

By: Hinojosa

S.B. No. 447

A BILL TO BE ENTITLED

AN ACT

relating to governmental liability for a violation of the federal Americans with Disabilities Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. GOVERNMENTAL LIABILITY UNDER CERTAIN FEDERAL LAWS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Governmental unit" has the meaning assigned by Section 101.001.

(2) "State government" has the meaning assigned by Section 101.001.

Sec. 111.002. WAIVER OF IMMUNITY. (a) The sovereign immunity of a governmental unit from suit and from liability is waived for the limited purpose of allowing any person to maintain a lawsuit in state or federal court and obtain and, within the limits provided by Section 111.003, satisfy a judgment against a governmental unit under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.).

(b) This section does not require a governmental unit to:

(1) provide an individual with a disability with:
(A) a personal or individually prescribed device, such as a wheelchair, prescription eyeglasses, or a hearing aid; or

1 (B) services of a personal nature, such as
2 assistance in eating, toileting, or dressing; or

3 (2) make a change or adjustment to a program of the
4 governmental unit if, under the circumstances, the change or
5 adjustment would result in a significant difficulty or expense
6 relative to the operation of the program.

7 (c) If a particular accommodation would result in
8 circumstances described by Subsection (b)(2), the governmental
9 unit must determine whether another accommodation is available that
10 would not result in those circumstances.

11 Sec. 111.003. LIMITATION ON AMOUNT OF LIABILITY. (a) The
12 liability of the state government under Section 111.002 is limited
13 to money damages in a maximum amount of:

14 (1) \$250,000 for each person; and

15 (2) \$500,000 for each single occurrence.

16 (b) Except as provided by Subsection (c), liability of a
17 unit of local government under Section 111.002 is limited to money
18 damages in a maximum amount of:

19 (1) \$100,000 for each person; and

20 (2) \$300,000 for each single occurrence.

21 (c) Liability of a municipality under Section 111.002 is
22 limited to money damages in a maximum amount of:

23 (1) \$250,000 for each person; and

24 (2) \$500,000 for each single occurrence.

25 SECTION 2. The change in law made by this Act applies only
26 to a cause of action that accrues on or after the effective date of
27 this Act. A cause of action that accrues before the effective date

1 of this Act is governed by the law in effect immediately before that
2 date, and that law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2007.