

AN ACT

relating to civil suits brought by local governments or certain other persons for violations of certain laws under the jurisdiction of, or rules adopted or orders or permits issued by, the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7.351, Water Code, is amended to read as follows:

Sec. 7.351. CIVIL SUITS. (a) Subject to Section 7.3511, if ~~if~~ it appears that a violation or threat of violation of Chapter 16, 26, or 28 of this code, Chapter 361, 371, 372, or 382, Health and Safety Code, a provision of Chapter 401, Health and Safety Code, under the commission's jurisdiction, or Chapter 1903, Occupations Code, or a rule adopted or an order or a permit issued under those chapters or provisions has occurred or is occurring in the jurisdiction of a local government, the local government or, in the case of a violation of Chapter 401, Health and Safety Code, a person affected as defined in that chapter, may institute a civil suit under Subchapter D in the same manner as the commission in a district court by its own attorney for the injunctive relief or civil penalty, or both, as authorized by this chapter against the person who committed, is committing, or is threatening to commit the violation.

(b) Subject to Section 7.3511, if ~~if~~ it appears that a

1 violation or threat of violation of Chapter 366, Health and Safety  
2 Code, under the commission's jurisdiction or a rule adopted or an  
3 order or a permit issued under that chapter has occurred or is  
4 occurring in the jurisdiction of a local government, an authorized  
5 agent as defined in that chapter may institute a civil suit under  
6 Subchapter D in the same manner as the commission in a district  
7 court by its own attorney for the injunctive relief or civil  
8 penalty, or both, as authorized by this chapter against the person  
9 who committed, is committing, or is threatening to commit the  
10 violation.

11 SECTION 2. Subchapter H, Chapter 7, Water Code, is amended  
12 by adding Section 7.3511 to read as follows:

13 Sec. 7.3511. PROCEDURE FOR CIVIL PENALTY; REQUIRED NOTICE.

14 (a) In this section:

15 (1) "Authorized agent" has the meaning assigned by  
16 Section 366.002, Health and Safety Code.

17 (2) "Person affected" has the meaning assigned by  
18 Section 401.003, Health and Safety Code.

19 (b) This section applies only to a claim for a civil penalty  
20 in a civil suit under this subchapter for a violation of a statute,  
21 rule, order, or permit described by Section 7.351.

22 (c) Before instituting any claim described by Subsection  
23 (b), a local government, a person affected, or an authorized agent  
24 shall provide to the attorney general and the executive director of  
25 the commission written notice of each alleged violation, the facts  
26 in support of the claim, and the specific relief sought.

27 (d) A local government, a person affected, or an authorized

1 agent may institute a claim described by Subsection (b) on or after  
2 the 90th day after the date the attorney general and the executive  
3 director of the commission receive the notice required by  
4 Subsection (c) unless before the 90th day after the date the notice  
5 is received the commission has commenced a proceeding under  
6 Subchapter C or the attorney general has commenced a civil suit  
7 under Subchapter D concerning at least one of the alleged  
8 violations set forth in the notice.

9 (e) If a local government, a person affected, or an  
10 authorized agent discovers a violation that is within 120 days of  
11 the expiration of the limitations period described in Section  
12 7.360, the local government, person affected, or authorized agent  
13 may institute a claim described by Subsection (b) on or after the  
14 45th day after the date the attorney general and the executive  
15 director of the commission receive the notice required by  
16 Subsection (c) unless before the 45th day after the date the notice  
17 is received the commission has commenced a proceeding under  
18 Subchapter C or the attorney general has commenced a civil suit  
19 under Subchapter D concerning at least one of the alleged  
20 violations set forth in the notice. In the circumstances described  
21 by this subsection, in addition to providing the notice required by  
22 Subsection (c), the local government, person affected, or  
23 authorized agent must:

24 (1) provide a copy of the notice by certified mail or  
25 hand delivery to the chief of the division of the attorney general's  
26 office responsible for handling environmental enforcement claims;  
27 and

1           (2) include with the copy of the notice under  
2 Subdivision (1) a statement providing that the copy of the notice is  
3 being provided pursuant to this subsection.

4           SECTION 3. Section 7.357, Water Code, is repealed.

5           SECTION 4. The changes in law made by this Act apply only to  
6 a violation that occurs on or after the effective date of this Act.  
7 A violation that occurs before the effective date of this Act is  
8 governed by the law in effect on the date the violation occurred,  
9 and the former law is continued in effect for that purpose.

10          SECTION 5. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2533 was passed by the House on May 9, 2017, by the following vote: Yeas 127, Nays 10, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2533 on May 24, 2017, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2533 was passed by the Senate, with amendments, on May 22, 2017, by the following vote: Yeas 23, Nays 6, 1 present, not voting.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor