

BILL ANALYSIS

C.S.H.B. 3557
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A municipality may wish to work out an agreement with a private entity for a future development, including the purchase of property from the U.S. government. This type of agreement may require the developer to provide funds for the purchase of property or infrastructure. Because of laws regarding a municipality's sovereign immunity, a private entity may be reluctant to enter into such an agreement, and thus the municipality would be denied a valuable development opportunity. In such cases, it may be in the municipality's best interest to be able to waive its sovereign immunity as it relates to specific performance.

C.S.H.B. 3557 authorizes certain municipalities to waive sovereign immunity from suit under specific circumstances.

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

C.S.H.B. 3557 amends the Local Government Code to add provisions that apply only to a home-rule municipality with a population of less than 30,000 that is located in a county with a population of less than 140,000. The bill establishes that a municipality waives sovereign immunity from suit for the purpose of adjudicating a claim for breach of contract if the municipality enters into a contract with a private entity for the sale or conveyance of not less than 400 or more than 1,000 acres of land that was acquired by the municipality from an agency of the United States. The bill entitles a plaintiff who prevails in such an action brought under these provisions against a municipality only to specific performance of the terms of the contract, reasonable attorney's fees, and costs of court.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3557 establishes that the circumstances under which certain municipalities waive sovereign immunity from suit include adjudicating a claim for breach of contract, whereas the original includes adjudicating a claim for the specific performance of a contract. The substitute includes entering into a contract with a private entity, whereas the original includes entering into a contract with a nongovernmental entity. The substitute differs from the original by including a standard savings provision and using language reflective of certain bill drafting conventions.