

## **BILL ANALYSIS**

Senate Research Center  
76R5766 WP-F

S.B. 571  
By: Shapiro  
State Affairs  
3/3/1999  
As Filed

### **DIGEST**

Currently, in Texas, two suits have been brought by third parties under Section 16.24, Business & Commerce Code, seeking judicial review of the secretary of state's decision to register a trademark or service mark. Essentially the suit sought a cancellation of the registered marks. It has been the position of the secretary of state that Chapter 16, Business & Commerce Code, does not require the secretary of state as a necessary party in a suit seeking cancellation of a registered trademark and that a specific judicial remedy is provided under Section 16.25. S.B. 571 would amend Chapter 16, Business & Commerce Code, which deals with trademark and service marks, clarifies the circumstances giving rise to a right of action, thereby eliminating unnecessary lawsuits brought against the secretary of the state.

### **PURPOSE**

As proposed, S.B. 571 authorizes a judicial review of the secretary of state's refusal to register or renew a trademark or service mark.

### **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 16.24(a), Business & Commerce Code, to authorize the applicant or registrant to file suit for review of the secretary of state's decision in one of the Travis County district courts, if the secretary of state takes final action refusing to register a mark under Section 16.109 or to renew the registration of a mark under Section 16.14. Deletes text authorizing final action taken or a final decision made by the secretary of state under this chapter to be reviewed by a suit. Make conforming changes.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.