

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 2, 2003

TO: Honorable Robert Duncan, Chair, Senate Committee on Jurisprudence

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1017 by Wentworth (Relating to the ability of a county to sue and be sued.), As
Introduced

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| No fiscal implication to the State is anticipated. |
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The bill would authorize a county to sue or be sued, plead or be impleaded, or defend or be defended in any court. The bill would take effect September 1, 2003.

While the current and proposed statute require a person to first present a claim to the commissioners court before the person may file suit against a county, the existing statute does not specifically authorize a county to sue, be sued, plead, be impleaded, or defend or be defended in any court.

The provisions of the bill to allow a lawsuit by or against a county in "any court" could result in an increased number of changes of venue and therefore impact costs to not only the courts in which the lawsuit is tried, but also increase the costs for the county being sued if it has to send staff to another location for a trial. Regardless of the preparation time for a lawsuit and time spent in court, the costs are expected to be significant, and would increase if any appeals should result. If a plaintiff against a county is required to pay costs of the suit, the costs would be recouped by the county; if the plaintiff were to prevail, the county would incur the costs plus any judgment against the county.

In addition to costs related to a change of venue, specifically authorizing that a county may be sued may result in an increase in the number of suits filed. Preparing for and defending against a lawsuit requires significant costs.

It is assumed that if a county were to file a suit, it would do so in a local court and under circumstances in which the county believes there is a likelihood of recovering the court costs plus any judgments sought.

Local Government Impact

Costs to a county would depend on whether or not there are lawsuits filed against the county, in what court the suit is filed, how many suits are filed, and the outcome of the trial. Costs are expected to be significant for each lawsuit in which the county is a defendant.

Source Agencies:

LBB Staff: JK, GO, DLBa, JB