

**House Bill 2533**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

(b) Subject to Section 7.3511, if [H] it appears that a violation or threat of violation of Chapter 366, Health and Safety Code, under the commission's jurisdiction or a rule adopted or an order or a permit issued under that chapter has occurred or is occurring in the jurisdiction of a local government, an authorized agent as defined in that chapter may institute a civil suit under Subchapter D in the same manner as the commission in a district court by its own attorney for the injunctive relief or civil penalty, or both, as authorized by this chapter against the person who committed, is committing, or is threatening to commit the violation.

SECTION 2. Subchapter H, Chapter 7, Water Code, is

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Subchapter H, Chapter 7, Water Code, is

CONFERENCE

**House Bill 2533**  
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Section-by-Section Analysis

HOUSE VERSION

amended by adding Section 7.3511 to read as follows:

Sec. 7.3511. PROCEDURE FOR CIVIL PENALTY; REQUIRED NOTICE. (a) In this section:

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

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

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

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

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

(e) If a local government, a person affected, or an authorized agent discovers a violation that is within 120 days of the expiration of the limitations period described in Section 7.360, the local government, person affected, or authorized agent may institute a suit described by Subsection (b) on or after the

SENATE VERSION (IE)

amended by adding Section 7.3511 to read as follows:

Sec. 7.3511. PROCEDURE FOR CIVIL PENALTY; REQUIRED NOTICE. (a) In this section:

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

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

(b) This section applies only to a claim for a civil penalty in a civil suit under this subchapter for a violation of a statute, rule, order, or permit described by Section 7.351. [FA1(1)-(2)]

(c) Before instituting any claim described by Subsection (b), a local government, a person affected, or an authorized agent shall provide to the attorney general and the executive director of the commission written notice of each alleged violation, the facts in support of the claim, and the specific relief sought. [FA1(3)]

(d) A local government, a person affected, or an authorized agent may institute a claim described by Subsection (b) on or after the 90th day after the date the attorney general and the executive director of the commission receive the notice required by Subsection (c) unless before the 90th day after the date the notice is received the commission has commenced a proceeding under Subchapter C or the attorney general has commenced a civil suit under Subchapter D concerning at least one of the alleged violations set forth in the notice. [FA1(4)]

(e) If a local government, a person affected, or an authorized agent discovers a violation that is within 120 days of the expiration of the limitations period described in Section 7.360, the local government, person affected, or authorized agent may institute a claim described by Subsection (b) on or after

CONFERENCE

**House Bill 2533**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

45th day after the date the attorney general and the executive director of the commission receive the notice required by Subsection (c) unless before the 45th day after the date the notice is received the attorney general has commenced a civil suit under Subchapter D concerning at least one of the alleged violations set forth in the notice. In the circumstances described by this subsection, in addition to providing the notice required by Subsection (c), the local government, person affected, or authorized agent must provide a copy of the notice by certified mail or hand delivery to the chief of the division of the attorney general's office responsible for handling environmental enforcement claims.

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

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

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

SENATE VERSION (IE)

the 45th day after the date the attorney general and the executive director of the commission receive the notice required by Subsection (c) unless before the 45th day after the date the notice is received the commission has commenced a proceeding under Subchapter C or the attorney general has commenced a civil suit under Subchapter D concerning at least one of the alleged violations set forth in the notice. In the circumstances described by this subsection, in addition to providing the notice required by Subsection (c), the local government, person affected, or authorized agent must:  
(1) provide a copy of the notice by certified mail or hand delivery to the chief of the division of the attorney general's office responsible for handling environmental enforcement claims; and  
(2) include with the copy of the notice under Subdivision (1) a statement providing that the copy of the notice is being provided pursuant to this subsection. [FA1(5)]

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

CONFERENCE

**House Bill 2533**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE