

BILL ANALYSIS

Senate Research Center

H.B. 2988
By: Nixon (Ellis)
State Affairs
5/17/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The waiver of sovereign immunity is a matter exclusively reserved to the legislature. Under current law, several statutes provide for a limited waiver of immunity against the government, but require that certain steps, known as statutory prerequisites, be taken to take advantage of the waiver. Compliance with the statutory prerequisites to filing suit is often an issue in litigation, and considerable confusion has arisen in the courts regarding whether such compliance is a jurisdictional matter or not.

Whether or not compliance with statutory prerequisites is jurisdictional has important consequences. If the requirements are jurisdictional and compliance has not occurred, then a governmental entity may file a plea to contest the trial court's jurisdiction over the case and, if the plea is denied, may file an immediate appeal. Allowing an immediate appeal permits conservation of all parties' resources during determination of the appeal, instead of requiring the expenditure of funds to try lawsuits that are ultimately determined to be outside the limited waiver of immunity.

H.B. 2988 makes clear that statutory prerequisites are jurisdictional requirements in all suits against government entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 311.034, Government Code, to provide that statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.

SECTION 2. Effective date: September 1, 2005.