

BILL ANALYSIS

Senate Research Center
78R10917 ATP-F

C.S.S.B. 1017
By: Wentworth
Jurisprudence
4/5/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

In May 2002, the Texas Supreme Court held that Section 89.004, Local Government Code, does not clearly and unambiguously waive immunity from suit for claims against counties. C.S.S.B. 1017 prohibits a person from filing suit against a county or certain county officials unless the person follows certain procedures. This bill also amends Chapter 262A, Local Government Code, to clearly state that a county may sue or be sued.

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 89.004(a), Local Government Code, to prohibit a person from filing suit on a claim against a county or an elected or appointed county official in the official's capacity as an appointed or elected official unless the person has presented the claim to the commissioners court and the commissioners court neglects or refuses to pay all or part of the claim before the 60th day after the date of the presentation of the claim.

SECTION 2. Amends Chapter 262A, Local Government Code, by adding Section 262.007, as follows:

Sec. 262.007. SUIT AGAINST COUNTY ARISING UNDER A CONTRACT.
Authorizes a county that is a party to a written contract to sue or be sued, plead or be impleaded, or defend or be defended in any court on a claim arising under the contract. Requires a suit on a contract brought by a county to be brought in the name of the county, and a suit on a contract brought against a county to identify the county by name.

SECTION 3. Effective date: September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 1017, Section 89.004(a)-(b), Local Government Code, to delete the new proposed heading for Section 89.004 and amend Subsection (a), rather than to create Subsection (a) from existing text in Subsection (b). Deletes the proposed Subsection (a) contained in the original.

SECTION 2. Creates a new proposed SECTION 2 amending Chapter 262A, Local Government Code and redesignates originally proposed SECTION 2 as SECTION 3.