

SUBJECT: Limiting liability of volunteer fire departments

COMMITTEE: Civil Practices — favorable, with amendment

VOTE: 8 ayes — T. Hunter, Hilbert, Alvarado, Culberson, Hartnett, Moffat, Sadler, Zbranek

0 nays

1 absent — Tillery

WITNESSES: For — Larry Letscher, State Firemen's and Fire Marshal's Association

Against — Bill Whitehurst, Texas Trial Lawyers Association

BACKGROUND: Under the doctrine of sovereign immunity, government entities generally may not be sued for damages by private individuals without the government's permission. The Texas Tort Claims Act allows for the liability of units of local government, but limits that liability to \$100,000 for each person, \$300,000 for each single occurrence of bodily injury, and \$100,000 for damage to property.

DIGEST: HB 2603 would define volunteer fire departments as units of government under the Texas Tort Claims Act. This bill would limit the liability of volunteer fire departments to the same limits as other units of local government: \$100,000 per person, \$300,000 per occurrence for bodily injury and \$100,000 for property damage.

HB 2603 would define a volunteer fire department as a fire department operated by its members and exempt from federal income tax under sec. 501 of the Internal Revenue Code (charitable organizations).

This bill would take immediately if approved by two-thirds of the membership of each house and apply to any cause of action that accrues on or after its effective date.

**SUPPORTERS
SAY:**

Volunteer fire departments provide an essential service to many small communities not served by a municipal fire department. However, in our increasingly litigious society, volunteer fire departments are becoming more and more susceptible to civil liability suits for simply trying to do whatever they can to save lives and stop fires. These volunteer fire departments should be entitled to the same status as municipal fire departments regarding their civil liability.

The 74th Legislature has already limited the liability of volunteers and public servants like fire fighters by enacting HB 383 by Junell. HB 2603 would give volunteer fire fighters would have the same rights and responsibilities as other fire fighters and other volunteers.

**OPPONENTS
SAY:**

This bill would limit the rights of injured parties to receive compensation for the harms done to them. This liability limit would not reduce the number of suits filed against public servants, nor would it help the tort system to be any more expedient, the only goal accomplished is to limit the recovery of bona fide injured parties.

NOTES:

The liability of individual volunteer fire fighters would be limited to \$100,000 for personal injury and \$100,000 for property damage so long as the unit of government has liability to indemnify the public servant or maintains insurance for that amount under HB 383 by Junell. HB 383 has been passed by the House, amended by the Senate and concurred to by the House.