

By: Callegari

H.B. No. 4212

Substitute the following for H.B. No. 4212:

By: Frost

C.S.H.B. No. 4212

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the enforcement of rules by the Harris-Galveston  
3 Subsidence District and the Fort Bend Subsidence District.

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

5 SECTION 1. Sections 8801.204(a) and (c), Special District  
6 Local Laws Code, are amended to read as follows:

7 (a) If it appears that a person has violated or is violating  
8 or threatening to violate this chapter or a rule, permit, or other  
9 order of the district issued or adopted under this chapter, the  
10 district may institute an action in a district court in the district  
11 for:

12 (1) injunctive relief to restrain the person from  
13 continuing the violation or threat of violation;

14 (2) the assessment and recovery of a civil penalty of:  
15 (A) not less than \$50 and not more than \$5,000 for  
16 each violation and for each day of a continuing violation, if the  
17 person is not a political subdivision or an agency of a political  
18 subdivision; or

19 (B) if the person is a political subdivision or  
20 an agency of a political subdivision, an amount equal to the greater  
21 of:

22 (i) 120 percent of the sum of the fees  
23 assessed against the person and the amount the person would have  
24 paid to an alternative water supplier; or

1                    (ii) \$5,000 for each violation and for each  
2 day of a continuing violation; or

3                    (3) both injunctive relief and civil penalties.

4                    (c) At the request of the board, or the general manager if  
5 authorized by the board, the attorney general shall institute and  
6 conduct an action against any person in the name of the district for  
7 injunctive relief or to recover a civil penalty, or both.

8                    SECTION 2. Sections 43(a) and (b), Chapter 1045, Acts of the  
9 71st Legislature, Regular Session, 1989, are amended to read as  
10 follows:

11                    (a) If a person has violated, is violating, or is  
12 threatening to violate a provision of this Act or a rule,  
13 regulation, permit, or other order of the district, the district  
14 may bring a civil action in a district court within the district  
15 for:

16                    (1) an injunction to restrain the person from  
17 continuing the violation or the threat of violation;

18                    (2) the assessment and recovery of~~[, for]~~ a civil  
19 penalty of:

20                    (A) not less than \$50 nor more than \$5,000 for  
21 each violation and for each day of violation, if the person is not a  
22 political subdivision or an agency of a political subdivision; or

23                    (B) if the person is a political subdivision or  
24 an agency of a political subdivision, an amount equal to the greater  
25 of:

26                    (i) 120 percent of the sum of the fees  
27 assessed against the person and the amount the person would have

1 paid to an alternative water supplier; or  
2 (ii) \$5,000 for each violation and for each  
3 day of a continuing violation; or  
4 (3) [~~for~~] both injunctive relief and civil penalty.

5 (b) At the request of the board, or the general manager if  
6 authorized by the board, the attorney general shall institute and  
7 conduct an [~~the~~] action against any person in the name of the  
8 district for injunctive relief or to recover a civil penalty, or  
9 both. However, the district in its sole discretion may employ  
10 attorneys of its choice to institute the action.

11 SECTION 3. The changes in law made by this Act apply only to  
12 a violation that occurs on or after the effective date of this Act.  
13 A violation that occurs before the effective date of this Act is  
14 governed by the law in effect at the time the violation occurred,  
15 and the former law is continued in effect for that purpose.

16 SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2009.