

## **BILL ANALYSIS**

C.S.H.B. 1089  
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Civil Practices  
Committee Report

### **BACKGROUND AND PURPOSE**

A person who provides information or testimony to governmental entities may be subject to various forms of harassment lawsuits generally known as Strategic Lawsuits Against Public Participation (SLAPP). Current law exposes complainants to liability in harassment suits for claims such as libel or slander regardless of the accuracy of the contents of their complaint, and compels complainants to incur costs or other expenses to defend against such claims. CSHB 1089 seeks to protect complainants by preventing claimants from filing causes of action against the complainant (or SLAPP suits) before final action on a complaint has been taken by the government agency or entity.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Creates Chapter 140 in Title 6 of the Civil Practice and Remedies Code concerning civil actions against persons filing complaints with governmental agencies or quasi-governmental entities.

CSHB 1089 adds Chapter 140, Civil Actions Against Persons Filing Complaints with Governmental Agencies or Quasi-Governmental Entities, to the Civil Practices and Remedies Code. The proposed legislation defines a complainant as a person who files a complaint with a governmental agency or quasi-governmental entity. CSHB 1089 defines claimant as a person who may bring suit as, or by or on behalf of a person who may be adversely affected by the complaint and thus, has a basis for relief.

CSHB 1089 prevents a claimant from filing a cause of action against a complainant before the government entity or agency takes final action on the complaint. This final action may be a statement that the agency or entity will not take action on the complaint. In the event that a claimant files a civil action under this chapter, and the complaint motions for review, the government agency or entity must determine whether final action has been taken on the complaint. If final action has not occurred, the civil action is abated until the claimant demonstrates that final action has been taken.

The proposed legislation does not apply to claims if: (1) the complaint is confidential and not available by public record; or (2) the complainant is an employee or former employee of the person who is the subject of the complaint. This Chapter does not create or authorize claims against governmental entities or officers, agents, employees acting in their official capacities. Claimants also may not seek indemnification from the State for claims filed under this Chapter.

The statute of limitations for filing a civil action under this Chapter is tolled from the filing of the complaint to the date final action has been taken on the complaint.

SECTION 2: States this Act only applies to a civil action asserting a cause of action described by Sec 140.002, Civil Practice and Remedies Code, as added by this Act. Civil actions filed before the effective date of this Act are governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

C.S.H.B. 1089 80(R)

SECTION 3: Effective date of Sept. 1, 2007

**EFFECTIVE DATE**

This Act takes effect September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 1. Section 140.001 of the original bill defines bad faith, exemplary damages, good faith, groundless, and harassing conduct. The substitute bill has no such definitions.

Section 140.002 provides for the applicability of when this section applies to a certain civil action. The substitute clarifies a "claim made on a basis of an action" by replacing such language in the original bill with "civil action." The substitute also deletes from the original bill any reference to harassing in conduct, venue, and removal.

Section 140.003 in the original bill is deleted in the substitute.

Section 140.051 provides that a civil action may not be filed under a cause of action to which this chapter applies until final action has been taken by the agency or entity. The substitute deletes any reference to burden of pleading which the original bill made.

Section 140.052 provides abatement for any civil action filed in conflict with Section 140.051. The substitute deletes any reference to liability for a good faith complaint which was language from the original bill.

Section 140.053 provides a tolling of the statute of limitations from the time the complaint is filed until the final action occurs for a civil action asserting a cause of action to which this chapter applies. The original bill made reference to summary judgment and an expedited hearing to determine bad faith claim. The substitute deletes any reference to summary judgment and an expedited hearing to determine bad faith claim.

Sections 140.054-140.156 are deleted in the substitute.. These sections were in the original bill titled Sec. 140.054 Bad Faith Claim; Exemplary Damages Authorized; Sec. 140.055 Court Costs and Attorney's Fees; Sec. 140.056 Professional Discipline.

Section 140.101 is deleted in the substitute which was a section titled Liability for Harassing Conduct; Exemplary Damages Authorized in the original bill..

SECTION 2. changes "a claim" in the original bill to "an action asserting a claim" in the substitute bill.