged construction defect in a public work/building accrues when the report required by § 2272.003 is postmarked.**
 - **Effective Sep. 1, 2025**



LEGAL PROCEDURE

- HB 2960:
 - Venue provision in a contract for improvement to Texas real property with a Texas Contractor/Subcontractor/Materialman requiring suit be brought outside the state is void as a matter of public policy.
 - Effective Sept. 1, 2025



LIEN NOTICE

- **HB 929:**
 - **Confusion regarding calendar timing issues**
 - **Clarified lien notice and filing deadlines**
 - **Deadlines automatically extended to next business day**
 - **Effective May 21, 2025**



PUBLIC WORKS PROMPT PAYMENT

- **HB 3005:**
 - Addresses timely payment for public works projects
 - Clarifies “bona fide dispute” does not include audit IF:
 - Audit extends 60+ days after substantial completion
 - Effective Sep. 1, 2025



RENEWABLE ENERGY PROJECTS

- **HB 3228:**
 - Requires wind/solar facility agreements to require greater recycling/disposal plans
 - Effective Sep. 1, 2025



QUESTIONS?



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