

By: Martinez Fischer

H.B. No. 3027

A BILL TO BE ENTITLED

1 AN ACT

2 relating to notice and appearance of attorneys representing
3 governmental entities at a hearing for a temporary restraining
4 order.

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

6 SECTION 1. Rule 680, Texas Rules of Civil Procedure, is
7 amended to read as follows:

8 Rule 680. TEMPORARY RESTRAINING ORDER. No temporary
9 restraining order shall be granted without notice to the adverse
10 party unless it clearly appears from specific facts shown by
11 affidavit or by the verified complaint that immediate and
12 irreparable injury, loss or damage will result to the applicant
13 before notice can be served and a hearing had thereon. In any case
14 involving a governmental entity, the temporary restraining order
15 shall not be granted until reasonable notice and an opportunity to
16 appear are provided by the trial court to the attorney representing
17 the governmental entity. Every temporary restraining order granted
18 without notice shall be endorsed with the date and hour of issuance;
19 shall be filed forthwith in the clerk's office and entered of
20 record; shall define the injury and state why it is irreparable and
21 why the order was granted without notice; and shall expire by its
22 terms within such time after signing, not to exceed fourteen days,
23 as the court fixes, unless within the time so fixed the order, for
24 good cause shown, is extended for a like period or unless the party

1 against whom the order is directed consents that the order may be
2 extended for a longer period. The reasons for the extension shall
3 be entered of record. No more than one extension may be granted
4 unless subsequent extensions are unopposed. In case a temporary
5 restraining order is granted without notice, the application for a
6 temporary injunction shall be set down for hearing at the earliest
7 possible date and takes precedence of all matters except older
8 matters of the same character; and when the application comes on for
9 hearing the party who obtained the temporary restraining order
10 shall proceed with the application for a temporary injunction and,
11 if he does not do so, the court shall dissolve the temporary
12 restraining order. On two days' notice to the party who obtained
13 the temporary restraining order without notice or on such shorter
14 notice to that party as the court may prescribe, the adverse party
15 may appear and move its dissolution or modification and in that
16 event the court shall proceed to hear and determine such motion as
17 expeditiously as the ends of justice require.

18 Every restraining order shall include an order setting a
19 certain date for hearing on the temporary or permanent injunction
20 sought.

21 SECTION 2. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2003.