



DRIPPING SPRINGS Texas

April 9, 2025

The Honorable Jeff Leach
Chair, House Committee on Judiciary & Civil Jurisprudence
P.O. Box 2910
Austin, TX 78711

Dear Mr. Chairman:

The purpose of this letter is to inform you of the City of Dripping Springs' opposition to **House Bill 3647 (Oliverson)**. This bill would impose increased burdens on local governments and our taxpayers. This legislation negatively affects principles like fiscal responsibility and the fair application of justice by tilting the legal playing field in favor of frivolous lawsuits against publicly funded entities.

House Bill 3647 strips the state, cities, counties, and other government bodies of the ability to appeal flawed jurisdictional rulings in *ultra vires* and mandamus cases.

With respect to *ultra-vires* claims, the legislation is not necessary. An *ultra vires* case is a claim that is brought against a state official for nondiscretionary acts unauthorized by law. *Tex. DOT v. Sefzik*, 355 S.W.3d 618, 621 (Tex. 2011) (citing *Fed. Sign v. Tex. S. Univ.*, 951 S.W.2d 401, 404 (Tex. 1997)). "Such lawsuits **are not against the state**" *Id.* (emphasis added). See also *Van Boven v. Freshour*, 659 S.W.3d 396, 402 (Tex. 2022) ("An official who acts *ultra vires* is not acting for the state"); *Hall v. McRaven*, 508 S.W.3d 232, 238 (Tex. 2017) ("*ultra vires* acts—or those acts without authority—should not be considered acts of the state at all.") (citing *Cobb v. Harrington*, 144 Tex. 360, 190 S.W.2d 709, 712 (Tex. 1945)). "Because section 51.014 is a narrow exception to the general rule that only final judgments and orders are appealable, [this Court] strictly construe[s] what may be considered in an interlocutory appeal." *Scott v. Alphonso Crutch Life Support Ctr.*, 392 S.W.3d 132, 141 (Tex. App.—Austin 2009, pet. denied) (citing *City of Dallas v. First Trade Union Sav. Bank*, 133 S.W.3d 680, 686-87 (Tex. App.—Dallas 2003, pet. denied)). An *ultra vires* suit is not against the state. It is, therefore, not against a governmental unit and already does not qualify for an interlocutory appeal under Tex. Civ. Prac. & Rem. Code 51.014(a)(8).

With respect to mandamus claims, however, this legislation invites costly, time-consuming litigation that diverts resources away from essential services like public safety, infrastructure, and schools. A mandamus could issue when there is simply no jurisdiction for such a mandamus and by the time the jurisdictional issue is heard the activity that was the subject of the mandamus will have been long since done. Worse, it mandates one-sided attorneys' fees, effectively rewarding plaintiffs who file speculative claims while taxpayers are harmed in having to pay those fees.

Texas has long valued fairness in its legal system, ensuring that all parties—including government entities—can defend themselves against meritless suits. House Bill 3647 disrupts this balance, encouraging activist litigation designed to pressure local governments into settlements rather than

Open spaces, friendly faces.

upholding the law. This loophole will waste public funds and empower trial lawyers at the expense of local taxpayers.

We share the goal of transparent, responsive government, but House Bill 3647 achieves the opposite. It forces cities, and other government entities, into expensive discovery and trials before appellate review, creating inefficiency and inviting abuse.

For these reasons, the City of Dripping Springs opposes House Bill 3647.

Sincerely,

A handwritten signature in dark ink, appearing to read "Laura Mueller". The signature is fluid and cursive, with the first name "Laura" written in a larger, more prominent script than the last name "Mueller".

Laura Mueller

City Attorney

lmuellet@cityofdrippingsprings.com

(512) 858-4725