

BILL ANALYSIS

Senate Research Center

C.S.S.B. 179
By: Barrientos
Jurisprudence
4-9-97
Committee Report (Substituted)

DIGEST

Recently, the federal court case, *Hopwood vs. the State of Texas*, has lead to policies prohibiting the consideration of race in Texas university admissions, financial aid and student retention programs. As a result, many employees who make admissions decisions may be apprehensive and overly cautious when considering minorities. Many fear that they may be held personally liable for their decisions. C.S.S.B. 179 mandates that all employees of a general academic teaching institution or medical and dental unit who make decisions within the course and scope of their duties shall be indemnified by the state for actual damages, court costs, and attorney's fees in a cause of action that may be made against them. This bill also clarifies that all employees who make admissions decisions within the course and scope of duties would be indemnified.

PURPOSE

As proposed, C.S.S.B. 179 mandates that all employees of a general academic teaching institution or medical and dental unit who make decisions within the course and scope of their duties shall be indemnified by the state for actual damages, court costs, and attorney's fees in a cause of action that may be made against them. This bill clarifies that all employees who make admissions decisions within the course and scope of duties would be indemnified.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 104, Civil Practice and Remedies Code, by adding Section 104.009, as follows:

Sec. 104.009. INDEMNIFICATION OF CERTAIN HIGHER EDUCATION EMPLOYEES. Requires the state to indemnify an employee of a general academic teaching institution or a medical and dental unit for actual damages, court costs, and attorney's fees, in a cause of action against a person acting in an official capacity on behalf of a general academic teaching institution or a medical and dental unit based on conduct of the employee in making a decision on an individual's admission to the institution. Provides that the state's limit on recoverable damages described in Section 104.003 apply to this section, and the state's liability for indemnification may not exceed the damages described by that section. Provides that the state is liable for indemnification only if damages are based on an employee's action or omission in the course and scope of a person's duties and if other requirements are met. Sets forth the applicability of this section. Defines "general academic teaching institution" and "medical or dental unit."

SECTION 2. Makes application of this Act prospective.

SECTION 3. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Chapter 104.009, Civil Practice and Remedies Code, regarding indemnification of higher education admissions personnel.

SECTION 2.

Deletes proposed SECTION 2. Makes application of this Act prospective.

SECTION 3.

Amends SECTION 3 to provide for the emergency clause and effective date. Deletes proposed SECTION 4.