

By: Deuell

S.B. No. 407

Substitute the following for S.B. No. 407:

By: Hartnett

C.S.S.B. No. 407

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the liability of a governmental unit in the absence of a
3 contract for fire or emergency services.

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

5 SECTION 1. The section heading of Section 791.006,
6 Government Code, is amended to read as follows:

7 Sec. 791.006. LIABILITY IN CONTRACT OR ABSENCE OF [~~FIRE~~
8 ~~PROTECTION~~] CONTRACT FOR [~~OR~~] PROVISION OF FIRE, EMERGENCY, OR LAW
9 ENFORCEMENT SERVICES.

10 SECTION 2. Section 791.006, Government Code, is amended by
11 amending Subsection (a) and adding Subsections (d) and (e) to read
12 as follows:

13 (a) If governmental units contract under this chapter to
14 furnish or obtain fire or emergency [~~the~~] services, [~~of a fire~~
15 ~~department, the governmental unit that would have been responsible~~
16 ~~for furnishing the services in the absence of the contract~~] they may
17 determine by contract which party is responsible for any civil
18 liability that arises from the furnishing of those services. In the
19 absence of a contract addressing liability, if a governmental unit
20 furnishes fire or emergency services to another governmental unit,
21 the governmental unit that requests and obtains the services is
22 responsible for any civil liability that arises from the furnishing
23 of those services.

24 (d) Nothing in this section affects the employer-employee

1 relationship or the terms or conditions of employment between a
2 governmental unit and its employees, such as the payment of wages or
3 provision of benefits, including worker compensation.

4 (e) Nothing in this section affects a school district.

5 SECTION 3. (a) The change in law made by this Act to Section
6 791.006, Government Code, does not affect any civil liability for
7 services furnished under an interlocal cooperation contract to
8 furnish or obtain the services of a fire department entered into
9 before the effective date of this Act.

10 (b) The former law is continued in effect for the purpose of
11 determining liability, if any, for services furnished under an
12 interlocal cooperation contract to furnish or obtain the services
13 of a fire department entered into before the effective date of this
14 Act.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2003.