

BILL ANALYSIS

Senate Research Center

S.B. 1267
By: Nichols
State Affairs
7/16/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Timberland investment and management organizations (TIMO) have worked extensively with the Texas Forest Service (TFS) to train equipment operators and employees to fight wildfires, provide them with the proper safety equipment, and furnish them with radios that enable communications while jointly fighting fires.

TIMOs have enabled their employees and contractors to fight wildfires when called upon by TFS; however, concerns over liability when working on property not owned by TIMOs has restricted their ability to assist adjoining landowners during certain situations. Most landowners would appreciate the assistance TIMOs could provide, but fear of litigation from those looking to recoup their losses has prevented TIMOs from providing assistance outside of managed property.

S.B. 1267 provides protection for any outside labor or assistance providing firefighting services in conjunction with TFS on private land. The bill does not exempt them if the activity was performed with malice or constitutes gross negligence, recklessness, or intentional misconduct, but provides protection for good faith efforts to assist TFS in the control of wildfires.

S.B. 1267 amends current law relating to the liability of individuals providing labor or assistance to the Texas Forest Service in the performance of certain fire suppression duties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 88.104, Education Code, as follows:

Sec. 88.104. **AUTHORITY TO ENTER PRIVATE LAND.** (a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Provides that an individual providing labor or assistance to the Texas Forest Service under Subsection (a) is not liable for civil damages, including personal injury, wrongful death, property damage, death, or other loss resulting from any act, error, or omission by the individual in providing that labor or assistance unless the act, error, or omission:

(1) proximately caused the loss; and

(2) was performed with malice or constitutes gross negligence, recklessness, or intentional misconduct.

SECTION 2. Provides that Section 88.104(b), Education Code, as added by this Act, applies only to an act, error, or omission that occurs on or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2013.