

PROCLAMATION
BY THE
Governor of the State of Texas

41-3222

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 Senate Concurrent Resolution No. 59 as passed by the Eighty-first Texas Legislature, Regular Session, because of the following objections:

Senate Concurrent Resolution No. 59 would grant MBP Corp. permission to sue the Board of Trustees of the Galveston Wharves, a Galveston city utility, for breach of a lease and for invading its leasehold. In dispute is whether the lease permits the board to construct an air-conditioned walkway on the roof of Galveston's Mallory Building to allow cruise ship passengers access to ships.

Senate Concurrent Resolution No. 59 would have been acceptable if it had been limited to this provision and had capped damages for which Galveston taxpayers could ultimately have been held responsible.

The permission to sue granted by Senate Concurrent Resolution No. 59, however, is not limited to the dispute regarding the rooftop of the Mallory Building, and authorizes future suits on any property involved in the lease. Moreover, the resolution contains no cap on the damages for which the taxpayers could be ultimately held responsible under the litigation.

A lawsuit on this matter is currently pending in the 14th Court of Appeals of Texas. The court's decision on the sovereign immunity issue could eliminate the need for this resolution. If the court rules against it, MBP Corp. could return to the legislature for a resolution that limited the permission to sue to the matter at issue in the resolution and set a reasonable cap on the damages sought.

I will only support waivers of sovereign immunity that are specific as to the cause of action for which a governmental entity may be subject to suit, and that set a reasonable cap on damages.

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
7:28 P.M. 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