

BILL ANALYSIS

Senate Research Center
80R7786 CAE-D

S.B. 1678
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State Affairs
4/12/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Part of the tort reform package of 2003 was added to prevent plaintiffs from bringing suit against employees of hospital districts and county hospitals. Section 101.106 (Election of Remedies), Civil Practice and Remedies Code, provides that suit could not be brought against such employees if the suit “could have been brought under this chapter against the governmental unit.”

As a result of that section, the legislature changed the enabling legislation of the Maverick County Hospital District in order to allow the district to employ physicians. These two changes had a positive impact on healthcare in the area, as it had experienced difficulty in convincing physicians to establish practices there due to the county’s litigious nature and the economics of the health care profession along the Texas border. However, several courts of appeal interpreted Section 101.106 as authorizing suits against employees if a court determines that the suit could not have been filed against a hospital district or hospital, even if the conduct of the employee for which suit is being brought was in the scope of the employee’s job. As such, Maverick County Hospital District can no longer represent to potential health care employees that they are immune from suit if they become employees of the district. This has significantly hurt the retention and recruitment of these needed health care employees.

As proposed, S.B. 1678 closes this loophole in the Texas Tort Claims Act by deleting the problematic text and further specifying what constitutes a suit against an employee in the employee’s official capacity only.

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 101.106(f), Civil Practice and Remedies Code, to provide that if a suit is filed against an employee of a governmental unit alleging negligence for an act or omission occurring during the general course and scope of that employee's employment, rather than filed based on conduct within that scope, the suit is considered to be against the employee in the employee's official capacity only. Deletes existing text providing that such a suit is considered to be as provided above if the suit could have been brought under this chapter (Tort Claims) against the governmental unit.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.