

BILL ANALYSIS

Senate Research Center

H.B. 172
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Jurisprudence
5-17-97
Engrossed

DIGEST

Sovereign immunity protects the state from lawsuits. In Texas, to seek legal redress against the state, a party must seek permission to sue the state from the legislature. A critical exception to the governmental immunity doctrine is that the state waives its immunity from liability when it contracts. However, even if there is no dispute about the state's liability in a breach of contract claim, the doctrine of sovereign immunity still bars a suit against the state unless the state has expressly given its consent to be sued. This bill will provide regulations regarding contract claims against a unit of state government.

PURPOSE

As proposed, H.B. 172 provides regulations regarding contract claims against a unit of state government.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 111, as follows:

CHAPTER 111. CONTRACT CLAIMS AGAINST THE STATE

Sec. 111.001. DEFINITION. Defines "unit of state government."

Sec. 111.002. PERMISSION TO SUE GRANTED; SOVEREIGN IMMUNITY FROM SUIT FOR CERTAIN CLAIMS. Authorizes a claimant, subject to Section 111.003, to bring certain suits against a unit of state government. Prohibits the total amount of damages awarded to a claimant in a suit brought under this section from exceeding the total value of consideration the claimant was to receive under the contract, including any charge accepted by the unit of state government. Provides that an award of consequential or similar damages, or an award of exemplary or punitive damages, is not authorized.

Sec. 111.003. ALTERNATIVE DISPUTE RESOLUTION SYSTEM. Prohibits a claimant from bring a suit for money damages under Section 111.002 before complying with the alternative dispute resolution process if the affected unit of state government has established an alternative dispute resolution process applicable to the subject matter of the claim.

Sec. 111.004. WAIVER OF SOVEREIGN IMMUNITY. Provides that the state waives its sovereign immunity to suit under common law only to the extent authorized by Section 111.002.

Sec. 111.005. VENUE. Requires a suit brought under this chapter to be brought in Travis County.

Sec. 111.006. SERVICE OF CITATION. Sets forth regulations regarding service of citation.

Sec. 111.007. PREJUDGMENT INTEREST. Provides that Article 5069-1.05, V.T.C.S., applies to a judgment awarded to a claimant under this chapter, except that the applicable rate of interest may not exceed six percent.

Sec. 111.008. SETTLEMENT. Authorizes the attorney general to settle or compromise a suit brought under this chapter.

Sec. 111.009. PAYMENT OF JUDGMENT OR SETTLEMENT. Sets forth regulations regarding the payment of judgment or settlement.

Sec. 111.010. EXECUTION ON STATE PROPERTY NOT AUTHORIZED. Provides that this chapter does not authorize execution on property owned by the state or a unit of government.

Sec. 111.011. APPLICATION OF OTHER LAWS. Provides that Chapter 107 does not apply to a suit brought under this chapter.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.