

SENATE AMENDMENTS

2nd Printing

By: Creighton, Aliseda, Kleinschmidt,
Jackson, Sheets, et al.

H.B. No. 274

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the reform of certain remedies and procedures in civil
3 actions and family law matters.

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

5 ARTICLE 1. EARLY DISMISSAL OF ACTIONS

6 SECTION 1.01. Section 22.004, Government Code, is amended
7 by adding Subsection (g) to read as follows:

8 (g) The supreme court shall adopt rules to provide for the
9 dismissal of certain causes of action and defenses that the supreme
10 court determines should be disposed of as a matter of law on motion
11 and without evidence. Rules adopted under this subsection do not
12 apply to an action under the Family Code.

13 SECTION 1.02. Chapter 30, Civil Practice and Remedies Code,
14 is amended by adding Section 30.021 to read as follows:

15 Sec. 30.021. AWARD OF ATTORNEY'S FEES IN RELATION TO
16 CERTAIN MOTIONS TO DISMISS. In a civil proceeding, on a trial
17 court's granting or denial, in whole or in part, of a motion to
18 dismiss filed under the rules adopted by the supreme court under
19 Section 22.004(g), Government Code, the court may award costs and
20 reasonable and necessary attorney's fees to the prevailing party
21 that the court determines are equitable and just. This section does
22 not apply to an action under the Family Code.

23 ARTICLE 2. EXPEDITED CIVIL ACTIONS

24 SECTION 2.01. Section 22.004, Government Code, is amended

1 by adding Subsection (h) to read as follows:

2 (h) The supreme court shall adopt rules to promote the
3 prompt, efficient, and cost-effective resolution of civil actions.
4 The rules shall apply to civil actions in district courts, county
5 courts at law, and statutory probate courts in which the amount in
6 controversy, inclusive of all claims for damages of any kind,
7 whether actual or exemplary, a penalty, attorney's fees, expenses,
8 costs, interest, or any other type of damage of any kind, does not
9 exceed \$100,000. The rules shall address the need for lowering
10 discovery costs in these actions and the procedure for ensuring
11 that these actions will be expedited in the civil justice system.
12 The supreme court may not adopt rules under this subsection that
13 conflict with a provision of:

- 14 (1) Chapter 74, Civil Practice and Remedies Code;
15 (2) the Family Code;
16 (3) the Property Code; or
17 (4) the Tax Code.

18 ARTICLE 3. NO IMPLIED CAUSE OF ACTION

19 SECTION 3.01. Subchapter C, Chapter 311, Government Code,
20 is amended by adding Section 311.035 to read as follows:

21 Sec. 311.035. NO IMPLIED CAUSE OF ACTION. A statute may not
22 be construed to create a cause of action unless the statute by clear
23 and unambiguous language creates a cause of action. This section
24 does not apply to an action under the Family Code.

25 ARTICLE 4. APPEAL OF CONTROLLING QUESTION OF LAW

26 SECTION 4.01. Section 51.014, Civil Practice and Remedies
27 Code, is amended by amending Subsections (d) and (e) and adding

1 Subsection (f) to read as follows:

2 (d) On a party's motion or on its own initiative, a trial
3 court in a civil action [~~A district court, county court at law, or~~
4 ~~county court~~] may, by [~~issue a~~] written order, permit an appeal from
5 an order that is [~~for interlocutory appeal in a civil action~~] not
6 otherwise appealable [~~under this section~~] if:

7 (1) [~~the parties agree that~~] the order to be appealed
8 involves a controlling question of law as to which there is a
9 substantial ground for difference of opinion; and

10 (2) an immediate appeal from the order may materially
11 advance the ultimate termination of the litigation[~~, and~~

12 [~~(3) the parties agree to the order~~].

13 (e) An appeal under Subsection (d) does not stay proceedings
14 in the trial court unless:

15 (1) the parties agree to a stay; or

16 (2) [~~and~~] the trial or appellate court[~~, the court of~~
17 ~~appeals, or a judge of the court of appeals~~] orders a stay of the
18 proceedings pending appeal.

