



June 2nd, 2026

Chairman Vasut and Members
House Select Committee on Governmental Oversight
Texas House of Representatives

RE: Written Testimony on Texas Tort Claims Act

Chairman Vasut and Members of the Committee:

Thank you for the opportunity to provide written testimony regarding the Texas Tort Claims Act and governmental immunity. The Texas Tort Claims Act serves an important purpose by protecting taxpayers from open-ended liability. Governmental entities operate with public funds, and taxpayers should not be treated as an unlimited source of money for litigation. The Legislature should avoid creating broad new avenues for lawsuit abuse. However, there is a serious accountability gap. Political subdivisions can refuse to follow state law, continue enforcing unlawful ordinances or policies, selectively decline to perform duties imposed by law, or regulate indirectly through permitting, contracting, administrative practices, or non-enforcement. Then, when challenged, they can claim governmental immunity. In practice, immunity can become not merely a shield against excessive damages, but a shield against compliance with state law itself.

Texas law has long recognized that municipalities are limited governments. In *Foster v. City of Waco*, the Texas Supreme Court explained that when a power is granted and the method of its exercise is prescribed, that method excludes all others. The Court also made clear that municipalities may exercise only powers expressly granted, necessarily implied, or indispensable to their lawful purposes. That principle matters here. The Texas Constitution does not make cities and counties independent sovereigns. Home-rule authority exists only within constitutional and statutory limits. Article XI, Section 5 provides that no city charter or ordinance may contain any provision inconsistent with the Texas Constitution or general laws enacted by the Legislature. If the Legislature prescribes what a political subdivision must do, may do, or may not do, local officials should not be able to evade that command through delay, refusal, selective enforcement, or procedural gamesmanship. Texans should not be trapped in a legal whack-a-mole where every unlawful local workaround requires a separate lawsuit. The Legislature should preserve taxpayer protections while making clear that governmental immunity may not be used as a defense when a political subdivision acts outside its lawful authority or refuses to comply with state law. Several reforms should be considered.

First, create a clear statutory cause of action for declaratory and injunctive relief when a political subdivision adopts, maintains, enforces, refuses to enforce, or indirectly implements an ordinance, order, rule, policy, or practice that conflicts with state law.

Second, expressly waive immunity for those limited compliance actions. If state law requires or forbids certain local action, a city or county should not be able to avoid judicial review by claiming immunity.

Third, authorize recovery of reasonable attorney's fees and costs when a claimant substantially prevails.

Fourth, provide a notice-and-cure process. If the political subdivision corrects the problem within a reasonable period, litigation can be avoided. If it refuses, immunity should be waived for a narrow compliance suit.

The goal is not unlimited liability. The goal is to ensure political subdivisions cannot violate state law with practical impunity. Governmental immunity should protect taxpayers from abusive litigation, not protect local officials from accountability when they refuse to follow the law.

For Liberty, For Texas!

Jeremy D. Kitchen
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