

BILL ANALYSIS

C.S.H.B. 53
By: Romero, Jr.
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned that when a governmental entity enters into a settlement agreement paired with a non-disclosure agreement, the public's interest is adversely affected due to a lack of transparency regarding the basic allegations or facts of the case, even though taxpayer dollars are being used to investigate and prosecute the case and to pay the settlement. C.S.H.B. 53 seeks to increase transparency by prohibiting a governmental unit from entering into certain settlement agreements if the aggrieved party is required to consent to a non-disclosure agreement as a condition of the settlement.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 53 amends the Civil Practice and Remedies Code to prohibit a governmental unit from entering into a settlement of a claim or action against the governmental unit in which the amount of the settlement is equal to or greater than \$30,000 and a condition of the settlement requires a party seeking affirmative relief against the governmental unit to agree not to disclose any fact, allegation, evidence, or other matter to any other person, including a journalist or other member of the media. The bill makes a settlement agreement provision entered into in violation of this prohibition void and unenforceable. The bill expressly does not affect information that is privileged or confidential under other law.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 53 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 5, Civil Practice and

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85R 18833

17.81.183

Substitute Document Number: 85R 8205

Remedies Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. SETTLEMENT OF CLAIM OR ACTION AGAINST A GOVERNMENTAL UNIT

Sec. 116.001. DEFINITION.

Sec. 116.002. CERTAIN SETTLEMENT TERMS PROHIBITED.

Sec. 116.003. ADMISSIBILITY OF CERTAIN EVIDENCE RELATING TO SETTLEMENT NEGOTIATION. (a)

Evidence of offering, providing, accepting, promising to provide, or offering or promising to accept valuable consideration in settling or attempting to settle a claim against a governmental unit is not admissible to prove:

- (1) liability for the claim;
- (2) the invalidity of the claim; or
- (3) the amount of liability for the claim.

(b) Subsection (a) does not require the exclusion of evidence offered for a purpose other than a purpose described by that subsection, including:

- (1) to prove the bias, prejudice, or interest of a witness or party;
- (2) to dispute a contention of undue delay;
- or
- (3) to prove an attempt to obstruct a criminal investigation or prosecution.

(c) Evidence of conduct occurring or statements made in the course of settlement negotiations with a governmental unit are not admissible. This subsection does not require the exclusion of evidence that is otherwise discoverable merely because the evidence was presented in the course of settlement negotiations with a governmental unit.

Sec. 116.004. EFFECT OF CHAPTER.

SECTION 2. The change in law made by this Act applies only with respect to a claim or action that is based on a cause of action that accrues on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2017.

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Sec. 116.001. DEFINITION.

Sec. 116.002. CERTAIN SETTLEMENT TERMS PROHIBITED.

Sec. 116.003. EFFECT OF CHAPTER.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

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Sec. 116.003. EFFECT OF CHAPTER.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.