

By: Bell of Montgomery

H.B. No. 294

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the attorney general to investigate violations of law by certain local governments and to take action against those local governments to enforce the law.

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

SECTION 1. Chapter 402, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. VIOLATIONS OF LAW BY LOCAL GOVERNMENT

Sec. 402.151. DEFINITIONS. In this subchapter:

(1) "Local government" means a municipality or county.

(2) "No-new-revenue tax rate" means the no-new-revenue tax rate calculated under Chapter 26, Tax Code.

Sec. 402.152. ATTORNEY GENERAL INVESTIGATION AND ACTION.

(a) The attorney general may investigate an alleged violation of law by a local government.

(b) The attorney general may bring an action in the name of the state against a local government if the attorney general determines after conducting an investigation under Subsection (a) that the local government violated a law.

Sec. 402.153. ENFORCEMENT ACTIONS DURING PENDENCY OF ACTION. During the pendency of an action brought under this subchapter, with respect to a local government defending the action:

(1) the comptroller shall withhold payment of any

1 money due to the local government under Section 321.502 or 323.502,
2 Tax Code, as applicable;

3 (2) the local government may not adopt an ad valorem
4 tax rate that exceeds the local government's no-new-revenue tax
5 rate; and

6 (3) the local government may not receive state grant
7 funds and any pending application for such funds shall be denied.

8 Sec. 402.154. BURDEN OF PROOF; INITIAL HEARING. (a) A local
9 government defending an action brought under this subchapter has
10 the burden of proof to establish by a preponderance of the evidence
11 that the local government complied with the law the alleged
12 violation of which is the subject of the action.

13 (b) The court of original jurisdiction shall set an action
14 brought under this subchapter for an initial hearing not later than
15 the 30th day after the date the local government defending the
16 action was served with process for the action.

17 Sec. 402.155. JURISDICTION; APPEAL. (a) The First Business
18 Court Division has exclusive original jurisdiction of an action
19 brought under this subchapter.

20 (b) The Fifteenth Court of Appeals has exclusive appellate
21 jurisdiction of an action brought under this subchapter. A party
22 must appeal the action not later than the 30th day after the date
23 the judgment is signed.

24 Sec. 402.156. RESOLUTION OF ACTION IN FAVOR OF ATTORNEY
25 GENERAL. (a) If the attorney general prevails in an action brought
26 under this subchapter:

27 (1) the local government defending the action may not,

1 during the five state fiscal years following the year in which the
2 judgment becomes final:

3 (A) adopt an ad valorem tax rate that exceeds the
4 local government's no-new-revenue tax rate; or

5 (B) receive state grant funds; and

6 (2) the court issuing the final judgment resolving the
7 action shall provide in the judgment that the state is entitled to
8 recover from the local government defending the action a penalty
9 equal to the balance of the suspense account maintained for the
10 local government under Section 321.501 or 323.501, Tax Code, as
11 applicable, that exists on the date the judgment is signed.

12 (b) The comptroller shall, on receipt of a copy of the final
13 judgment in an action brought under this subchapter that includes a
14 provision described by Subsection (a)(2), deposit the balance of
15 the suspense account maintained for the local government defending
16 the action under Section 321.501 or 323.501, Tax Code, as
17 applicable, as of the date the judgment is signed to the credit of
18 the general revenue fund.

19 Sec. 402.157. RESOLUTION OF ACTION IN FAVOR OF LOCAL
20 GOVERNMENT. If a local government prevails in an action brought
21 under this subchapter, the comptroller shall, notwithstanding any
22 other law, immediately send to the local government the balance of
23 the suspense account maintained for the local government under
24 Section 321.501 or 323.501, