

## **BILL ANALYSIS**

Senate Research Center

S.B. 675  
By: Ogden  
Jurisprudence  
3-11-97  
Committee Report (Amended)

### **DIGEST**

Currently, persons are not protected from liability if they donate used fire control or fire rescue equipment to the Texas Forest Service. There are approximately 1,800 volunteer fire departments in Texas; 1,500 do not have a consistent source of revenue and must rely upon donations. There are approximately 1,000 major industrial companies in Texas which employ fire brigades equipped with state-of-the-art firefighting equipment. This equates to almost 20,000 firefighters. There is the potential for used equipment to be donated to 20,000 ill-equipped volunteer firefighters. Because of liability concerns, however, companies which would otherwise donate used or obsolete firefighting equipment to volunteer fire departments now destroy it. This bill will limit the liability of persons who donate equipment to the Texas Forest Service for redistribution to volunteer fire departments.

### **PURPOSE**

As proposed, S.B. 675 limits the liability of persons who donate equipment to the Texas Forest Service for redistribution to volunteer fire departments.

### **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 88.106, Education Code, as follows:

Sec. 88.106. New heading: COOPERATION WITH FEDERAL AGENCIES; RURAL FIRE PROTECTION PLANS; FIRE TRAINING; DISPOSITION OF USED OR OBSOLETE EQUIPMENT. Authorizes the director of the Texas Forest Service, under the supervision of the board of regents of the Texas A & M University System, to take certain actions. Authorizes a person to donate used or obsolete fire control or fire rescue equipment to the Texas Forest Service for the service's use or the service's distribution to other volunteer fire departments. Provides that a person is not liable in civil damages for personal injury, property damage, or death resulting from a defect in equipment donated in good faith by the person under this section unless the person's act or omission proximately causing the claim, damage, or loss constitutes malice, gross negligence, recklessness, or intentional misconduct. Provides that the Texas Forest Service, its director, officers, and employees are not liable in civil damages for personal injury, property damage, or death resulting from a defect in equipment sold, loaned, or otherwise made available in good faith under this section unless the act or omission of the service, its director, officer, or employee proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct. Defines "fire control or fire rescue equipment."

SECTION 2. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1, Section 88.106(d), Education Code, to insert the word "malice," after the word "constitutes."

Amends SECTION 1, Sections 88.106(b) and (c), Education Code, to strike the phrase "organized fire fighting groups" and replace it with "volunteer fire departments."

Amends SECTION 1, Section 88.106(e), to add "A breathing apparatus that is donated to the forest service will be re-certified to manufacturer's specifications before it is made available to an authorized group by a technician certified by the manufacturer."