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Texas Gov Perry's civil suit law seen having limited impact

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(Reuters) - Texas Governor Rick Perry's latest plan to kick trial lawyers out of his state may not send them packing after all.

The so-called "loser pays" law that Perry has touted as he seeks the Republican nomination for U.S. president will not have a significant impact in his state, according to attorneys and legal experts. The measure has sparked interest among proponents of legal reform nationwide, though other states are not rushing to adopt similar laws.

Legal experts say the Texas law, which in certain cases makes the loser in a civil lawsuit pay the other side's legal fees, is narrowly written, and will only affect a small number of lawsuits, perhaps 5 percent of those filed in Texas.

"It's a triumph of labeling," said Walter Olson, a fellow at the libertarian Cato Institute in Washington, and an expert on legal reform. "This is not a 'loser pays' system -- not even close. It is one little slice of 'loser pays' that wouldn't have been given national attention if the label hadn't been slapped on it."

Perry, the Republican frontrunner in the 2012 presidential campaign, made the legislation an "emergency" item on his 2011 agenda as governor.

He said the law will not only reform Texas' legal system, but will also create jobs. Because they will be able to avoid "frivolous" lawsuits, employers will flock to the state to do business, he said.

But the new "loser pays" provision likely will be invoked only occasionally, only in cases dismissed from court in the early stages, said Bradley Parker, a partner at law firm Parker McDonald in Fort Worth.

Perry has boasted about the new law on the campaign trail, including at a nationally televised Republican presidential debate earlier this month when he said the measure, coupled with previous reform efforts, would go a long way to "tell the trial lawyers to get out of your state."

The law is significant, says Perry spokeswoman Allison Castle, because it "streamlines" litigation and "keeps defendants from being "dragged through months, or even years, of expensive discovery before the court can dismiss the case."

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The Texas law, which went into effect on September 1, brings the state in line with other U.S. states by allowing a judge to declare an early dismissal of a lawsuit. Now, when a judge throws out a case because it has "no basis in law or fact," the court will award attorneys' fees to the prevailing party.

Alex Winslow, executive director of Texas Watch, a consumer advocacy group, said he was more concerned with another part of the law: changes to a provision that might be nicknamed "winner pays." that could discourage individuals and small businesses from bringing legitimate lawsuits against large corporations

If a plaintiff rejects a settlement offer and subsequently wins an award worth less than 80 percent of the rejected offer, the defendants can recover litigation costs out of the jury award.

(Reporting by Moira Herbst; Editing by Jackie Frank)

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