

AN ACT

relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. LIMITATION ON SETTLEMENT
OF CLAIM OR ACTION AGAINST THE STATE

Sec. 111.001. PURPOSE; APPLICABILITY. (a) The purposes of this chapter include providing a means for the legislature to determine the extent to which this state waives its sovereign immunity with regard to a settlement of a claim or action against the state that requires an expenditure of state funds.

(b) This chapter applies to any settlement described by Section 111.003(a) of a claim or action against this state seeking any relief under any theory of recovery, including a mandamus action against a state officer or official, that is brought or may be brought in or before any court, administrative agency, or other tribunal.

(c) For purposes of this chapter, a reference to this state includes any agency, institution, or other entity of state government.

(d) This chapter does not apply to a refund of a tax, fee, or

1 any related penalty or interest.

2 Sec. 111.002. DEFINITION. In this chapter, "settlement"
3 includes a consent decree, an agreed judgment, or any other
4 settlement or compromise of a claim or action.

5 Sec. 111.003. LIMITATION ON SETTLEMENT WITHOUT LEGISLATIVE
6 CONSENT OR APPROVAL. (a) The attorney general or other attorney
7 representing this state may not enter into a settlement of a claim
8 or action against this state without the consent or approval of the
9 legislature in accordance with this chapter if the settlement:

10 (1) requires this state to pay total monetary damages
11 in an amount that exceeds \$25,000,000 in a state fiscal biennium; or

12 (2) commits this state to a course of action that in
13 reasonable probability will entail a continuing increased
14 expenditure of state funds over subsequent state fiscal bienniums.

15 (b) A settlement described by Subsection (a) entered into
16 without the prior consent or approval of the legislature is void
17 unless the settlement is expressly conditioned on obtaining
18 subsequent approval by the legislature in accordance with this
19 chapter.

20 Sec. 111.004. FORM OF CONSENT OR APPROVAL. (a) The
21 legislature may consent to or approve a settlement described by
22 Section 111.003(a) only by a resolution adopted by both houses of
23 the legislature.

24 (b) Legislative consent under this chapter may but is not
25 required to be expressed in the form of a resolution granting
26 permission to sue the state that limits the relief to which a
27 claimant may be entitled or provides additional conditions to which

1 a grant of permission to sue is subject.

2 Sec. 111.005. APPROPRIATIONS. (a) An appropriation of
3 state funds to pay or comply with a settlement does not constitute
4 consent to or approval of the settlement for purposes of this
5 chapter.

6 (b) A resolution consenting to or approving a settlement
7 under this chapter does not and may not require the legislature to
8 appropriate a particular amount for a particular purpose.

9 Sec. 111.006. REPORT BY ATTORNEY GENERAL. Not later than
10 September 1 of each even-numbered year, the attorney general shall
11 send to the lieutenant governor, the speaker of the house of
12 representatives, and each member of the Senate Finance Committee
13 and the House Appropriations Committee a report describing each
14 claim or action pending as of September 1 of that year that has been
15 or that in the opinion of the attorney general may be settled in a
16 manner that will require prior consent or subsequent approval by
17 the legislature under this chapter.

18 SECTION 2. Chapter 111, Civil Practice and Remedies Code,
19 as added by this Act, applies only to a consent decree, agreed
20 judgment, or other settlement or compromise of a claim or action
21 entered into on or after the effective date of this Act. A consent
22 decree, agreed judgment, or other settlement or compromise of a
23 claim or action entered into before the effective date of this Act
24 is governed by applicable law in existence on the date the consent
25 decree, agreed judgment, or other settlement or compromise is
26 entered into.

27 SECTION 3. This Act takes effect immediately if it receives

S.B. No. 2031

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2007. _____

David Newkum
President of the Senate

Jim Caddick
Speaker of the House

I hereby certify that S.B. No. 2031 passed the Senate on
May 7, 2007, by the following vote: Yeas 28, Nays 3; and that the
Senate concurred in House amendment on May 25, 2007, by the
following vote: Yeas 27, Nays 3. _____

Datay Saw
Secretary of the Senate

I hereby certify that S.B. No. 2031 passed the House, with
amendment, on May 23, 2007, by the following vote: Yeas 140,
Nays 1, one present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

15 JUN 07
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6 PM O'CLOCK
JUN 15 2007
Roger Williams
Secretary of State