

## CHAPTER 524

H.B. No. 815

AN ACT

relating to legislative consent to suits against the state.

*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 107 to read as follows:

## CHAPTER 107. PERMISSION TO SUE THE STATE

*Sec. 107.001. GRANTS OF PERMISSION COVERED. This chapter applies to resolutions granting permission to sue the state or any of the agencies of government that collectively constitute the government of this state, including agencies, departments, bureaus, boards, commissions, offices, agencies, councils, courts, and institutions of higher education as defined by Section 61.003, Education Code.*

*Sec. 107.002. EFFECT OF GRANT OF PERMISSION. (a) A resolution that grants a person permission to sue the state has the following effect and the permission is granted subject to the following conditions:*

*(1) the claimant may sue for any relief to which the claimant is entitled as a result of the described claim;*

*(2) the suit must be filed before the second anniversary of the effective date of the resolution;*

*(3) service of citation and other required process must be made on the attorney general and on a person named in the resolution as a representative of the affected state agency;*

*(4) the suit must be tried as other civil suits;*

*(5) neither the state, nor any of its employees, agents, departments, agencies, or political subdivisions, admits to liability for, or to the truth of, any allegation asserted by the claimant;*

*(6) the alleged cause of action must be proved under the law of this state as in other civil suits;*

*(7) the state does not waive any defense, of law or fact, available to the state or to any of its employees or agents;*

*(8) the state reserves every defense, except the defense of immunity from suit without legislative permission;*

*(9) the state's ability to plead res judicata to any issue is not affected;*

*(10) the state does not grant permission to recover exemplary or punitive damages;*

*(11) the state's sovereign immunity under the Eleventh Amendment to the United States Constitution is not waived; and*

*(12) the state does not grant permission to be sued in any federal court.*

*(b) A resolution granting permission to sue does not waive to any extent immunity from liability.*

*Sec. 107.003. METHOD EXCLUSIVE. (a) A resolution may grant permission to sue the state only in accordance with this chapter.*

*(b) A resolution may not alter the effect of the permission as described by Section 107.002, except that a resolution may further limit the relief to which the claimant may be entitled.*

*Sec. 107.004. ADDITIONAL CONDITIONS. A resolution may specifically provide additional conditions to which a grant of permission to sue is subject.*

*Sec. 107.005. EFFECT ON OTHER LAWS. This chapter does not affect a waiver of immunity from suit contained in other law.*

**SECTION 2.** This Act applies only to resolutions adopted on or after the effective date of this Act.

**SECTION 3.** 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 by the House on April 2, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 815 on May 20, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 18, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.