

By: Geren, Fallon

H.B. No. 2533

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to civil suits brought by local governments or certain  
3 other persons for violations of certain laws under the jurisdiction  
4 of, or rules adopted or orders or permits issued by, the Texas  
5 Commission on Environmental Quality.

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

7 SECTION 1. Section 7.351, Water Code, is amended to read as  
8 follows:

9 Sec. 7.351. CIVIL SUITS. (a) Subject to Section 7.3511, if  
10 [~~if~~] it appears that a violation or threat of violation of Chapter  
11 16, 26, or 28 of this code, Chapter 361, 371, 372, or 382, Health and  
12 Safety Code, a provision of Chapter 401, Health and Safety Code,  
13 under the commission's jurisdiction, or Chapter 1903, Occupations  
14 Code, or a rule adopted or an order or a permit issued under those  
15 chapters or provisions has occurred or is occurring in the  
16 jurisdiction of a local government, the local government or, in the  
17 case of a violation of Chapter 401, Health and Safety Code, a person  
18 affected as defined in that chapter, may institute a civil suit  
19 under Subchapter D in the same manner as the commission in a  
20 district court by its own attorney for the injunctive relief or  
21 civil penalty, or both, as authorized by this chapter against the  
22 person who committed, is committing, or is threatening to commit  
23 the violation.

24 (b) Subject to Section 7.3511, if [~~if~~] it appears that a

1 violation or threat of violation of Chapter 366, Health and Safety  
2 Code, under the commission's jurisdiction or a rule adopted or an  
3 order or a permit issued under that chapter has occurred or is  
4 occurring in the jurisdiction of a local government, an authorized  
5 agent as defined in that chapter may institute a civil suit under  
6 Subchapter D in the same manner as the commission in a district  
7 court by its own attorney for the injunctive relief or civil  
8 penalty, or both, as authorized by this chapter against the person  
9 who committed, is committing, or is threatening to commit the  
10 violation.

11 SECTION 2. Subchapter H, Chapter 7, Water Code, is amended  
12 by adding Section 7.3511 to read as follows:

13 Sec. 7.3511. PROCEDURE FOR CIVIL PENALTY; REQUIRED NOTICE.

14 (a) In this section:

15 (1) "Authorized agent" has the meaning assigned by  
16 Section 366.002, Health and Safety Code.

17 (2) "Person affected" has the meaning assigned by  
18 Section 401.003, Health and Safety Code.

19 (b) This section applies only to a civil suit under this  
20 subchapter that seeks a civil penalty for a violation of a statute,  
21 rule, order, or permit described by Section 7.351.

22 (c) Before instituting any claim in a suit described by  
23 Subsection (b), a local government, a person affected, or an  
24 authorized agent shall provide to the attorney general and the  
25 executive director of the commission written notice of each alleged  
26 violation, the facts in support of the claim, and the specific  
27 relief sought.

1       (d) A local government, a person affected, or an authorized  
2 agent may institute a suit described by Subsection (b) on or after  
3 the 90th day after the date the attorney general and the executive  
4 director of the commission receive the notice required by  
5 Subsection (c) unless before the 90th day after the date the notice  
6 is received the commission has commenced a proceeding under  
7 Subchapter C or the attorney general has commenced a civil suit  
8 under Subchapter D concerning at least one of the alleged  
9 violations set forth in the notice.

10       (e) If a local government, a person affected, or an  
11 authorized agent discovers a violation that is within 120 days of  
12 the expiration of the limitations period described in Section  
13 7.360, the local government, person affected, or authorized agent  
14 may institute a suit described by Subsection (b) on or after the  
15 45th day after the date the attorney general and the executive  
16 director of the commission receive the notice required by  
17 Subsection (c) unless before the 45th day after the date the notice  
18 is received the attorney general has commenced a civil suit under  
19 Subchapter D concerning at least one of the alleged violations set  
20 forth in the notice. In the circumstances described by this  
21 subsection, in addition to providing the notice required by  
22 Subsection (c), the local government, person affected, or  
23 authorized agent must provide a copy of the notice by certified mail  
24 or hand delivery to the chief of the division of the attorney  
25 general's office responsible for handling environmental  
26 enforcement claims.

27       SECTION 3. Section 7.357, Water Code, is repealed.

1           SECTION 4. The changes in law made by this Act apply only to  
2 a violation that occurs on or after the effective date of this Act.  
3 A violation that occurs before the effective date of this Act is  
4 governed by the law in effect on the date the violation occurred,  
5 and the former law is continued in effect for that purpose.

6           SECTION 5. This Act takes effect September 1, 2017.