

SUBJECT: Prohibiting certain settlement conditions in cases involving the state

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Lewis, Farrar, Farney, Gooden, Hunter, K. King, S. Thompson
0 nays
2 absent — Hernandez Luna, Raymond

WITNESSES: For — Donnis Baggett, Texas Press Association; Fred Lewis; Jason Smith; Tom "Smitty" Smith, Public citizen; Doug Swanson, Dallas Morning News and Freedom of Information Foundation of Texas (*Registered, but did not testify*: Ashley Chadwick, Freedom of Information Foundation of Texas; Carol Geiger, Public Citizen; Michael Schneider, Texas Association of Broadcasters; Stewart Snider, League of Women Voters of Texas)
Against — None

BACKGROUND: Civil Practice and Remedies Code, 101.001, defines "governmental unit" as the state, government agencies, political subdivisions, emergency service organizations, and other institutions, agencies, or organs of the government.

DIGEST: CSHB 382 would prohibit the attorney general or other attorney representing the state from entering into a settlement agreement for more than \$30,000 that, as a condition of the settlement, prohibited the plaintiff from disclosing facts, allegations, evidence, or other matters to any person, including a journalist or member of the media. A settlement agreement violating this requirement would be void and unenforceable, but it would not affect information that was privileged or confidential under a different law.

The bill would apply to settlements for causes of action that accrued on or after September 1, 2013.

This bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CASHB 382 would be a “good government” bill that would increase transparency. Every year, government attorneys use hundreds of thousands of state funds to settle cases. However, due to confidentiality clauses in settlement agreements, the public knows very little about how this money is spent. This bill would ensure that taxpayer dollars were not being used to muffle legitimate criticism of government agencies or hide wrongdoing by public officials.

**OPPONENTS
SAY:**

CASHB 382 would impede the legal parties’ ability freely to negotiate the terms of a settlement agreement. By eliminating confidentiality clauses in certain situations, this bill could make cases harder to settle, forcing expensive litigation that could cost more taxpayer dollars. Moreover, employers value these clauses because they can prevent disgruntled employees from hurting their reputations or lashing out at former coworkers.