

BILL ANALYSIS

H.C.R. 163
By: Miller
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2001, the State of Texas filed suit against Town Talk Foods (“Town Talk”), a discount grocer, and Thomas E. Potthoff, its President, seeking injunctive relief and the imposition of civil fines and penalties for alleged violations of the Health & Safety Code arising from the investigation of a botulism outbreak that occurred during August and September 2001 in the North Central Texas area.

HCR 163 will allow Town Talk and Mr. Potthoff to pursue a counterclaim against the State and hold it accountable for actions and statements of TDH officials.

RULEMAKING AUTHORITY

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

ANALYSIS

HCR 163 grants permission to Town Talk Foods, Inc., and Thomas E. Potthoff to sue the State of Texas and the Texas Department of Health for any and all causes of action, including breach of contract, claims for relief under the Uniform Declaratory Judgments Act, and claims for relief under the Administrative Procedure Act, that relate to or arise from the facts and circumstances described in this resolution, subject to Chapter 107, Civil Practice and Remedies Code; and that the suit be brought in Tarrant County; and that the total of all damages awarded in the suit authorized by this resolution, including any court costs and prejudgment interest, but not including attorney's fees incurred by Town Talk Foods, Inc., and Thomas E. Potthoff, may not exceed \$3 million; and that this amount, plus attorney's fees, is the total amount that may be recovered and that the commissioner of public health of the Texas Department of Health be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.