19 (f) An appellate court may accept an appeal permitted by
20 Subsection (d) if the appealing party, not later than the 15th day
21 after the date the trial court signs the order to be appealed, files
22 in the court of appeals having appellate jurisdiction over the
23 action an application for interlocutory appeal explaining why an
24 appeal is warranted under Subsection (d). If the court of appeals
25 accepts the appeal, the appeal is governed by the procedures in the
26 Texas Rules of Appellate Procedure for pursuing an accelerated
27 appeal. The date the court of appeals enters the order accepting

1 the appeal starts the time applicable to filing the notice of
2 appeal.

3 SECTION 4.02. Section 22.225(d), Government Code, is
4 amended to read as follows:

5 (d) A petition for review is allowed to the supreme court
6 for an appeal from an interlocutory order described by Section
7 51.014(a)(3), (6), or (11), or (d), Civil Practice and Remedies
8 Code.

9 ARTICLE 5. RECOVERY OF ATTORNEY'S FEES

10 SECTION 5.01. Section 38.001, Civil Practice and Remedies
11 Code, is amended to read as follows:

12 Sec. 38.001. RECOVERY OF ATTORNEY'S FEES. A person may
13 recover reasonable attorney's fees from an individual or
14 corporation, in addition to the amount of a valid claim and costs,
15 if the claim is for:

- 16 (1) rendered services;
- 17 (2) performed labor;
- 18 (3) furnished material;
- 19 (4) freight or express overcharges;
- 20 (5) lost or damaged freight or express;
- 21 (6) killed or injured stock;
- 22 (7) a sworn account; or
- 23 (8) an appeal to the court under Section 11.43, Tax
24 Code, or an appeal to the court of a determination of an appraisal
25 review board on a motion filed under Section 11.45, Tax Code [~~an~~
26 ~~oral or written contract~~].

27 SECTION 5.02. Chapter 38, Civil Practice and Remedies Code,

1 is amended by adding Section 38.0015 to read as follows:

2 Sec. 38.0015. ORAL AND WRITTEN CONTRACTS. Unless otherwise
3 provided in a written contract, the prevailing party may recover
4 reasonable attorney's fees from an individual, corporation, or
5 other legal entity if the claim is for breach of an oral or written
6 contract.

7 SECTION 5.03. Section 38.002, Civil Practice and Remedies
8 Code, is amended to read as follows:

9 Sec. 38.002. PROCEDURE FOR RECOVERY OF ATTORNEY'S FEES. To
10 recover attorney's fees under this chapter:

11 (1) the person seeking to recover attorney's fees
12 [~~claimant~~] must be represented by an attorney;

13 (2) the claimant must present the claim to the
14 opposing party or to a duly authorized agent of the opposing party;
15 and

16 (3) payment for the just amount owed, if any, must not
17 have been tendered before the expiration of the 30th day after the
18 claim is presented.

19 ARTICLE 6. ALLOCATION OF LITIGATION COSTS

20 SECTION 6.01. Sections 42.001(5) and (6), Civil Practice
21 and Remedies Code, are amended to read as follows:

22 (5) "Litigation costs" means money actually spent and
23 obligations actually incurred that are directly related to the
24 action [~~case~~] in which a settlement offer is made. The term
25 includes:

26 (A) court costs;

27 (B) reasonable deposition costs;

1 (C) reasonable fees for not more than two
2 testifying expert witnesses; and

3 (D) [~~(C)~~] reasonable attorney's fees.

4 (6) "Settlement offer" means an offer to settle or
5 compromise a claim made in compliance with Section 42.003 [~~this~~
6 ~~chapter~~].

7 SECTION 6.02. Sections 42.002(b), (d), and (e), Civil
8 Practice and Remedies Code, are amended to read as follows:

9 (b) This chapter does not apply to:

- 10 (1) a class action;
- 11 (2) a shareholder's derivative action;
- 12 (3) an action by or against a governmental unit;
- 13 (4) an action brought under the Family Code;
- 14 (5) an action to collect workers' compensation
15 benefits under Subtitle A, Title 5, Labor Code; or
- 16 (6) an action filed in a justice of the peace court or
17 a small claims court.

18 (d) This chapter does not limit or affect the ability of any
19 person to:

- 20 (1) make an offer to settle or compromise a claim that
21 does not comply with Section 42.003 [~~this chapter~~]; or
- 22 (2) offer to settle or compromise a claim in an action
23 to which this chapter does not apply.

