

CHAPTER 561

S.B. No. 798

AN ACT

relating to liability insurance and similar coverage for political subdivisions and for certain governmental officials and employees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 41.012, Government Code, is amended to read as follows:

Sec. 41.012. **LIABILITY INSURANCE.** A county or district attorney may purchase, for himself and for his staff members, liability insurance, *or similar coverage from a governmental pool operating under Chapter 119, Local Government Code, or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes)*, to insure against claims arising from the performance of his official duties from state or county funds appropriated or allocated for the expenses of his office or from accounts maintained by the county or district attorney, including but not limited to the fund created by charges assessed by the county or

district attorney in connection with the collection of “insufficient fund” negotiable instruments.

SECTION 2. Subsection (c), Section 51.302, Government Code, is amended to read as follows:

(c) Each district clerk shall obtain an insurance policy *or similar coverage from a governmental pool operating under Chapter 119, Local Government Code*, to cover the district clerk and any deputy clerk against liabilities incurred through errors or omissions in the performance of official duties. The amount of the policy must be in an amount equal to the maximum amount of fees collected in any year during the term of office immediately preceding the term for which the insurance is obtained, except that the amount of the policy *or other coverage document* may not be for less than \$10,000 nor more than \$700,000. *If the policy or other coverage document provides coverage for other county officials, the amount of the policy must be at least \$1 million.*

SECTION 3. Subsections (a) and (b), Section 82.003, Local Government Code, are amended to read as follows:

(a) The county clerk shall obtain an insurance policy *or similar coverage from a governmental pool operating under Chapter 119* covering the clerk and each deputy clerk against liability incurred through errors and omissions in the performance of their official duties.

(b) The policy *or other coverage document* must be in an amount equal to the maximum amount of fees collected in any year during the term of office preceding the term for which the policy is to be obtained. However, the policy *or other coverage document* must be in an amount of at least \$10,000 but is not required to exceed \$500,000. *If the policy or other coverage document provides coverage for other county officials, the policy or other coverage document must be in an amount of at least \$1 million.*

SECTION 4. Subsection (a), Section 119.002, Local Government Code, is amended to read as follows:

(a) On the adoption of a resolution by the commissioners courts of at least 10 counties in this state, the County Government Risk Management Pool is created to insure each county in this state that purchases coverage in the pool against liability for ~~the [that county's]~~ acts or omissions *of that county and the officials and employees of that county* under the law.

SECTION 5. Chapter 119, Local Government Code, is amended by adding Section 119.009 to read as follows:

Sec. 119.009. PARTICIPATION BY OTHER POLITICAL SUBDIVISIONS. (a) A political subdivision other than a county may participate in the County Government Risk Management Pool established under this chapter.

(b) A political subdivision participating in the pool under this section is entitled to the same coverage provided to a county and may participate under the same terms and conditions as a county.

SECTION 6. Subsection (a), Section 154.010, Local Government Code, is amended to read as follows:

(a) A warrant may be drawn on either the general fund or salary fund to pay any insurance premium or self-insurance pool contribution for the purpose of providing insurance or other coverage for the liabilities of an official or employee of the county, *a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county* arising from the performance of an official duty or a duty of employment as authorized by Section 157.041 or Chapter 119, Local Government Code, or by Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), or by ~~the [The]~~ Interlocal Cooperation Act (Chapter 791, Government Code [~~Article 4413(32e), Vernon's Texas Civil Statutes~~]).

SECTION 7. Section 157.041, Local Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The commissioners court of a county may *obtain insurance or similar coverage from a governmental pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987*

(Article 715c, Vernon's Texas Civil Statutes), for [insure] an official or employee of the county[,] including county and precinct peace officers designated by the commissioners court, a district attorney who has all or part of the county within the district attorney's jurisdiction, or an official of any special purpose district located, in whole or in part, in the county against liability arising from the performance of official duties or duties of employment.

(d) Coverage obtained from a pool operating under Chapter 119 or a self-insurance fund or risk retention group operating under Chapter 1084, Acts of the 70th Legislature, Regular Session, 1987 (Article 715c, Vernon's Texas Civil Statutes), is not insurance and, except as provided by Subsections (b) and (c), is not subject to regulation by the Texas Department of Insurance.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 21, 1993: Yeas 30, Nays 0; May 13, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 19, 1993, House granted request of the Senate; May 28, 1993, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 7, 1993: Yeas 139, Nays 0, two present not voting; May 19, 1993, House granted request of the Senate for appointment of Conference Committee; May 28, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 11, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.