

BILL ANALYSIS

Senate Research Center

H.B. 3052
By: Berlanga (Truan)
Jurisprudence
5-16-97
Engrossed

DIGEST

Currently, the Tort Claims Act provides a limit on the amount of damages which may be recovered from a governmental unit. Nonprofit fire departments which contract with governmental units are not covered by the Tort Claims Act. The threat of litigation and monetary damages arising from property damage, personal injury, and death, over and above the caps provided to a governmental unit, may deter these fire departments from contracting with governmental units. This bill would limit the liability of nonprofit fire departments while performing marine fire fighting services for a governmental unit and limit the liability of individual fire fighters to the extent liability is limited for an employee of a governmental unit.

PURPOSE

As proposed, H.B. 3052 limits the liability of a nonprofit fire department while performing marine fire fighting services for a governmental unit and limits the liability of individual fire fighters to the extent liability is limited for an employee of a governmental unit.

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 Chapter 78, Civil Practice and Remedies Code, as follows:

CHAPTER 78. New heading: CERTAIN FIRE FIGHTERS AND FIRE-FIGHTING ENTITIES

SUBCHAPTER A. VOLUNTEER FIRE FIGHTERS AND FIRE DEPARTMENTS

Sec. 78.001. **LIABILITY.** Makes no changes.

SUBCHAPTER B. MARINE FIRE-FIGHTING SERVICES

Sec. 78.051. **DEFINITIONS.** Defines "fire fighter," "governmental unit," and "nonprofit fire department."

Sec. 78.052. **APPLICABILITY OF SUBCHAPTER: MARINE FIRE EMERGENCY.** Provides that this subchapter applies only to damages for personal injury, death, or property damage arising from an error or omission of a nonprofit fire department providing certain services or a fire fighter providing certain services.

Sec. 78.053. **LIABILITY.** Provides that a nonprofit fire department is liable for damages described by Section 78.052 only to the extent that the governmental unit with which the nonprofit fire department is contracting would be liable under Chapter 101. Provides that Section 101.106 applies to a claimant in a suit against a fire fighter as if the fire fighter were an employee of a governmental unit and the nonprofit fire department were a governmental unit.

Sec. 78.054. INDIVIDUAL IMMUNITIES. Provides that a fire fighter is liable for damages described by Section 78.052 only to the extent an analogous employee of the governmental unit with which the nonprofit fire department is contracting would be liable and is entitled to the common law immunities applicable to the employee of the governmental unit.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.