

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1320

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State Affairs

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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

From a legal perspective, community colleges are a hybrid creature in statute. They are sometimes referred to as institutions of higher education, school districts, or agencies of local government. As a result of this odd construction, some courts have had difficulty assigning explicit legislative intent on questions of whether sovereign immunity is granted to community colleges or who has the power to sue on behalf of an institution. Current state statute is unclear and/or is silent on how community colleges should be treated in relation to law suits.

C.S.S.B. 1320 establishes the sovereign immunity of a junior college district. It also clarifies that the board of trustees of a junior college district has the power to sue on behalf of the institution. C.S.S.B. 1320 essentially provides community colleges the same immunities and powers that an institution of higher education currently possess.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 130.084, Education Code, to make a conforming change.

SECTION 2. Amends Subchapter E, Chapter 130, Education Code, by adding Section 130.0841, as follows:

Sec. 130.0841. SUITS AND IMMUNITY. (a) Provides that the board of trustees of a junior college district has the power to sue in the name of the junior college district.

(b) Provides that, except as otherwise provided by this section, a junior college district and the board of trustees of a junior college district are immune from suit in the same manner as an institution of higher education and are authorized to be sued in the same manner as an institution of higher education.

(c) Provides that, except as provided by Subsection (d), this section does not constitute consent to suit. Authorizes a person to sue or otherwise bring a claim against a junior college district or the board of trustees or a junior college only with legislative consent under Chapter 107 (Permission to Sue the State), Civil Practice and Remedies Code, or as otherwise expressly authorized by law.

(d) Provides that this section does not affect the partial exclusion of junior college districts from Chapter 101 (Tort Claims), Civil Practice and Remedies Code, as described in Section 101.051 (School and Junior College Districts Partially Excluded), Civil Practice and Remedies Code.

(e) Defines "institution of higher education."

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2005.