

By: Rodriguez

S.B. No. 1738

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the legal defense and indemnification of county  
3 officials and employees.

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

5 SECTION 1. Section 157.901, Local Government Code, is  
6 amended by adding Subsection (d) to read as follows:

7 (d) At the request of a county official or employee, the  
8 attorney general may represent the official or employee in an  
9 action arising from:

10 (1) the performance of a public duty; or

11 (2) the refusal to take a formal action that the  
12 official or employee considers to be contrary to law.

13 SECTION 2. Subchapter Z, Chapter 157, Local Government  
14 Code, is amended by adding Section 157.9011 to read as follows:

15 Sec. 157.9011. REPRESENTATION IN MANDAMUS ACTION. (a) A  
16 county official is entitled to be represented in a mandamus action  
17 by the district attorney of the district in which the county is  
18 located, the county attorney, or both.

19 (b) A county official is not required to accept the legal  
20 counsel provided in this section.

21 SECTION 3. Section 157.9015(a), Local Government Code, is  
22 amended to read as follows:

23 (a) It is not a conflict of interest for a district or county  
24 attorney under Section 157.901 to defend a county or a county

1 official or employee sued by the county or another county official  
2 or employee and also to advise or represent the opposing party on a  
3 separate matter arising from the performance of a public duty,  
4 regardless of whether the attorney gives the advice or  
5 representation to the opposing party before the suit began or while  
6 the suit is pending.

7 SECTION 4. Subchapter Z, Chapter 157, Local Government  
8 Code, is amended by adding Section 157.9016 to read as follows:

9 Sec. 157.9016. RECOVERY OF LEGAL FEES. (a) A county or  
10 district attorney who is not fully funded to provide representation  
11 under Section 157.901(a) is entitled to reasonable legal fees paid  
12 from the general fund or a legal expenses fund of the county.

13 (b) The attorney general is entitled to reasonable legal  
14 fees for providing representation under Section 157.901(d) to be  
15 paid from the general fund or a legal expenses fund of the county in  
16 which the county official or employee requesting the representation  
17 serves or is employed.

18 (c) Legal fees paid under this section from the county's  
19 general fund may be recovered by court order from a person, other  
20 than the county, a county official, or a county employee,  
21 initiating a legal action.

22 SECTION 5. Section 157.903, Local Government Code, is  
23 amended to read as follows:

24 Sec. 157.903. AUTHORITY TO INDEMNIFY ELECTED AND APPOINTED  
25 COUNTY OFFICERS. The commissioners court of a county by order may  
26 provide for the indemnification of an elected or appointed county  
27 officer against personal liability for the loss of county funds,

1 [~~or~~] loss of or damage to personal property, or other losses  
2 incurred by the officer in the performance of official duties if the  
3 loss was not the result of the officer's negligence or criminal  
4 action.

5         SECTION 6. The changes in law made by Sections 157.901 and  
6 157.9015(a), Local Government Code, as amended by this Act, and  
7 Section 157.9011, Local Government Code, as added by this Act,  
8 apply only to an action filed on or after the effective date of this  
9 Act. An action filed before the effective date of this Act is  
10 governed by the law in effect when the action was filed, and the  
11 former law is continued in effect for that purpose.

12         SECTION 7. This Act takes effect September 1, 2013.