

By: Dutton

H.B. No. 352

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a legislative continuance of a contested case before a
3 state agency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 30.003, Civil Practice and Remedies
6 Code, is amended to read as follows:

7 Sec. 30.003. LEGISLATIVE CONTINUANCE. (a) This section
8 applies to any criminal or civil suit, including matters of
9 probate, to a contested case under Chapter 2001, Government Code,
10 and to any matters ancillary to the suit or contested case that
11 require action by or the attendance of an attorney, including
12 appeals but excluding temporary restraining orders.

13 (b) Except as provided by Subsection (c), at any time within
14 30 days of a date when the legislature is to be in session, at any
15 time during a legislative session, or when the legislature sits as a
16 constitutional convention, the court or state agency on application
17 shall continue a case in which a party applying for the continuance
18 or the attorney for that party is a member of the legislature and
19 will be or is attending a legislative session. The court or state
20 agency shall continue the case until 30 days after the date on which
21 the legislature adjourns.

22 (c) If the attorney for a party to the suit [~~case~~] is a
23 member of the legislature who was employed within 10 days before the
24 date on which the suit is set for trial, the continuance is

1 discretionary with the court. If the attorney for a party to a
2 contested case under Chapter 2001, Government Code, is a member of
3 the legislature who was employed within five days before the date on
4 which the contested case is set for a hearing or within 10 days
5 before the date on which a contested case in which a hearing has
6 been held is scheduled to be considered for a final order or
7 decision, the continuance is discretionary with the state agency.

8 (d) The party seeking the continuance must file with the
9 court or state agency an affidavit stating the grounds for the
10 continuance. The affidavit is proof of the necessity for a
11 continuance. The affidavit need not be corroborated.

12 (e) If the member of the legislature is an attorney for a
13 party, the affidavit must contain a declaration that it is the
14 attorney's intention to participate actively in the preparation or
15 presentation of the case and that the attorney has not taken the
16 case for the purpose of obtaining a continuance under this section.

17 (f) The continuance provided by Subsection (b) is one of
18 right and may not be charged against the party receiving it on any
19 subsequent application for continuance.

20 (g) In a contested case regarding a matter in which a state
21 agency is required by state law to decide a matter within a
22 prescribed amount of time, the deadline for decision is extended by
23 the number of days during which the case is continued under this
24 section.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2003.