

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 4, 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.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would prohibit a person from filing a suit against a county or an elected or appointed county official acting in their capacity as an elected or appointed county official unless the person first presents a claim to the commissioners court and the commissioners neglect or refuse to act on the claim before the sixtieth day after the date the claim is presented.

Further, the bill would authorize 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.

The bill would take effect September 1, 2003.

Under current statute, a person with a claim against a county must present that claim to the commissioners court and the claim must be neglected or refused before the person is allowed to sue the county, but no time frame is identified. The proposed revised statute would set a specific time frame in which the county commissioners court must respond to a claim and would also add that a person could bring a claim, and if applicable later file suit, against an elected or appointed county official.

Under current statute, counties are immune from liability for contract suits. The proposed addition to statute would remove that immunity.

According to the Office of Court Administration, implementation of the bill would not result in a fiscal impact on the state, nor on the local court systems, but removing a county's immunity from liability for contract suits presents the potential for counties to incur significant costs in legal expenses and in any judgments a county may lose.

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 each trial. Costs are expected to be significant for each lawsuit in which the county is a defendant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

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