

- SUBJECT:** Providing local governments sovereign immunity in disaster relief
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Meyer, Smith, White  
0 nays  
2 absent — Krause, Neave
- SENATE VOTE:** On final passage, April 16 — 30-1 (Hughes)
- WITNESSES:** For — Donald Glywasky, City of Galveston; (*Registered, but did not testify*: Brie Franco, City of Austin; TJ Patterson, City of Fort Worth; Bill Kelly, City of Houston Mayor's Office)  
  
Against — None
- BACKGROUND:** Local Government Code sec. 271.152 establishes that a local government entity that enters into an authorized contract for the provision of goods or services waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of the contract.  
  
The U.S. Department of Housing and Urban Development administers funding under the Community Development Block Grant (CDBG) Program as Disaster Recovery grants. Texas can apply for these funds and distribute them through the General Land Office to local governments to rebuild areas affected by a disaster.
- DIGEST:** SB 1575 would establish that a municipality performed a governmental function if it entered into or took action under a contract for a purpose related to disaster recovery after the governor declared a state of disaster. A city would have governmental immunity to suit and from liability for a cause of action arising from such a governmental function.  
  
A local governmental entity that entered a contract for goods and services

would not waive immunity from liability if the contract:

- arose from the governor's state of emergency declaration; and
- primarily spent state or federal funds on goods and services that benefited private citizens or private property located in the recovering area and did not benefit the entity.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019. It would apply only to a contract entered into or action taken under the contract on or after the bill's effective date.

**SUPPORTERS  
SAY:**

SB 1575 would ensure that local governments could effectively use Community Development Block Grant Disaster Recovery (CDBG-DR) funds and enter contracts to rebuild devastated areas without fear of litigation by extending to local governments the same immunity from claims relating to these grants and contracts that is extended to the state and federal governments.

The governments of local communities that are greatly affected by disasters are often in need of financial assistance to perform their core governmental functions and to serve their residents. The bill simply would ensure that these local governments could enter into contracts and administer CDBG-DR grants without being vulnerable to litigation. In doing so, the bill would prevent a city from being financially exposed for acting as a pass-through for federal disaster relief funds or for performing a necessary governmental function. Local governments should receive this immunity because the funds they administer and the contracts they execute directly benefit the city's homeowners, not the city government.

This extension of immunity could not be abused by cities, as use of grant money is tied to disaster recovery. In addition, cities could still be using this money to rebuild their residents' homes even after a disaster had passed due to the long-lasting effects of a disaster on a community.

**OPPONENTS**

SB 1575 would improperly extend sovereign immunity to local

SAY: governments administering disaster relief grants and executing contracts. Since a local government participating in a contract or administering a grant provided by federal money is a market participant, it should not have immunity from adjudication for an indefinite period after a disaster has passed. Since the bill does not include an expiration date for the extension of immunity to local governments, it could be abused.