

BILL ANALYSIS

Senate Research Center

H.B. 382
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Settlement agreements entered into by governmental entities generally must be disclosed under public information law. However, observers note that settlement agreements often lack detail and give no indication of the underlying allegations or facts, which can be shielded from public scrutiny with gag orders. Interested parties contend that recent events demonstrate how gag orders can prevent citizens from knowing any details about lawsuit settlements funded by taxpayer money and point to a recent sexual harassment lawsuit filed against a Texas public official as an example. Those parties note that the settlement agreement in that case contained a gag order preventing the accuser from discussing the allegations or the settlement, and county officials refused to release an investigative report on the allegations even though thousands of taxpayer dollars were used to investigate the allegations.

Concerned parties contend that barring gag orders for settlements involving governmental entities would not provide any disincentive for plaintiffs to settle lawsuits because, if the plaintiffs are willing to file lawsuits, they are willing to testify in open court regarding their allegations. H.B. 382 seeks to address this issue by prohibiting an attorney representing a governmental unit from entering into certain settlement agreements if a gag order is a condition of the settlement.

H.B. 382 amends current law relating to certain limitations on settlement agreements with a governmental unit.

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 Title 5, Civil Practice and Remedies Code, by adding Chapter 112, as follows:

CHAPTER 112. LIMITATION ON SETTLEMENT OF CLAIM OR ACTION AGAINST A GOVERNMENTAL UNIT

Sec. 112.001. **CERTAIN LIMITATIONS ON SETTLEMENT BY A GOVERNMENTAL UNIT.** (a) Defines "governmental unit" in this chapter.

(b) Prohibits the attorney general or another attorney representing a governmental unit from entering into a settlement of a claim or action against the governmental unit in which the amount of the settlement is greater than or equal to \$30,000 and a condition of the settlement requires a party seeking affirmative relief against the governmental unit to agree not to disclose any fact, allegation, evidence, or other matter to any other person, including a journalist or other member of the media. Provides that a nondisclosure provision in violation of this chapter is void and unenforceable. Prohibits a governmental unit from disclosing the personal information of the party seeking affirmative relief unless the party agrees to the disclosure.

(c) Provides that this chapter does not affect information that is privileged or confidential under other law.

SECTION 2. Provides that the change in law made by this Act applies to the settlement of a claim or action with respect to which the cause of action on which the claim or action is based accrues on or after the effective date of this Act. Provides that a claim or action with respect to which the cause of action on which the claim or action is based accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.