

## **BILL ANALYSIS**

C.S.H.B. 1450  
By: Guillen  
Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Parks and Wildlife Department (TPWD) uses hundreds of volunteers throughout the agency to perform diverse tasks that would otherwise be done by the department's staff. In recent years, it has become difficult for TPWD to obtain private insurance that would cover its volunteers when they operate department vehicles. If a park visitor is the victim of a motor vehicle accident caused by the negligence of a park worker, the visitor's ability to recover damages from the department depends on whether the worker is an employee or a volunteer because the department is not liable for motor vehicle accidents caused by volunteers. C.S.H.B. 1450 addresses this situation by requiring TPWD to perform a study regarding potential tort liability arising from the operation of a department-owned motor vehicle by a volunteer.

### **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. 1450 requires the Parks and Wildlife Department (TPWD) to conduct a study and issue a report regarding potential tort liability arising from the operation of a department-owned motor vehicle by a person in the course and scope of performing volunteer services for the department. The bill requires TPWD, in conducting the study, to consult with the Office of the Attorney General, the State Office of Risk Management, the Texas Department of Insurance, organized volunteer groups, and other interested persons and organizations. The bill requires the report to identify and evaluate alternatives for providing tort liability protection for persons operating a department-owned motor vehicle in the course and scope of performing volunteer services for the department, evaluate the extent to which the alternatives provide protection for members of the public, make recommendations for providing the tort liability protection, and specify the estimated costs of implementing those recommendations.

C.S.H.B. 1450 requires TPWD to submit the report not later than December 1, 2012, to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committees.

C.S.H.B. 1450 makes its provisions expire September 1, 2013.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1450 contains a provision not included in the original requiring the Parks and Wildlife Department (TPWD) to conduct a study and issue a report regarding potential tort liability

arising from the operation of a department-owned motor vehicle by a person in the course and scope of performing volunteer services for the department. The substitute contains provisions not included in the original requiring TPWD, in conducting the study, to consult with certain entities and requiring the report to identify and evaluate alternatives for providing tort liability, evaluate the extent to which the alternatives provide protection for members of the public, make recommendations for providing the tort liability protection, specify the estimated costs of implementing those recommendations, and be submitted not later than December 1, 2012, to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committees. The substitute contains a provision not included in the original making its provisions expire September 1, 2013.

C.S.H.B. 1450 omits a provision included in the original establishing that a volunteer acting under the direction of TPWD is considered an employee of the department for purposes of the department's liability for property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within the employee's scope of employment if the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment and the employee would be personally liable to the claimant according to state law. The substitute omits a provision included in the original establishing that the bill's provisions do not entitle the volunteer to compensation or any other benefit of state employment.