

1-1 By: Hegar S.B. No. 2543
1-2 (In the Senate - Filed April 21, 2009; April 21, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 7, 2009, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 7, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the enforcement of rules by the Harris-Galveston
1-9 Subsidence District and the Fort Bend Subsidence District;
1-10 providing penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsections (a) and (c), Section 8801.204,
1-13 Special District Local Laws Code, are amended to read as follows:

1-14 (a) If it appears that a person, including a political
1-15 subdivision, has violated or is violating or threatening to violate
1-16 this chapter or a rule, permit, or other order of the district
1-17 issued or adopted under this chapter, the district may institute an
1-18 action in a district court in the district for:

1-19 (1) injunctive relief to restrain the person from
1-20 continuing the violation or threat of violation;

1-21 (2) the assessment and recovery of a civil penalty of:
1-22 (A) not less than \$50 and not more than \$5,000 for
1-23 each violation and for each day of a continuing violation, if the
1-24 person is not a political subdivision or an agency of a political
1-25 subdivision; or

1-26 (B) if the person is a political subdivision or
1-27 an agency of a political subdivision, an amount equal to the greater
1-28 of:

1-29 (i) 120 percent of the sum of the fees
1-30 assessed against the person and the amount the person would have
1-31 paid to an alternative water supplier; or

1-32 (ii) \$5,000 for each violation and for each
1-33 day of a continuing violation; or

1-34 (3) both injunctive relief and civil penalties.

1-35 (c) At the request of the board, or the general manager if
1-36 authorized by the board, the attorney general shall institute and
1-37 conduct an action against any person in the name of the district for
1-38 injunctive relief or to recover a civil penalty, or both.

1-39 SECTION 2. Subsections (a) and (b), Section 43, Chapter
1-40 1045, Acts of the 71st Legislature, Regular Session, 1989, are
1-41 amended to read as follows:

1-42 (a) If a person, including a political subdivision, has
1-43 violated, is violating, or is threatening to violate a provision of
1-44 this Act or a rule, regulation, permit, or other order of the
1-45 district, the district may bring a civil action in a district court
1-46 within the district for:

1-47 (1) an injunction to restrain the person from
1-48 continuing the violation or the threat of violation;

1-49 (2) the assessment and recovery of [~~7, for~~] a civil
1-50 penalty of:

1-51 (A) not less than \$50 nor more than \$5,000 for
1-52 each violation and for each day of violation, if the person is not a
1-53 political subdivision or an agency of a political subdivision; or

1-54 (B) if the person is a political subdivision or
1-55 an agency of a political subdivision, an amount equal to the greater
1-56 of:

1-57 (i) 120 percent of the sum of the fees
1-58 assessed against the person and the amount the person would have
1-59 paid to an alternative water supplier; or

1-60 (ii) \$5,000 for each violation and for each
1-61 day of a continuing violation; or

1-62 (3) [~~for~~] both injunctive relief and civil penalty.

1-63 (b) At the request of the board, or the general manager if
1-64 authorized by the board, the attorney general shall institute and

2-1 conduct an [the] action against any person in the name of the
2-2 district for injunctive relief or to recover a civil penalty, or
2-3 both. However, the district in its sole discretion may employ
2-4 attorneys of its choice to institute the action.

2-5 SECTION 3. The changes in law made by this Act apply only to
2-6 a violation that occurs on or after the effective date of this Act.
2-7 A violation that occurs before the effective date of this Act is
2-8 governed by the law in effect at the time the violation occurred,
2-9 and the former law is continued in effect for that purpose.

2-10 SECTION 4. This Act takes effect immediately if it receives
2-11 a vote of two-thirds of all the members elected to each house, as
2-12 provided by Section 39, Article III, Texas Constitution. If this
2-13 Act does not receive the vote necessary for immediate effect, this
2-14 Act takes effect September 1, 2009.

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