

BILL ANALYSIS

C.S.H.B. 4126
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1999, the Supreme Court of Texas decided the case of *Fleming Foods v. Rylander*, 6 S.W.3d 278 (Tex. 1999), in which the court held that a change in wording in a nonsubstantive recodification of the Tax Code prepared by the Texas Legislative Council and passed by the 66th Legislature, Regular Session, 1979, had substantive effect. Since that time, executive branch agencies and other courts have followed *Fleming Foods*.

Section 43, Article III, Texas Constitution, expressly directs the legislature to periodically perform revisions that are nonsubstantive, and the legislature has provided in Section 323.007, Government Code, for the Texas Legislative Council to prepare recodifications that have no substantive effect.

C.S.H.B. 4126 amends the Government Code to require, when the legislature carries out the mandatory nonsubstantive revisions directed by Section 43, Article III, Texas Constitution, the courts, executive branch agencies, and other entities to give such a revised statute the same substantive effect and meaning it had before the nonsubstantive revision.

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. 4126 amends the Government Code to require the Supreme Court of Texas, a court, executive branch, or other entity interpreting and applying a codified or revised statute to give the statute the same effect and meaning that was or would have been given to the statute before its codification or revision, notwithstanding the repeal of the prior statute and regardless of any omission or change in the codified or revised statute that the court, executive branch, or other entity would otherwise find to be direct, unambiguous, and irreconcilable with the prior version of the statute. The bill requires that any omission or change in the codified or revised statute be considered unintended and be given no effect if the court, executive branch, or other entity finds no direct express evidence of legislative intent to change the sense, meaning, or effect of the statute. The bill applies these provisions to the interpretation or application by a court, executive branch agency, or other entity of the statute at issue if the statute at issue was enacted by the legislature under provisions of the Texas Constitution relating to the revision of laws in an enactment having the purpose, declared by the legislature in the enactment, of codifying or revising without substantive change statutes that individually relate to different subjects, and if the statute was prepared for the legislature's consideration by the Texas Legislative Council under the authority of the statutory revision program. The bill establishes that the codification or revision of a statute to which these provisions apply does not affect the meaning or effect of the statute.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4126 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.