24 (e) An offer to settle or compromise that does not comply
25 with Section 42.003 [~~is not made under this chapter~~] or an offer to
26 settle or compromise made in an action to which this chapter does
27 not apply does not entitle any [~~the offering~~] party to recover

1 litigation costs under this chapter.

2 SECTION 6.03. Section 42.003, Civil Practice and Remedies
3 Code, is amended to read as follows:

4 Sec. 42.003. MAKING SETTLEMENT OFFER. (a) After a
5 defendant files a declaration under Section 42.002(c), the
6 defendant filing the declaration and any party with a claim against
7 that defendant may make a settlement offer to settle all claims in
8 the action between the parties.

9 (b) A settlement offer must:

- 10 (1) be in writing;
- 11 (2) state that it is made under this chapter;
- 12 (3) state the terms by which the claims may be settled;
- 13 (4) state a deadline by which the settlement offer
14 must be accepted; and
- 15 (5) be served on all parties to whom the settlement
16 offer is made.

17 (c) The parties are not required to file a settlement offer
18 with the court.

19 SECTION 6.04. Section 42.004(c), Civil Practice and
20 Remedies Code, is amended to read as follows:

21 (c) The litigation costs that may be recovered by the
22 offering party under this section are limited to those litigation
23 costs incurred by the offering party after the date the rejecting
24 party rejected the earliest settlement offer that entitles the
25 party to an award of litigation costs under this section.

26 SECTION 6.05. Sections 42.004(d) and (g), Civil Practice
27 and Remedies Code, are repealed.

1 ARTICLE 7. DESIGNATION OF RESPONSIBLE THIRD PARTIES

2 SECTION 7.01. Section 33.004(e), Civil Practice and
3 Remedies Code, is repealed.

4 ARTICLE 8. FAMILY LAW MATTERS

5 SECTION 8.01. Title 6, Civil Practice and Remedies Code, is
6 amended by adding Chapter 148 to read as follows:

7 CHAPTER 148. APPLICATION OF FOREIGN LAWS; SELECTION OF FOREIGN
8 FORUM

9 Sec. 148.001. DEFINITION. In this chapter, "foreign law"
10 means a law, rule, or legal code of a jurisdiction outside of the
11 states and territories of the United States.

12 Sec. 148.002. DECISION BASED ON FOREIGN LAW. A ruling or
13 decision of a court, arbitrator, or administrative adjudicator on a
14 matter arising under the Family Code may not be based on a foreign
15 law if the application of that law would violate a right guaranteed
16 by the United States Constitution or the constitution or a statute
17 of this state.

18 Sec. 148.003. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT.
19 (a) A contract provision providing that a foreign law is to govern
20 a dispute arising under the Family Code is void to the extent that
21 the application of the foreign law to the dispute would violate a
22 right guaranteed by the United States Constitution or the
23 constitution of this state.

24 (b) A contract provision providing that the forum to resolve
25 a dispute arising under the Family Code is located outside the
26 states and territories of the United States is void if the foreign
27 law that would be applied to the dispute in that forum would, as

1 applied, violate a right guaranteed by the United States
2 Constitution or the constitution of this state.

3 SECTION 8.02. (a) Section 148.002, Civil Practice and
4 Remedies Code, as added by this Act, applies only to a ruling or
5 decision that becomes final on or after the effective date of this
6 Act. A ruling or decision that becomes final before the effective
7 date of this Act and any appeal of that ruling or decision are
8 governed by the law in effect immediately before the effective date
9 of this Act, and that law is continued in effect for that purpose.

10 (b) Section 148.003, Civil Practice and Remedies Code, as
11 added by this Act, applies only to a contract entered into on or
12 after the effective date of this Act. A contract entered into
13 before the effective date of this Act is governed by the law in
14 effect immediately before that date, and that law is continued in
15 effect for that purpose.

16 SECTION 8.03. This Act takes effect September 1, 2011.

17 ARTICLE 9. CONTESTED TAX APPRAISAL COSTS

18 SECTION 9.01. In an action contesting a tax appraisal a
19 taxpayer who prevails is entitled to an award of costs and
20 attorney's fees. If the appraisal district or taxing authority
21 prevails the appraisal district or taxing authority is not entitled
22 to costs and attorney's fees.

