

By: Hegar

S.B. No. 2543

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 providing penalties.

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

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

8 (a) If it appears that a person, including a political
9 subdivision, has violated or is violating or threatening to violate
10 this chapter or a rule, permit, or other order of the district
11 issued or adopted under this chapter, the district may institute an
12 action in a district 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 (A) not less than \$50 and not more than \$5,000 for
17 each violation and for each day of a continuing violation, if the
18 person is not a political subdivision or an agency of a political
19 subdivision; or

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

23 (i) 120 percent of the sum of the fees
24 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) both injunctive relief and civil penalties.

5 (c) 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 action against any person in the name of the district for
8 injunctive relief or to recover a civil penalty, or both.

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

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

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

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

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

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

27 (i) 120 percent of the sum of the fees

1 assessed against the person and the amount the person would have
2 paid to an alternative water supplier; or
3 (ii) \$5,000 for each violation and for each
4 day of a continuing violation; or

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

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

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

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