

PROCLAMATION
BY THE
Governor of the State of Texas

41-3206

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 15, of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto House Concurrent Resolution No. 161 as passed by the Eighty-first Texas Legislature, Regular Session, because of the following objections:

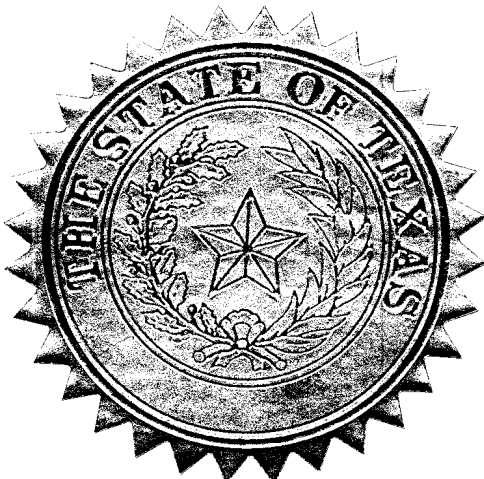
House Concurrent Resolution No. 161 would allow the Benbrook Water Authority to waive its sovereign immunity from lawsuits by authorizing it to enter into a prospective agreement with a witness in a lawsuit. In this case, the authority would agree to indemnify the witness if the opposing party sued the witness regarding his testimony.

Sovereign immunity protects government entities from lawsuits to prevent them from being treated as a “deep pocket” in litigation, since any award is ultimately paid with taxpayer money. Sovereign immunity is waived by statute for certain types of lawsuits, including the Texas Tort Claims Act, but should be waived sparingly to protect Texas taxpayers from excessive litigation. Waivers granted by the legislature typically provide the right to sue the state for a specific legal and factual allegation, not the right to sue at a future date if some unanticipated event – in this case a lawsuit against a witness – should come to pass.

Although the water authority board is well-intentioned in efforts to protect its witnesses from litigation, taxpayers should not be subjected to agreements that pledge their money to back unspecified and open-ended protection of witnesses in lawsuits.

I will only support waivers of sovereign immunity that define specific cases for which a government entity may be subject to suit and that cap the damages that taxpayer dollars would be required to cover. An agreement protecting a witness against unspecified potential lawsuits for an unspecified cause of action, with no cap on potential liability, is not a precedent Texas should set in the waiver of taxpayers’ sovereign immunity protection.

Since the Legislature by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 19th day of June, 2009.

Rick Perry
RICK PERRY
Governor of Texas

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 19 2009

ATTESTED BY:


COBY SHORTER, III
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK
JUN 19 2009