

BILL ANALYSIS

C.S.H.B. 3508
By: Hilderbran
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Soil and Water Conservation District directors serve as volunteer members of their local boards. The 217 individual local soil and water conservation districts in Texas are political subdivisions of state government that are responsible for comprehensive natural resource conservation and protection. Each local district has five board members (directors) who are elected by agricultural producers and property owners. Each district serves as the local governmental entity that (1) establishes the priorities for voluntary state and federal financial assistance conservation programs, (2) employs individuals who provide technical conservation advice and assistance, (3) serves as the entity through which program dollars are passed on to participants, and (4) provides verification that program dollars are properly utilized. The state has prohibited these local districts from levying a tax and provides limited amounts of funds to these districts to carry out their duties and/or hire an attorney in the event a board member, or the district is sued. The prospect of being sued and possibly losing their farms and ranches by serving in their official capacity has caused many district directors to consider resigning their positions.

C.S.H.B. 3508 is intended to protect the volunteers who serve on the local soil and water conservation district boards from liability with respect to their official capacity.

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. Amends Chapter 104, Civil Practice and Remedies Code by adding Section 104.0021 as follows:

Sec. 104.0021. STATE LIABILITY: SOIL AND WATER CONSERVATION DISTRICTS.

(a) In a cause of action based on conduct described by Sec. 104.002(a), the State Soil and Water Conservation Board is required to indemnify a director of a soil and water conservation district for actual damages, court costs and attorney's fees adjudged against the director without regard to whether the director performed the director's services for compensation.

(b) Provides that for the purposes of Section 104.002(a), an act or omission by a director of a soil and water conservation district in the course and scope of the person's position as a director of the district is considered an act or omission by the director in the course and scope of the person's office, employment, or contractual performance for or service on behalf of the State Soil and Water Conservation Board.

(c) In addition to liability for indemnification under Subsection (a), the State Soil and Water Conservation Board is required to indemnify a director of a soil and water conservation district as provided by Section 104.0035. For the purposes of that section, the director of the district is considered a person covered by Section 104.001.

(d) Requires that the attorney general defend a director of a soil and water conservation district in a cause of action covered by this section. Sections 104.004 (b) and (c) apply to representation by the attorney general under this subsection.

SECTION 2. Amends Section 108.001(1)(B), Civil Practice and Remedies Code, by adding Section 104.0021.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 4: Effective Date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The introduced version does not contain Section 104.0021, Civil Practice and Remedies Code, as provided in C.S.H.B. 3508, rather the introduced version amends Chapter 201, Subchapter C, Agriculture Code to provide that a director is not individually liable for any act that is incident to or within the scope of duties of the director's position and that involves the exercise of judgment or discretion on the part of the director. The introduced version also provided that if a suit is filed against a director in their individual capacity based on conduct within the scope of that director's position, the suit is considered to be against the director in the director's official capacity only. On the director's motion, the suit against the director is required to be dismissed unless the plaintiff files amended pleadings dismissing the director and naming the district as defendant on or before the 30th day after the date the motion is filed.

C.S.H.B. 3508 amends Section 108.001(1)(B), Civil Practice and Remedies Code, by adding Section 104.0021.

The introduced version does not contain the addition to Section 108.001(1)(B).

SECTION 3 of C.S.H.B. 3508 provides that the change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act.

The introduced version does not contain a similar provision.

C.S.H.B. 3508 provides for an effective date of September 1, 2007.

The introduced version provides for immediate effect upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.