

## BILL ANALYSIS

Senate Research Center

C.S.S.B. 2031

By: Ogden

Finance

4/30/2007

Committee Report (Substituted)

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the attorney general or other attorney representing the state may enter into a settlement of a claim or action against the state without the approval of the legislature. There is no current means for limiting the extent to which this state waives its sovereign immunity with regard to a settlement of a claim or action against the state that requires an expenditure of state funds.

C.S.S.B. 2031 limits the types of settlement that the attorney general or other attorney representing the state may enter into without the approval of the legislature.

### RULEMAKING AUTHORITY

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

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 111, as follows:

#### CHAPTER 111. LIMITATION ON SETTLEMENT OF CLAIM OR ACTION AGAINST THE STATE

Sec. 111.001. PURPOSE; APPLICABILITY. (a) Provides that the purposes of this chapter include providing a means for the legislature to determine the extent to which this state waives its sovereign immunity with regard to a settlement of a claim or action against the state that requires an expenditure of state funds.

(b) Provides that this chapter applies to any settlement of a claim or action against this state seeking any relief under any theory of recovery, including a mandamus action against a state officer or official, that is brought or may be brought in or before any court, administrative agency, or other tribunal.

(c) Provides that for purposes of this chapter, a reference to this state includes any agency, institution, or other entity of state government.

Sec. 111.002. DEFINITION. Defines "settlement."

Sec. 111.003. LIMITATION ON SETTLEMENT WITHOUT LEGISLATIVE CONSENT OR APPROVAL. (a) Prohibits the attorney general or other attorney representing this state from entering into a settlement of a claim or action against this state without the consent or approval of the legislature in accordance with this chapter if the settlement requires this state to pay total monetary damages in an amount that exceeds \$5,000,000, or commits this state to a course of action that in reasonable probability will entail an expenditure of state funds in an amount that exceeds \$10,000,000 during the two-year period beginning on the date that the state is to begin the course of action under the settlement.

(b) Provides that a settlement described by Subsection (a) entered into without the prior consent or approval of the legislature is void unless the settlement is

expressly conditioned on obtaining subsequent approval by the legislature in accordance with this chapter.

Sec. 111.004. FORM OF CONSENT OR APPROVAL. (a) Authorizes the legislature to consent to or approve a settlement described by Section 111.003(a) only by a resolution adopted by both houses of the legislature.

(b) Authorizes, but does not require, that legislative consent under this chapter be expressed in the form of a resolution granting permission to sue the state that limits the relief to which a claimant may be entitled or provides additional conditions to which a grant of permission to sue is subject.

Sec. 111.005. APPROPRIATIONS. (a) Provides that an appropriation of state funds to pay or comply with a settlement for purposes of this chapter does not constitute consent to or approval of the settlement for purposes of this chapter.

(b) Prohibits a resolution that consents to or approves a settlement under this chapter from requiring the legislature to appropriate a particular amount for a particular purpose. Provides that a resolution does not require the legislature to appropriate a particular amount for a particular purpose.

SECTION 2. Makes application of Chapter 111, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.