

## **BILL ANALYSIS**

Senate Research Center  
79R6081 MTB-F

S.B. 728  
By: Wentworth  
State Affairs  
3/31/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Under current Texas law, agency principals, agents of governmental entities that are performing governmental functions, are afforded the same limits on liability as the governmental agency. Section 451.069 provides that certain sections within the chapter do not create or confer any governmental immunity or limitation of liability on any entity other than the authority. This provision is unique to Chapter 451 (Metropolitan Rapid Transit Authorities) and is not found in similar statutes authorizing the establishment of transit authorities. The purpose of Section 451.069 is unclear and has been used as an argument that liability caps applicable to governmental entities cannot be extended to agents of governmental entities who are performing government functions.

As proposed, S.B. 728 repeals Section 451.069 and establishes that certain private operators who contract with a governmental authority are treated, for liability purposes, as if they are employees of the authority.

### **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 451.056, Transportation Code, by adding Subsection (e), as follows:

(e) Provides that a private operator that contracts with an authority under Subsection (a)(3) to perform a function of the authority is liable for damages arising in connection with the performance of that function only to the extent that the authority would be liable if the authority were performing the function.

SECTION 2. Repealer: Section 451.069 (relating to contractual powers not creating immunity), Transportation Code.

SECTION 3. Effective date: September 1, 2005.