

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 842  
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### **DIGEST AND PURPOSE**

Class action lawsuits promote judicial economy and facilitate the efficient resolution of complex, mass claims. However there are several areas that need clarification by the Supreme Court of Texas. As proposed, S.B. 842 authorizes the appeal of class certification decisions to the supreme court, authorizes the supreme court to create special classes for settlement, and requires a court to abate or dismiss a case pending resolution by a state agency.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly given to the supreme court in SECTION 3 (Chapter 22A, Government Code), of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 22.225(b) and (d), Government Code, as follows:

(b) Provides that except as provided by Subsection (c) or (d), a judgment of a court of appeals is conclusive on the law and facts, and a review may not be granted by the supreme court, in certain civil cases. Deletes language regarding writ of error.

(d) Provides that review, rather than a writ of error, is allowed in the supreme court for an appeal from an interlocutory order described by Section 51.014(a)(3) or (6) (Appeal From Interlocutory Order), Civil Practice and Remedies Code.

SECTION 2. Amends Section 51.014, Civil Practice and Remedies Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires that, except as provided by Subsection (c), an interlocutory appeal under Subsection (a) have the effect of staying the commencement of a trial in the trial court pending resolution of the appeal.

(c) Provides that an interlocutory appeal under Subsection (a)(3) stays all proceedings in the trial court pending resolution of the appeal.

SECTION 3. Amends Chapter 22A, Government Code, by adding Section 22.015, as follows:

Sec. 22.015. CLASS ACTIONS. (a) Authorizes the supreme court by rule to authorize an action to be maintained as a class action only for settlement purposes even if the action does not satisfy all the requirements of Rules 42(a) and (b) (Class Actions), Texas Rules of Civil Procedure.

(b) Provides that if the supreme court adopts a rule described by Subsection (a), certification of an action as a class action only for settlement purposes may not be considered in determining whether the action may be maintained as a class action for other purposes.

(c) If the supreme court adopts a rule described by Subsection (a), the rule must require that certain requirements be met.

SECTION 4. Amends Section 15.005, Civil Practice and Remedies Code, as follows:

Sec. 15.005. MULTIPLE DEFENDANTS. Provides that except as provided by Section 15.021, in a suit in which the plaintiff has established proper venue against a defendant, the court also has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences.

SECTION 5. Amends Chapter 15B, Civil Practice and Remedies Code, by adding Section 15.021, as follows:

Sec. 15.021. CLASS ACTIONS. (a) Requires a class action against a person that is not a natural person, and against principals, shareholders, agents, or representatives of that person, to be brought in the county of that person's principal office in this state.

(b) Requires the class action, if venue in a class action against multiple defendants would be proper under this section in more than one county, to be brought in a county where the greatest number of defendants have their principal office.

(c) Authorizes the court, on motion of a party, to transfer a class action against multiple defendants to a county where a defendant has a principal office if the court determines certain factors.

SECTION 6. Amends Chapter 16D, Civil Practice and Remedies Code, by adding Section 16.073, as follows:

Sec. 16.073. CLASS ACTIONS. Provides that the limitations period applicable to the action against a defendant named in a class action commenced in a court of this state is suspended for members of the putative class from the date the class action petition is filed until the date the request for class certification is denied or the class is decertified.

SECTION 7. Amends Title 2B, Civil Practice and Remedies Code, by adding Chapter 26, as follows:

#### CHAPTER 26. CLASS ACTIONS INVOLVING JURISDICTION OF STATE AGENCY

Sec. 26.001. DEFINITIONS. Defines “agency statute,” “claimant,” “contested case,” “defendant,” “rule,” and “state agency.”

Sec. 26.002. APPLICABILITY. Provides that this chapter applies only to an action in which a claimant seeks recovery of damages or other relief on behalf of a class of claimants, and a disputed claim in the action involves the interpretation, application, or violation of an agency statute or rule with respect to one or more defendants.

Sec. 26.003. HEARING. (a) Requires the court, on motion of a party, to conduct a hearing to determine whether an action should be dismissed or abated under this chapter.

(b) Requires the court to notify the named parties to the action of the hearing on or before the 21st day before the date of the hearing.

(c) Requires a party to file a motion to abate or dismiss an action under Section 26.005 on or before the 30th day after the date the court signed the order certifying the action as a class action.

Sec. 26.004. DISMISSAL FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES. (a) Requires a court to dismiss an action without prejudice if certain factors are met.

(b) Requires the court to specify the state agency having exclusive jurisdiction and the administrative remedy in the order of dismissal.

(c) Provides that the limitations period applicable to an action dismissed under this section is suspended for members of the putative class with respect to the defendants named in the class action commenced in a court of this state for a period beginning on the date the order of dismissal is signed and continuing while the class representatives diligently pursue the administrative remedy identified in the order of dismissal.

Sec. 26.005. ABATEMENT OR DISMISSAL. (a) Requires a court, on motion of a party, to abate or dismiss without prejudice an action if the court determines certain factors are met.

(b) Requires the court to specify in its order of abatement or dismissal the state agency and the agency statute or rule on which it based its order.

(c) Requires a court that abates an action under this section to refer specific issues or claims within a state agency's jurisdiction to the agency for action, and direct the state agency to report to the court periodically concerning the disposition of the matters referred to the agency.

(d) Provides that the limitations period applicable to an action dismissed under this section is suspended for members of the putative class with respect to the defendants named in the class action commenced in a court of this state for a period beginning on the date the order of dismissal is signed and continuing while the class representatives diligently pursue the administrative remedy identified in the order of dismissal.

Sec. 26.006. PERIOD OF ABATEMENT. (a) Requires the court to provide that the period of abatement is at least six months from the date the court enters the order of abatement.

(b) Authorizes the court to extend the period of abatement if the court determines that the state agency is proceeding diligently to resolve the matters the court referred to the agency.

(c) Provides the period of abatement ends when the state agency takes its final action on the matters the court referred to the agency or the court determines that the state agency is not proceeding diligently to resolve the matters the court referred to the agency.

Sec. 26.007. PROCEEDING AFTER ABATEMENT; DISMISSAL. (a) Authorizes the court, after the abatement period, to proceed with the action.

(b) Requires a court to dismiss an action if the court makes certain determinations.

(c) Provides that relief awarded to a claimant may be adequate even if the relief does not include exemplary damages, multiple damages, attorney's fees, or costs of court.

(d) Provides that if a person seeks judicial review of a state agency's decision on a matter referred to the agency by the court, the court may transfer venue of the action to a county of proper venue for the judicial review if the court determines that certain requirements are met.

SECTION 8. (a) Effective date: September 1, 2001.

(b) Provides that this Act applies to a suit commenced on or after the effective date of this Act, a suit pending on the effective date of this Act in which an order granting or denying class certification has not been signed, and a suit pending on the effective date of this Act in which an order granting or denying class certification has been signed but the time for appeal has not elapsed.