23 ARTICLE 10. EFFECTIVE DATE

24 SECTION 10.01. The changes in law made by this Act apply
25 only to a civil action commenced on or after the effective date of
26 the change in law as provided by this article. A civil action
27 commenced before the effective date of the change in law as provided

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

4 SECTION 10.02. (a) Except as provided by Subsection (b) of
5 this section:

6 (1) this Act takes effect immediately if it receives a
7 vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution; and

9 (2) if this Act does not receive the vote necessary for
10 immediate effect, this Act takes effect September 1, 2011.

11 (b) Articles 4, 5, 6, and 7 of this Act take effect September
12 1, 2011.

BY: Jean Huffman

H.B. No. 274

Substitute the following for ___B. No. ___:

BY: Jean Huffman

ADOPTED
C.S. ___B. No. ___
MAY 24 2011
Atay Law
Secretary of the Senate

A BILL TO BE ENTITLED

AN ACT

<EOH>

relating to the reform of certain remedies and procedures in civil actions and family law matters.

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

ARTICLE 1. EARLY DISMISSAL OF ACTIONS

SECTION 1.01. Section 22.004, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The supreme court shall adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence. The rules shall provide that the motion to dismiss shall be granted or denied within 45 days of the filing of the motion to dismiss. The rules shall not apply to actions under the Family Code.

SECTION 1.02. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.021 to read as follows:

Sec. 30.021. AWARD OF ATTORNEY'S FEES IN RELATION TO CERTAIN MOTIONS TO DISMISS. In a civil proceeding, on a trial court's granting or denial, in whole or in part, of a motion to dismiss filed under the rules adopted by the supreme court under Section 22.004(g), Government Code, the court shall award costs and reasonable and necessary attorney's fees to the prevailing party. This section does not apply to actions by or against the state, other governmental entities, or public officials acting in their official capacity or under color of law.

1 ARTICLE 2. EXPEDITED CIVIL ACTIONS

2 SECTION 2.01. Section 22.004, Government Code, is amended
3 by adding Subsection (h) to read as follows:

4 (h) The supreme court shall adopt rules to promote the
5 prompt, efficient, and cost-effective resolution of civil
6 actions. The rules shall apply to civil actions in district
7 courts, county courts at law, and statutory probate courts in
8 which the amount in controversy, inclusive of all claims for
9 damages of any kind, whether actual or exemplary, a penalty,
10 attorney's fees, expenses, costs, interest, or any other type of
11 damage of any kind, does not exceed \$100,000. The rules shall
12 address the need for lowering discovery costs in these actions
13 and the procedure for ensuring that these actions will be
14 expedited in the civil justice system. The supreme court may
15 not adopt rules under this subsection that conflict with a
16 provision of:

- 17 (1) Chapter 74, Civil Practice and Remedies Code;
18 (2) the Family Code;
19 (3) the Property Code; or
20 (4) the Tax Code.

21 ARTICLE 3. APPEAL OF CONTROLLING QUESTION OF LAW

22 SECTION 3.01. Section 51.014, Civil Practice and Remedies
23 Code, is amended by amending Subsections (d)^(d-1) and (e) and adding
24 Subsection (f) to read as follows:

25 (d) On a party's motion or on its own initiative, a trial
26 court in a civil action [A district court, county court at law,
27 or county court] may, by [issue a] written order, permit an

1 appeal from an order that is [~~for interlocutory appeal in a~~
2 ~~civil action~~] not otherwise appealable [~~under this section~~] if:

3 (1) [~~the parties agree that~~] the order to be appealed
4 involves a controlling question of law as to which there is a
5 substantial ground for difference of opinion; and

6 (2) an immediate appeal from the order may materially
7 advance the ultimate termination of the litigation[~~, and~~

8 [~~(3) the parties agree to the order~~].

9 (d-1) Subsection (d) does not apply to an action brought
10 under the Family Code.

11 (e) An appeal under Subsection (d) does not stay
12 proceedings in the trial court unless:

13 (1) the parties agree to a stay; or

14 (2) [~~and~~] the trial or appellate court[~~, the court of~~
15 ~~appeals, or a judge of the court of appeals~~] orders a stay of
16 the proceedings pending appeal.

17 (f) An appellate court may accept an appeal permitted by
18 Subsection (d) if the appealing party, not later than the 15th
19 day after the date the trial court signs the order to be
20 appealed, files in the court of appeals having appellate
21 jurisdiction over the action an application for interlocutory
22 appeal explaining why an appeal is warranted under Subsection
23 (d). If the court of appeals accepts the appeal, the appeal is
24 governed by the procedures in the Texas Rules of Appellate
25 Procedure for pursuing an accelerated appeal. The date the
26 court of appeals enters the order accepting the appeal starts
27 the time applicable to filing the notice of appeal.

