

## **BILL ANALYSIS**

Senate Research Center  
85R29603 AJA-F

C.S.H.B. 2776  
By: Smithee (Creighton)  
State Affairs  
5/18/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently when a plaintiff sues the state, the Texas Rules of Appellate Procedure (TRAP) allow the state to supersede a judgment while an appeal is pending. Certain courts will allow a plaintiff to counter-supersede with a minimal bond, allowing the injunction to remain in place while additional appeals are pending, even if the state wins an appeal at another court proceeding.

H.B. 2776 directs the Texas Supreme Court to amend TRAP to clarify that the state's right to supersede the judgment or order cannot be overcome by counter-supersedeas. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 2776 amends current law relating to the right of certain appellants to supersede a judgment or order on appeal.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 (Section 22.004, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 22.004, Government Code, by adding Subsection (i), as follows:

(i) Requires the Texas Supreme Court (supreme court) to adopt rules to provide that the right of an appellant under Sections 6.001(b)(1) (relating to the state's exemption from the bond requirements), (2) (relating to a state department's exemption from the bond requirements), or (3) (relating to a state department head's exemption from the bond requirements), Civil Practice and Remedies Code, to supersede a judgment or order on appeal is not subject to being counter-superseded under Rule 24.2(a)(3), Texas Rules of Appellate Procedure, or any other rule. Requires counter-supersedeas to remain available to parties in a lawsuit concerning a matter that was the basis of a contested case in administrative enforcement action.

SECTION 2. Requires the supreme court to adopt the rules required by Section 22.004(i), Government Code, as added by this Act, before May 1, 2018.

SECTION 3. Effective date: September 1, 2017.