

- SUBJECT:** Making fee awards discretionary in motions to dismiss baseless actions
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White
- 0 nays
- WITNESSES:** For — Wayne Ramsay (*Registered, but did not testify*: James Grace Jr., CNA Insurance; Daniel Womack, Dow Chemical; Lee Loftis, Independent Insurance Agents of Texas; Guy Herman, Statutory Probate Courts of Texas; Lee Parsley, Texans for Lawsuit Reform; George Christian, Texas Association of Defense Counsel; Michael Garcia, Texas Association of Manufacturers; George Christian and John W. Fainter Jr., Texas Civil Justice League; Cary Roberts, US Chamber Institute for Legal Reform)
- Against — None
- BACKGROUND:** Government Code sec. 22.004(g) requires the Texas Supreme Court to adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence.
- Civil Practice and Remedies Code sec. 30.021 requires a trial court in a civil proceeding to award costs and attorney's fees to the prevailing party when granting or denying, in whole or in part, a motion to dismiss a baseless cause of action. The section does not apply to actions by or against the state, other governmental entities, or public officials acting in their official capacity or under color of law.
- Some suggest that the requirement to grant such a fee award discourages the use of the motion to dismiss a baseless cause of action because the parties are reluctant to expose themselves to these costs and fees.
- DIGEST:** HB 3300 would allow, rather than require, a court to award costs and

attorney's fees to the prevailing party when granting or denying a motion to dismiss a baseless cause of action.

The bill would take effect September 1, 2019.