

By: Callegari

H.B. No. 4212

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the enforcement of rules by a groundwater conservation  
3 district or subsidence district.

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

5 SECTION 1. Subsections (a), (c) and (e), Section 8801.204,  
6 Special Districts and Local Laws Code, are amended to read as  
7 follows:

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

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

15 (2) the assessment and recovery of a civil penalty of  
16 the greater of:

17 (i) not less than 120% of the amount that person  
18 would have paid in fees and purchases of alternative water  
19 supplies; or

20 (ii) not less than \$50 and not more than \$5,000  
21 for each violation and for each day of a continuing violation; or

22 (3) both injunctive relief and civil penalties.

23 (c) At the request of the board, or the general manager if  
24 authorized by the board, the attorney general shall institute and

1 conduct an action against any person in the name of the district for  
2 injunctive relief or to recover a civil penalty, or both.

3 (e) In a suit to recover a civil penalty or a suit for  
4 injunctive relief and a civil penalty against a political  
5 subdivision of the state or any agency thereof, if the court finds  
6 that political subdivision or agency [~~a person~~] has violated or is  
7 violating a provision of this chapter or a rule, permit, or order of  
8 the district, the court shall assess a civil penalty in the amount  
9 provided by subsection (a)(2)(i) [~~this section~~].

10 SECTION 2. Subsections (a), (b) and (e), Section 43,  
11 Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989,  
12 are amended to read as follows:

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

18 (1) an injunction to restrain the person from  
19 continuing the violation or the threat of violation; [7]

20 (2) [~~for~~] the assessment and recovery of a civil  
21 penalty the greater of:

22 (i) not less than 120% of the amount that person  
23 would have paid in fees and purchases of alternative water  
24 supplies; or

25 (ii) not less than \$50 nor more than \$5,000 for  
26 each violation and for each day of a continuing violation; [7] or

27 (3) [~~for~~] both injunctive relief and civil penalty.

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

7           (e) In a suit to recover a civil penalty or a suit for  
8 injunctive relief and a civil penalty against a political  
9 subdivision of the state or any agency thereof, if the court finds  
10 that political subdivision or agency [a person] has violated or is  
11 violating a provision of this chapter or a rule, permit, or order of  
12 the district, the court shall assess a civil penalty in the amount  
13 provided by subsection (a)(2)(i) [this section].

14           SECTION 3. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2009.