

## **BILL ANALYSIS**

C.S.H.B. 332  
By: Guillen  
Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Given the size of Texas state parks, wildlife management areas, and other Texas Parks and Wildlife Department (TPWD) properties, the use of motor-driven vehicles may sometimes be necessary to carry out various tasks more efficiently within the parks. Interested parties contend that current law lacks provisions protecting a TPWD volunteer from liability when operating TPWD vehicles during the course of the volunteer's assignment. These parties assert that concerns regarding volunteer liability prevent operation of TPWD vehicles by volunteers and prevent full utilization of volunteer services in Texas state parks. C.S.H.B. 332 seeks to address this situation by, among other provisions, providing for a TPWD volunteer's immunity from liability regarding the operation or use of certain motor-driven vehicles or equipment.

### **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. 332 amends the Parks and Wildlife Code to grant a volunteer rendering services for or on behalf of the Parks and Wildlife Department (TPWD) and acting within the course and scope of the volunteer's assignment immunity from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by TPWD unless such act or omission is intentional, wilfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

C.S.H.B. 332 requires TPWD to compensate a claimant, from any funds appropriated to the department, for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if the damage, injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by TPWD and the volunteer would be personally liable to the claimant under state law in the absence of such immunity. The bill caps the amount of compensation that may be paid to such a claimant at the statutory limit on tort liability of state government.

C.S.H.B. 332 exempts from the requirements of the Texas Motor Vehicle Safety Responsibility Act a volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by TPWD who is acting within the course and scope of a volunteer assignment for TPWD. The bill establishes that its provisions do not create any liability for or waive any immunity of TPWD or TPWD's employees or volunteers, with the exception of the bill's requirement for TPWD to compensate a claimant under certain conditions.

### **EFFECTIVE DATE**

September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 332 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

SECTION 1. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0281 to read as follows:

Sec. 11.0281. VOLUNTEER LIABILITY AND IMMUNITY. (a) In this section, "volunteer" means a person rendering services for or on behalf of the department without the expectation of receiving monetary compensation from the department other than reimbursement for expenses incurred by the person during the performance of the service. The term does not include:

(1) a person performing services as a result of a community service or community supervision sentence; or

(2) an inmate providing labor pursuant to Section 497.091, Government Code, or similar law.

(b) Except as provided by Subsection (c), a volunteer while acting within the course and scope of the volunteer's assignment for the department is immune from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department.

(c) This section does not apply to an act or omission that is intentional, wilfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

(d) The department **may**, from any funds appropriated to the department, compensate a claimant for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department; and

(2) the volunteer would be personally liable

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0281 to read as follows:

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(1) a person performing services as a result of a community service or community supervision sentence; or

(2) an inmate providing labor pursuant to Section 497.091, Government Code, or similar law.

(b) Except as provided by Subsection (c), a volunteer while acting within the course and scope of the volunteer's assignment for the department is immune from civil liability for any act or omission of the volunteer resulting from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department.

(c) This section does not apply to an act or omission that is intentional, wilfully negligent, or done with conscious indifference or reckless disregard for the safety of others.

(d) The department **shall**, from any funds appropriated to the department, compensate a claimant for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of a volunteer acting within the scope of the volunteer's assignment if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment owned or leased by the department; and

(2) the volunteer would be personally liable

to the claimant under the laws of this state in the absence of the immunity provided by this section.

(e) The amount of compensation paid under Subsection (d) may not exceed the maximum amount applicable to a state agency as specified by Section 101.023(a), Civil Practice and Remedies Code.

(f) The attorney general shall represent the department in claims for compensation under this section.

(g) A volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by the department who is acting within the course and scope of a volunteer assignment for the department is exempt from the requirements of Chapter 601, Transportation Code.

(h) This section does not create any liability for or waive any immunity of the department, employees of the department, or volunteers for the department.

SECTION 2. The change in law made by Section 11.0281, Parks and Wildlife Code, as added by this Act, applies to an act or omission involving the operation of a motor-driven vehicle or motor-driven equipment occurring on or after the effective date of this Act. An act or omission involving the operation of a motor-driven vehicle or motor-driven equipment that occurs before the effective date of this Act is governed by the law in effect at the time the act or omission occurs, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

to the claimant under the laws of this state in the absence of the immunity provided by this section.

(e) The amount of compensation paid under Subsection (d) may not exceed the maximum amount applicable to a state agency as specified by Section 101.023(a), Civil Practice and Remedies Code.

(f) A volunteer operating or using a motor-driven vehicle or motor-driven equipment owned or leased by the department who is acting within the course and scope of a volunteer assignment for the department is exempt from the requirements of Chapter 601, Transportation Code.

(g) Except as provided by Subsection (d), this section does not create any liability of or waive any immunity of the department, employees of the department, or volunteers for the department.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.