

- SUBJECT:** Limiting liability for volunteer architects and engineers during disasters
- COMMITTEE:** Civil Practices — committee substitute recommended
- VOTE:** 7 ayes — B. Cook, Strama, Madden, Miller, Raymond, Talton, Woolley  
0 nays  
2 absent — P. King, Martinez Fischer
- WITNESSES:** For — Rob Clark, Charles Harper, David Lancaster, Texas Society of Architects; Bill Kelm, Structural Engineers Association of Texas; (*Registered, but did not testify:* Dennis Borel, Coalition of Texans with Disabilities; Peyton McKnight, Texas Council of Engineering Companies)  
Against — None  
On — Jay Harvey, Texas Trial Lawyers Association
- BACKGROUND:** The Federal Volunteer Act of 1997, 42 USC 14503, limits the liability of volunteers for non-profit or governmental organizations, under certain circumstances, for harm caused by acts or omissions of that volunteer while acting on behalf of the organization, within the scope of the volunteer's duties, and with proper authorization.
- DIGEST:** CSHB 823 would add sec. 150.003 to the Civil Practices and Remedies Code to limit liability for architects and engineers who volunteered their services during a declared emergency or disaster. The architects and engineers would have to be licensed and registered. The services provided would have to be:
- voluntary and without compensation, or the expectation of compensation, and in response to a proclaimed state of emergency or a declared state of disaster as defined in the Government Code;
  - provided at the request of or approved by a federal, state, or local public official in response to the emergency or disaster; and
  - related to a publicly or privately owned structure, building, roadway, piping, or other system.

The right or entitlement to receive compensation would not determine whether the services were voluntary. The limited liability of the licensed and registered architect or engineer would include liability for civil damages, personal injury, wrongful death, or property damage. It would not include gross negligence or wanton, willful, or intentional misconduct.

The limited liability would not apply to volunteers who were soliciting business at the scene of an emergency or performing compensated services on behalf of the licensed professional or an agent of the professional.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and apply only to causes of action occurring on or after the effective date.

**SUPPORTERS  
SAY:**

Local governments need private-sector help during emergencies like Hurricane Rita, but volunteers are concerned about the liability associated with volunteering their professional services. Architectural and engineering organizations have difficulty requesting volunteers when they are not protected from potential liability by a Good Samaritan law.

Other states cover their architects and engineers in a declared emergency or disaster, but Texas has no provision that protects architects and engineers from potential liability when volunteering their services under such difficult circumstances. The Federal Volunteer Act of 1997 does not cover architects and engineers who are not affiliated with a non-profit or governmental entity, so state law protection for the private sector is needed.

**OPPONENTS  
SAY:**

The Federal Volunteer Act of 1997 already exists to protect those volunteers of a non-profit or governmental entity who respond to an emergency. Additional protections for private-sector, licensed professional engineers and architects would go too far in limiting liability. Channeling volunteers through a non-profit or governmental entity allows for screening and a structured process in responding to an emergency.

**NOTES:**

The committee substitute added provisions specifying that architects and engineers would not be protected from liability if they crossed interdisciplinary lines associated with their professional requirements and

that the immunity periods would correlate with declared emergency periods defined by law — 30 days for a disaster, 72 hours for a state of emergency.