

BILL ANALYSIS

Senate Research Center

S.B. 885
By: Carona
Jurisprudence
3-5-97
As Filed

DIGEST

Currently, the need may arise in the context of a sale of a business or in post-employment relations for involved parties or persons to agree to refrain from competing with each other in order to protect the continuing viability of the business. In these cases a covenant is established which attempts to restrict a party from competing in some activity for a period of time in a particular geographical area.

In order for a covenant to be enforceable it must meet a variety of standards established by statute. This bill establishes certain criteria under which a covenant is enforceable.

PURPOSE

As proposed, S.B. 885 establishes certain criteria under which a covenant is enforceable.

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 Section 15.50, Business and Commerce Code, to provide that a covenant not to compete is an enforceable agreement if it is ancillary to or part of an otherwise enforceable agreement or otherwise valid transaction or relationship except, rather than at the time the agreement is made, to the extent that it contains limitations on, rather than limitations as to time and geographical area, scope of activity, duration, or territory that are unreasonable and that it imposes a restraint greater than is necessary to protect the goodwill or other business interest of the promisee.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.