

BILL ANALYSIS

C.S.H.B. 475
By: Eiland
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Section 30.003 of the Civil Practices and Remedies Code establishes procedures whereby an attorney who is a member of the Legislature may seek and obtain a legislative continuance of a case in which the attorney is providing representation. The current procedures for a legislative continuance have been criticized as unfair to the opposing party in a lawsuit because a legislator may be hired and receive a continuance shortly before a trial is scheduled to begin. The purpose of C.S.H.B. 475 is to modify procedures for seeking and obtaining a legislative continuance to make the process more equitable for all parties to the litigation.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, institution, or agency.

ANALYSIS

C.S.H.B. 475 amends Section 30.003, Civil Practices and Remedies Code, to provide, with certain exceptions, that if a trial date has been set in a suit and a legislative continuance is sought, the continuance is discretionary with the court unless the application for the continuance is filed with the court on or before the earlier of:

- the 30th day after the date on which the court sets the date for the trial to begin; or
- the 90th day before the date set for the trial to begin.

C.S.H.B. 475 also provides procedures for determining when a newly-elected member of the Legislature may seek and obtain a legislative continuance.

C.S.H.B. 475 establishes certain exceptions to the provisions described above. The provisions do not apply:

- to an action under the Family Code;
- in a civil suit if the application for a legislative continuance is filed on or before the 10th day after the date the suit is initially filed with the court; and
- in a criminal case if the application for a legislative continuance is filed on or before the 10th day after the date of the defendant's first court appearance.

C.S.H.B. 475 provides that, except as otherwise provided by Section 30.003, Civil Practices and Remedies Code, the continuance is one of right.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003. The Act applies only to an application or request for a continuance made on or after the effective date of the Act.

COMPARISON OF ORIGINAL TO SUBSTITUTE

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C.S.H.B. 475 adds new language exempting actions under the Family Code from certain provisions of Section 30.003 that describe the circumstances under which granting an application for a legislative continuance is discretionary with the court.

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