1 SECTION 3.02. Section 22.225(d), Government Code, is
2 amended to read as follows:

3 (d) A petition for review is allowed to the supreme court
4 for an appeal from an interlocutory order described by Section
5 51.014(a)(3), (6), or (11), or (d), Civil Practice and Remedies
6 Code.

7 ARTICLE 4. ALLOCATION OF LITIGATION COSTS

8 SECTION 4.01. Sections 42.001(5) and (6), Civil Practice
9 and Remedies Code, are amended to read as follows:

10 (5) "Litigation costs" means money actually spent and
11 obligations actually incurred that are directly related to the
12 action [~~case~~] in which a settlement offer is made. The term
13 includes:

14 (A) court costs;

15 (B) reasonable deposition costs;

16 (C) reasonable fees for not more than two
17 testifying expert witnesses; and

18 (D) [~~(C)~~] reasonable attorney's fees.

19 (6) "Settlement offer" means an offer to settle or
20 compromise a claim made in compliance with Section 42.003 [~~this~~
21 ~~chapter~~].

22 SECTION 4.02. Sections 42.002(b), (d), and (e), Civil
23 Practice and Remedies Code, are amended to read as follows:

24 (b) This chapter does not apply to:

25 (1) a class action;

26 (2) a shareholder's derivative action;

27 (3) an action by or against a governmental unit;

- 1 (4) an action brought under the Family Code;
- 2 (5) an action to collect workers' compensation
3 benefits under Subtitle A, Title 5, Labor Code; or
- 4 (6) an action filed in a justice of the peace court
5 or a small claims court.

6 (d) This chapter does not limit or affect the ability of
7 any person to:

- 8 (1) make an offer to settle or compromise a claim
9 that does not comply with Section 42.003 [~~this chapter~~]; or
- 10 (2) offer to settle or compromise a claim in an
11 action to which this chapter does not apply.

12 (e) An offer to settle or compromise that does not comply
13 with Section 42.003 [~~is not made under this chapter~~] or an offer
14 to settle or compromise made in an action to which this chapter
15 does not apply does not entitle any [~~the offering~~] party to
16 recover litigation costs under this chapter.

17 SECTION 4.03. Section 42.003, Civil Practice and Remedies
18 Code, is amended to read as follows:

19 Sec. 42.003. MAKING SETTLEMENT OFFER. (a) A settlement
20 offer must:

- 21 (1) be in writing;
- 22 (2) state that it is made under this chapter;
- 23 (3) state the terms by which the claims may be
24 settled;
- 25 (4) state a deadline by which the settlement offer
26 must be accepted; and
- 27 (5) be served on all parties to whom the settlement

1 offer is made.

2 (b) The parties are not required to file a settlement
3 offer with the court.

4 SECTION 4.04. Section 42.004(d), Civil Practice and
5 Remedies Code, is amended to read as follows:

6 (d) The litigation costs that may be awarded under this
7 chapter to any party may not be greater than the total amount
8 that the claimant recovers or would recover before adding an
9 award of litigation costs under this chapter in favor of the
10 claimant or subtracting as an offset an award of litigation
11 costs under this chapter in favor of the defendant. ~~an amount~~
12 ~~computed by:~~

13 ~~— (1) determining the sum of:~~

14 ~~(A) 50 percent of the economic damages to be~~
15 ~~awarded to the claimant in the judgment;~~

16 ~~(B) 100 percent of the noneconomic damages to be~~
17 ~~awarded to the claimant in the judgment; and~~

18 ~~(C) 100 percent of the exemplary or additional~~
19 ~~damages to be awarded to the claimant in the judgment;~~
20 ~~and~~

21 ~~(2) subtracting from the amount determined under~~
22 ~~Subdivision (1) the amount of any statutory or contractual~~
23 ~~liens in connection with the occurrences or incidents~~
24 ~~giving rise to the claim.~~

25 ARTICLE 5. DESIGNATION OF RESPONSIBLE THIRD PARTIES

26 SECTION 5.01. Section 33.004, Civil Practice and Remedies
27 Code, is amended by adding subsection (d) to read as follows:

1 (d) A defendant may not designate a person as a
2 responsible third party with respect to a claimant's cause of
3 action after the applicable limitations period on the cause of
4 action has expired with respect to the responsible third party
5 if the defendant has failed to comply with its obligations, if
6 any, to timely disclose that the person may be designated as a
7 responsible third party under the Texas Rules of Civil
8 Procedure.

