

By: Dutton

H.B. No. 1495

A BILL TO BE ENTITLED

AN ACT

relating to the award of court costs and attorney's fees in certain actions challenging certain local laws or the failure of an officer of certain political subdivisions to perform certain acts.

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.0001. APPLICABILITY. This chapter does not apply to a municipality or county with a population of less than 45,000.

Sec. 38A.0002. 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.0003. FAILURE OF OFFICER OF POLITICAL SUBDIVISION TO PERFORM CERTAIN ACTS. 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

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

5 SECTION 2. This Act applies only to an action commenced on  
6 or after the effective date of this Act.

7 SECTION 3. This Act takes effect September 1, 2021.