CIVIL PRACTICE AND REMEDIES CODE

TITLE 5. GOVERNMENTAL LIABILITY

CHAPTER 113. WATER SUPPLY CONTRACT CLAIM AGAINST LOCAL DISTRICT OR AUTHORITY

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Adjudicating a claim" means the bringing of a civil suit and prosecution to final judgment in court and includes the bringing of an authorized arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract that is the subject of the dispute under Section 113.002.

(2) "Local district or authority" means a special-purpose district or authority, including a levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, fresh water supply district, navigation district, special utility district, and river authority, and any conservation and reclamation district.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.002. WAIVER OF IMMUNITY TO SUIT FOR CLAIM REGARDING WATER SUPPLY CONTRACT. A local district or authority that enters into a written contract stating the essential terms under which the local district or authority is to provide water to a purchaser for use in connection with the generation of electricity waives sovereign immunity to suit for the purpose of adjudicating a claim that the local district or authority breached the contract by not providing water, or access to water, according to the contract's terms.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.003. REMEDIES. (a) Except as provided by Subsection (b), remedies awarded in a proceeding adjudicating a claim under this chapter may include any remedy available for breach of contract that is not inconsistent with the terms of the contract, including the cost of cover and specific performance.

(b) Remedies awarded in a proceeding adjudicating a claim under this chapter may not include consequential or exemplary damages.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.004. NO WAIVER OF OTHER DEFENSES. This chapter does not waive a defense or a limitation on damages available to a party to a contract other than sovereign immunity to suit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.005. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This chapter does not waive sovereign immunity to suit in federal court.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.006. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This chapter does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.007. NO NEW OR ADDITIONAL WATER RIGHTS. This chapter does not grant any user of water any new or additional rights to water or any new or additional priority to water rights. This chapter does not confer any rights inconsistent with the terms of the contract that is the subject of a dispute under Section 113.002.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.008. AUTHORITY OF REGULATORY AGENCIES; COMPLIANCE WITH REGULATORY ORDER. (a) This chapter does not limit the authority of the Texas Commission on Environmental Quality or any other state regulatory agency.

(b) Compliance with an order of the Texas Commission on Environmental Quality or any other state regulatory agency that expressly curtails water delivery to a specific electric generating facility is not considered a breach of contract for the purposes of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.

Sec. 113.009. NO THIRD-PARTY BENEFICIARIES. (a) This chapter waives sovereign immunity only for the benefit of:

(1) a party to the contract that is the subject of a dispute under Section 113.002; or

(2) the assignee of a party to the contract, if assignment of an interest in the contract is permitted by the terms of the contract.

(b) Except for an assignment described by Subsection (a)(2), a party authorized by this chapter to sue for a cause of action of breach of contract may not transfer or assign that cause of action to any person.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1138 (H.B. 3511), Sec. 1, eff. June 14, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1340 (S.B. 958), Sec. 1, eff. June 14, 2013.