9 SECTION 5.02. Section 33.004(e), Civil Practice and
10 Remedies Code, is repealed.

11 Article 6. EFFECTIVE DATE

12 SECTION 6.01. The changes in law made by this Act apply
13 only to a civil action commenced on or after the effective date
14 of the change in law as provided by this article. A civil action
15 commenced before the effective date of the change in law as
16 provided by this article is governed by the law in effect
17 immediately before the effective date of the change in law, and
18 that law is continued in effect for that purpose.

19 SECTION 6.02. This Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (Relating to the reform of certain remedies and procedures in civil actions and family law matters.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code and Civil Practice and Remedies Code to reform certain remedies and procedures in civil litigation including attorney's fees, early dismissal, expedited trials, appeals, and settlement offers.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases. The bill would provide that certain rules adopted would not apply to an action under the Family Code.

The bill would repeal Section 33.004(e) of the Civil Practices and Remedies Code.

The Office of Court Administration indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, SD, KJG, TP, JT, SZ, JB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 21, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (Relating to the reform of certain remedies and procedures in civil actions and family law matters.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code and Civil Practice and Remedies Code to reform certain remedies and procedures in civil litigation including attorney's fees, early dismissal, expedited trials, appeals, and settlement offers.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases. The bill would provide that certain rules adopted would not apply to an action under the Family Code.

The bill would repeal Section 33.004(e) of the Civil Practices and Remedies Code.

The Office of Court Administration indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, KJG, TP, JT, SZ, JB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 11, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (Relating to the reform of certain remedies and procedures in civil actions and family law matters.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code and Civil Practice and Remedies Code to reform certain remedies and procedures in civil litigation including attorney's fees, early dismissal, expedited trials, appeals, and settlement offers.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases. The bill would provide that certain rules adopted would not apply to an action under the Family Code.

The bill would provide that a taxpayer that contests a tax appraisal who prevails would be entitled to an award of costs and attorney's fees, but an appraisal district or taxing authority that prevails would not be entitled.

The bill would repeal Section 33.004(e); and Sections 42.004(d) and (g) of the Civil Practices and Remedies Code.

The Office of Court Administration indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

There could be costs to an appraisal district or a taxing authority for costs and attorney's fees if a taxpayer prevailed in a civil suit, but the amounts would vary depending on the number of suits filed and awarded to a taxpayer, and the amount of the costs and attorney's fees incurred.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, KJG, TP, JT, SZ, JB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION
Revision 1

May 5, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (relating to the reform of certain remedies and procedures in civil actions.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code and Civil Practice and Remedies Code to reform certain remedies and procedures in civil litigation including attorney's fees, early dismissal, expedited trials, appeals, and settlement offers.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases.

The bill also would repeal Sections 42.004(d) and (g) of the Civil Practices and Remedies Code.

The Office of Court Administration indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, JT, SZ, JB

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 18, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (relating to the reform of certain remedies and procedures in civil actions.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code and Civil Practice and Remedies Code to reform certain remedies and procedures in civil litigation including attorney's fees, early dismissal, expedited trials, appeals, and settlement offers.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases.

The bill also would repeal Sections 42.004(d) and (g) of the Civil Practices and Remedies Code.

The Office of Court Administration indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, JT, JB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

Revision 1

May 5, 2011

TO: Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB274 by Creighton (Relating to attorney's fees, early dismissal, expedited trials, and the reform of certain remedies and procedures in civil actions.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to reform certain remedies and procedures relating to civil litigation including attorney's fees, early dismissal and expedited trials.

The Supreme Court would be required to adopt rules regarding an expedited and fair resolution of non-meritorious cases.

According to the Office of Court Administration (OCA), the provisions of the bill would be procedural steps and would not have a significant impact on the court's resources or staff.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, JT, TP, SZ, TB

LEGISLATIVE BUDGET BOARD
Austin, Texas

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