

- SUBJECT:** Requiring written explanations of summary judgment rulings
- COMMITTEE:** Civil Practices — committee substitute recommended
- VOTE:** 5 ayes — Bosse, Alvarado, Dutton, Smithee, Zbranek  
2 nays — Hope, Nixon  
2 absent — Janek, Goodman
- WITNESSES:** For — Richard Hile, Texas Trial Lawyers Association  
Against — None
- BACKGROUND:** Summary judgment is a procedural device available in both Texas and federal courts for adjudicating civil cases without going through a trial. Summary judgment motions are governed by Rule 166a of the Texas Rules of Civil Procedure. Under the rule, a motion for summary judgment is granted when there is no genuine issue about any material fact and the judgment must be rendered as a matter of law. Motions for summary judgment are argued in a case before any evidence is presented, but the judgment standards are based on the burden of proof that would be required at trial.
- DIGEST:** CSHB 2186 would require a judge who granted a summary judgment motion to specify in writing the grounds on which the motion was granted on the same date on which the motion was granted.
- When a claim for a liquidated money demand or a claim involving a sworn account was brought in a justice court, the clerk of the court would have to include a notice in the citation issued to the defendant that unless a sworn answer was filed on behalf of the defendant, a summary judgment could be entered against the defendant.
- CSHB 2186 would control over any conflict with the Texas Rules of Civil Procedure.
- This bill would take effect September 1, 1999.

**SUPPORTERS SAY:** Summary judgment motions are important procedural devices that are routinely requested but seldom granted. When they are granted, parties must understand the reasons behind the judge's decision, because that decision can mean the end of that person's case. It would not be overly burdensome to require a judge to submit a short written statement explaining the grounds for which the summary judgment was granted. This explanation could help avoid potential appeals of that ruling and, if an appeal were filed, could allow the parties to focus better on the issues on appeal.

Even if it took a judge a while longer to produce a ruling on a summary judgment motion because the judge had to take the time to reduce the ruling to writing, it would be better for the judge to take that time to ensure that the decision was correct as to the facts and the law than to rush to an immediate judgment. Even with the time it might take to draft a written ruling, summary judgments remain a time-saving device when used properly.

On claims for liquidated money demands, if the defendant fails to file a sworn answer, a court may, as a matter of law, order a judgment to be entered. Often the defendant is unaware of the consequence of the failure to file an answer. CSHB 2186 would ensure that defendants were made aware of that possibility by including it in the notice sent to defendants.

**OPPONENTS SAY:** Summary judgments are a procedural device to preserve judicial economy. They are used only when there is no question of facts and the case can be decided as a matter of law. To require judges to take the time to reduce their judgments to writing, with the understanding that such orders likely would form the basis of appeals, would significantly increase the time it took for a judge to rule on such a motion. This would undermine the efficiency of using the summary judgment procedure.

**OTHER OPPONENTS SAY:** The Texas Supreme Court examined summary judgment rules in 1997 and revised the procedures for granting or denying such motions. Any changes to those rules should be left to the rulemaking authority of the courts.

**NOTES:** The committee substitute would require the judge to submit the written grounds for granting a motion no later than the day the motion was granted,

rather than within 30 days of granting the motion. It also added the provision requiring notice of the possibility of a summary judgment in certain cases.