

By: Huffines  
(Schofield)

S.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the award of court costs and attorney's fees in certain actions challenging an order, ordinance, or similar measure of certain political subdivisions or the failure of an officer of certain political subdivisions to perform certain actions.

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

SECTION 1. Subtitle C, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 38A to read as follows:

CHAPTER 38A. AWARD OF COURT COSTS AND ATTORNEY'S FEES IN CERTAIN ACTIONS

Sec. 38A.001. PREEMPTION CHALLENGE AGAINST POLITICAL SUBDIVISION. If a court determines that an order, ordinance, or similar measure of a political subdivision is unenforceable because it is preempted by the state constitution or a state statute, the court shall award the person prevailing in the action challenging the order, ordinance, or measure on that basis court costs and reasonable and necessary attorney's fees to be paid by the political subdivision.

Sec. 38A.002. FAILURE OF OFFICER OF POLITICAL SUBDIVISION TO PERFORM CERTAIN ACTIONS. If a court determines that an officer of a political subdivision has failed to perform an act of the office required by the state constitution or a state statute, the court shall award the person prevailing in the action challenging the officer for failure to perform that act court costs and

1 reasonable and necessary attorney's fees to be paid by the  
2 political subdivision for which the officer served at the time of  
3 the failure to perform the act.

4 Sec. 38A.003. APPLICABILITY. This chapter does not apply  
5 to a municipality or a county with a population of less than 45,000.

6 SECTION 2. This Act applies only to an action commenced on  
7 or after the effective date of this Act. An action commenced before  
8 the effective date of this Act is governed by the law applicable to  
9 the action immediately before the effective date of this Act, and  
10 that law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2017.