

BILL ANALYSIS

S.B. 1613
By: Duncan
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 district has five board members (directors) elected to serve voluntarily by agricultural producers and property owners. The state has prohibited these districts from levying any tax and provides a limited amount of funding to these districts to carry out their duties or hire an attorney in the event a director or district is sued. The prospect of being sued and losing a farm or ranch by serving in an official capacity has led many directors to consider resigning their positions.

S.B. 1613 indemnifies a director for actual damages, court costs, and attorney's fees adjudged against the director in a cause of action based on certain acts or omissions within the scope of duties of the director's position.

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) Requires the State Soil and Water Conservation Board (board), in a cause of action based on conduct described by Section 104.002(a) (an act or omission by the person in the course and scope of the person's office, employment, or contractual performance), to indemnify a soil and water district director (director) 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 in the course and scope of the person's position as a director 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 board.

(c) Requires the board, in addition to liability for indemnification under Subsection (a), to indemnify a director as provided by Section 104.0035 (State Liability; Criminal Prosecution). Provides that, for the purposes of that section, the director is considered a person covered by Section 104.001 (State Liability; Persons Covered).

(d) Requires the attorney general to defend a director in a cause of action covered by this section. Provides that Sections 104.004 (b) (authorizing the attorney general to settle or compromise the portion of a lawsuit that may result in state liability) and (c) (providing that it is not a conflict of interest for the attorney general to defend and to prosecute a person under this chapter if different assistant attorneys general are assigned the responsibility for each action) apply to representation by the attorney general under this subsection.

SECTION 2. Amends Section 108.001(1), Civil Practice and Remedies Code, to redefine “public servant” to make a conforming change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. EFFECTIVE DATE: September 1, 2007.

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