

# SENATE BILL REPORT

## EHB 1559

---

---

As of March 15, 2011

**Title:** An act relating to indemnification agreements involving design professionals.

**Brief Description:** Limiting indemnification agreements involving design professionals.

**Sponsors:** Representatives Haigh, Dammeier and Goodman.

**Brief History:** Passed House: 3/01/11, 98-0.

**Committee Activity:** Judiciary: 3/16/11.

---

### SENATE COMMITTEE ON JUDICIARY

**Staff:** Kim Johnson (786-7472)

**Background:** Indemnity provisions in contracts require one party (the indemnitor) to pay the other party (the indemnitee) for any losses the indemnitee may suffer during performance of a contract.

Currently, state law limits the enforcement of indemnification clauses in contracts relating to construction, maintenance, or other work on any structure, project, development, or improvement attached to real estate. In these contracts, a clause that indemnifies against liability for damages caused by or resulting from the sole negligence of the indemnitee is void. A clause that indemnifies against liability for damages caused by or resulting from the concurrent negligence of the indemnitee and indemnitor is enforceable only to the extent the indemnitor is negligent and only if specifically and expressly provided for in the agreement.

The term agency as used in contracts for architectural and engineering services means both state and local agencies and special districts.

**Summary of Bill:** The enforceability of indemnification agreements between public agencies and architectural, landscape architectural, engineering, or land surveying services is limited.

A contract term requiring an architect, landscape architect, engineer, or land surveyor to indemnify a public agency for claims against the agency, including the duty and cost to defend, is enforceable only to the extent of the negligence, recklessness, or willful misconduct of the architect, landscape architect, engineer, or land surveyor.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The restrictions on enforceability of indemnification agreements relating to construction contracts and design professionals cannot be waived or modified by contractual agreement apart from the exemption permitted under current law relating to the Industrial Insurance Act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.