

SENATE AMENDMENTS

2nd Printing

By: Coleman

H.B. No. 3004

A BILL TO BE ENTITLED

AN ACT

relating to animal shelter standards; providing a civil penalty.

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

SECTION 1. Chapter 823, Health and Safety Code, is amended by adding Sections 823.008 and 823.009 to read as follows:

Sec. 823.008. ENFORCEMENT BY COUNTY. (a) A county may enforce this chapter.

(b) This section does not authorize a county to establish standards for operating an animal shelter.

(c) A county may not enforce this chapter at an animal shelter operated by a municipality.

Sec. 823.009. CIVIL PENALTY. (a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.

(b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty. A civil penalty under this chapter may not be less than \$100 or more than \$500 for each violation and for each day of a continuing violation.

(c) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the county or municipality in which the violation occurs may institute a civil suit in district court for:

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

1 (2) the assessment and recovery of the civil penalty;

2 or

3 (3) both injunctive relief and the civil penalty.

4 (d) A bond is not required in an action brought under this
5 section.

6 SECTION 2. The change in law made by this Act applies only
7 to conduct that occurs on or after the effective date of this Act.
8 Conduct that occurs before the effective date of this Act is
9 governed by the law in effect at the time the conduct occurred, and
10 the former law is continued in effect for that purpose.

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

ADOPTED

MAY 22 2009

Atay Spaw
Secretary of the Senate

By: *Jackson*

H.B. No. 3004

Substitute the following for H.B. No. 3004:

By: *M. Gally*

C.S. H.B. No. 3004

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(b) This section does not authorize a county to establish standards for operating an animal shelter.

(c) A county may not enforce this chapter at an animal shelter operated by a municipality.

Sec. 823.009. CIVIL PENALTY. (a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.

(b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty. A civil penalty under this chapter may not be less than \$100 or more than \$500 for each violation and for each day of a continuing violation. This subsection does not apply at an animal shelter operated by a municipality.

(c) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the county or municipality in which the violation occurs may institute a civil suit in district court for:

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

3 (2) the assessment and recovery of the civil penalty;
4 or

5 (3) both injunctive relief and the civil penalty.

6 (d) A bond is not required in an action brought under this
7 section.

8 SECTION 2. The change in law made by this Act applies only
9 to conduct that occurs on or after the effective date of this Act.
10 Conduct that occurs before the effective date of this Act is
11 governed by the law in effect at the time the conduct occurred, and
12 the former law is continued in effect for that purpose.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3004 by Coleman (Relating to animal shelter standards; providing a civil penalty.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to authorize a county to enforce standards established for operating an animal shelter, unless the animal shelter is operated by a municipality. The bill would establish a civil penalty of not less than \$100 nor more than \$500 for each violation and for each day of a continuing violation of the standards for operating an animal shelter. The subsection of the bill regarding the civil penalty would not apply at an animal shelter operated by a municipality.

In addition, a county or a municipality in which the violation occurs could institute a civil suit in district court to seek injunctive relief to restrain a person from continuing to commit a violation, to assess and recover the civil penalty, or both actions.

The proposed change in law would apply only to conduct that occurs on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

Revenue gain would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing a penalty. It is assumed that a local government could absorb any associated enforcement costs within existing resources.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, SD, CL, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 14, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3004** by Coleman (Relating to animal shelter standards; providing a civil penalty.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to authorize a county to enforce standards established for operating an animal shelter, unless the animal shelter is operated by a municipality. The bill would establish a civil penalty of not less than \$100 nor more than \$500 for each violation and for each day of a continuing violation of the standards for operating an animal shelter. The subsection of the bill regarding the civil penalty would not apply at an animal shelter operated by a municipality.

In addition, a county or a municipality in which the violation occurs could institute a civil suit in district court to seek injunctive relief to restrain a person from continuing to commit a violation, to assess and recover the civil penalty, or both actions.

The proposed change in law would apply only to conduct that occurs on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Local Government Impact

Revenue gain would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing a penalty. It is assumed that a local government could absorb any associated enforcement costs within existing resources.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 13, 2009

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3004 by Coleman (Relating to animal shelter standards; providing a civil penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to authorize a county to enforce standards established for operating an animal shelter, unless the animal shelter is operated by a municipality. The bill would establish a civil penalty of not less than \$100 nor more than \$500 for each violation and for each day of a continuing violation of the standards for operating an animal shelter.

In addition, a county or a municipality in which the violation occurs could institute a civil suit in district court to seek injunctive relief to restrain a person from continuing to commit a violation, to assess and recover the civil penalty, or both actions.

The proposed change in law would apply only to conduct that occurs on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Revenue gain from imposing a civil penalty would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing the penalty. According the DSHS, costs associated with implementing provisions of the bill could be absorbed within existing resources.

Local Government Impact

As indicated above, revenue gain would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing a penalty. It is assumed that a local government could absorb any associated enforcement costs within existing resources.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of
LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 2, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3004 by Coleman (Relating to animal shelter standards; providing a civil penalty.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to authorize a county to enforce standards established for operating an animal shelter, unless the animal shelter is operated by a municipality. The bill would establish a civil penalty of not less than \$100 nor more than \$500 for each violation and for each day of a continuing violation of the standards for operating an animal shelter.

In addition, a county or a municipality in which the violation occurs could institute a civil suit in district court to seek injunctive relief to restrain a person from continuing to commit a violation, to assess and recover the civil penalty, or both actions. If a county or a municipality prevails in court, they would be entitled to recover reasonable costs of investigating the violation, as well as reasonable attorney's fee and court costs.

The proposed change in law would apply only to conduct that occurs on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Revenue gain from imposing a civil penalty would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing the penalty. According the DSHS, costs associated with implementing provisions of the bill could be absorbed within existing resources.

Local Government Impact

As indicated above, revenue gain would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing a penalty. It is assumed that a local government could absorb any associated enforcement costs within existing resources.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 21, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3004 by Coleman (Relating to animal shelter standards; providing a civil penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code to authorize a county to enforce standards established for operating an animal shelter. The bill would establish a civil penalty of not less than \$100 nor more than \$500 for each violation and for each day of a continuing violation of the standards for operating an animal shelter.

In addition, a county, a municipality, or the Department of State Health Services (DSHS) could institute a civil suit in district court to seek injunctive relief to restrain a person from continuing to commit a violation, to assess and recover the civil penalty, or both actions. If DSHS, a county, or a municipality prevails in court, they would be entitled to recover reasonable costs of investigating the violation, as well as reasonable attorney's fee and court costs.

The proposed change in law would apply only to conduct that occurs on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

Revenue gain from imposing a civil penalty would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing the penalty. According the DSHS, costs associated with implementing provisions of the bill could be absorbed within existing resources.

Local Government Impact

As indicated above, revenue gain would depend on the number of violations, the number of days the violation continues, and the judge's discretion in imposing a penalty. It is assumed that a local government could absorb any associated enforcement costs within existing resources.

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, DB