

BILL ANALYSIS

Senate Research Center
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H.B. 487
By: Bell et al. (Nichols)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State law provides immunity from civil liability for a person responding to a disaster at the request of an authorized representative of a local, state, or federal agency, except in a case of reckless conduct or intentional, wilful, or wanton misconduct. A recent court case has been interpreted to affirm that immunity, but there is concern that despite such protections, local officials resist accepting volunteer services while responding to hazardous or dangerous situations because of a fear of being exposed to liability suits based on a volunteer's actions. H.B. 487 seeks to address those concerns by clarifying existing law with regard to a local official's authority to request or accept assistance in a hazardous or dangerous situation and with regard to a person's immunity from liability in providing such assistance.

H.B. 487 amends current law relating to liability of certain persons assisting in man-made or natural disasters.

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 Chapter 370, Local Government Code, by adding Section 370.006, as follows:

Sec. 370.006. ASSISTANCE IN MAN-MADE OR NATURAL DISASTER. (a) Authorizes the governing body of a municipality, the chief of the fire department, or an emergency management director or coordinator designated for the municipality under Section 418.1015 (Emergency Management Directors), Government Code, to request or accept any care, assistance, or advice described by Section 79.003(a) (relating to providing that, except in a case of reckless conduct or intentional, wilful, or wanton misconduct, a person is immune from civil liability for certain acts), Civil Practice and Remedies Code, including the loan or operation of construction equipment or other heavy equipment by the owner or operator of the equipment, as applicable, or the donation of resources to the extent the governing body, chief, or emergency management director or coordinator believes necessary to address a man-made or natural disaster.

(b) Authorizes the commissioners court of a county, the county judge, the county fire marshal, an incorporated volunteer fire department under contract with a county under Section 352.001 (Fire Protection of County Residents), a volunteer fire department described by Section 352.005 (Contractual Provision of Fire-Fighting Equipment or Services), as applicable, or an emergency management director or coordinator designated for the county under Section 418.1015, Government Code, to request or accept any care, assistance, or advice described by Section 79.003(a), Civil Practice and Remedies Code, including the loan or operation of construction equipment or other heavy equipment by the owner or operator of the equipment, as applicable, or the donation of resources to the extent the commissioners court, county judge, county fire marshal, volunteer fire

department, or emergency management director or coordinator believes necessary to address a man-made or natural disaster.

(c) Provides that a person as defined by Section 79.001 (Definitions), Civil Practice and Remedies Code, who provides care, assistance, or advice to a municipality or county in the manner described by this section is immune from civil liability as provided by Section 79.003 (Disaster Assistance), Civil Practice and Remedies Code.

(d) Provides that Subsection (a) or (b) does not authorize the acceptance of care, assistance, or advice in violation of any other law or contractual agreement that prohibits the acceptance of that care, assistance, or advice.

SECTION 2. Provides that Section 370.006, Local Government Code, as added by this Act, is intended only to clarify existing law with respect to the power of certain local officials to request or accept certain assistance in certain situations and the applicability of Section 79.003, Civil Practice and Remedies Code, to certain persons providing certain assistance in certain situations.

SECTION 3. Effective date: upon passage or September 1, 2013.