

By: Dutton

H.B. No. 378

Substitute the following for H.B. No. 378:

By: Woolley

C.S.H.B. No. 378

A BILL TO BE ENTITLED

AN ACT

relating to the remedies available to a person to abate a public nuisance in a municipality.

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

SECTION 1. Subchapter B, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.023 to read as follows:

Sec. 125.023. ADDITIONAL REMEDIES IN MUNICIPALITY. (a) In addition to the other remedies available under this chapter, residents of a municipality by petition may require the municipality to file suit to take remedial action against an alleged public nuisance that is occurring in the municipality. The suit may be brought only in a county in which the nuisance occurs.

(b) A petition authorized by Subsection (a) must:

(1) be signed by a number of registered voters of the voting precinct in which the alleged nuisance is located equal to at least 20 percent of the number of voters who voted in the precinct in the most recent general election for state and county officers;

(2) allege that the activity that is the subject of the petition is occurring within the boundaries of the voting precinct and within 1,000 feet of a residence; and

(3) be submitted to the governing body of the municipality.

(c) Not later than the 30th day after the date the petition

1 is submitted to the governing body of the municipality, the
2 municipal secretary or another officer performing the duties of the
3 municipal secretary shall certify in writing to the governing body
4 whether the petition is valid or invalid.

5 (d) If the petition is determined invalid under Subsection
6 (c), the officer shall state all reasons for that determination.

7 (e) The municipality shall initiate a suit as provided by
8 Subsection (a) if:

9 (1) the petition is determined valid under Subsection
10 (c); and

11 (2) the governing body of the municipality determines
12 that the allegation made in the petition under Subsection (b)(2) is
13 true.

14 (f) The governing body of the municipality shall consider
15 the allegation and make or reject a determination under Subsection
16 (e)(2) before the 60th day after the date the governing body
17 receives the certification of a valid petition.

18 (g) If the court determines that the alleged nuisance that
19 is the object of the suit is a public nuisance and a threat to the
20 public health or welfare of the residents of the municipality, the
21 court may order the municipality to:

22 (1) warn any person who uses or is about to use the
23 premises for the purposes constituting the nuisance that the use
24 constitutes a public nuisance;

25 (2) investigate whether the municipality should file a
26 suit under this subchapter or other law to abate the nuisance;

27 (3) purchase property on which a use that constitutes

1 the public nuisance has occurred; or

2 (4) exercise the power of eminent domain to acquire
3 the property on which a use that constitutes the public nuisance has
4 occurred.

5 (h) Before ordering relief under Subsection (g)(3) or (4),
6 the court must find that the acquisition of the property by the
7 municipality serves a public purpose of the municipality.

8 SECTION 2. This Act takes effect September 1, 2003.