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## DIGEST

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Gaines

HB No. 523

**Abstract:** Provides for the traversal of affidavits offered by a state department, board, or agency in opposition to the issuance of an injunction or temporary restraining order.

Present law requires that an injunction be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant, or in other cases specifically provided by law.

Present law provides that no court shall have jurisdiction to issue any temporary restraining order, preliminary injunction, or permanent injunction against any state department, board, or agency to compel the expenditure of state funds when the director of such department, board, or agency or the governor certifies that the expenditure of such funds would have the effect of creating a deficit or be in violation of the requirements placed upon the expenditure of such funds by the legislature.

Proposed law retains present law subject to the certification being reviewed and approved by the Joint Legislative Committee on the Budget.

Proposed law provides that if a certification is presented to, but not approved by, the Joint Legislative Committee on the Budget, the agency shall have the burden of showing by a preponderance of the evidence that the injunction sought would both compel the expenditure of state funds and have the direct effect of creating a deficit within the agency.

Proposed law provides that an adverse party may traverse the facts alleged in the affidavits and may present evidence to controvert the affidavits.

(Amends C.C.P. Art. 3601(A))

### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Reinstated present law relative to the court not having jurisdiction to issue any temporary restraining order or preliminary or permanent injunction when an agency certifies the effect of creating a deficit.
2. Added requirement that the certification submitted pursuant to present law shall be

reviewed and approved by the Joint Legislative Committee on the Budget.

3. Added provision providing that if the certification is not approved by the Joint Legislative Committee on the Budget, the agency bears the burden of proof.