

BILL ANALYSIS

C.S.H.B. 378
By: Dutton
Civil Practices
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current Texas law, a district, county, or city attorney, the attorney general, or a Texas citizen may sue to enjoin the use of a place for purposes constituting a public nuisance. Any person who uses, is about to use or is a party to the use of the premises deemed to constitute a public nuisance may be a defendant in a suit to abate a public nuisance. Local authorities have sometimes been reluctant to pursue premises which citizens argue constitute a public nuisance.

CSHB 378 provides that residents of a municipality by petition may require a municipality to file suit to take remedial action against a public nuisance occurring in the municipality.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 378 amends Subchapter B, Chapter 125, Civil Practice and Remedies Code, by adding Section 125.023 which authorizes a resident of a municipality by petition to require the municipality to file suit to take remedial action against a public nuisance that is occurring in the municipality. The petition must be signed by a number of registered voters of the voting precinct in which the alleged nuisance is located equal to at least 20% of the number of voters who voted in the precinct in the most recent general election and the nuisance activity must be occurring within the precinct and within 1,000 feet of a residence. If the court determines that the alleged nuisance is a public nuisance and a threat to the public health or welfare of the residents of the municipality, the bill authorizes the court to order the municipality to:

- (1) warn any person who uses or is about to use the premises for the purposes constituting the nuisance that the use constitutes a public nuisance;
- (2) investigate whether the municipality should bring a suit to abate the nuisance;
- (3) purchase property; or
- (4) exercise the power of eminent domain to acquire the property.

Before ordering relief by purchasing the property or exercising eminent domain, the court must find that the acquisition of the property by the municipality serves a public purpose.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute allows residents by petition, instead of an individual, to require a municipality to

bring suit and sets up the requirements for the petition.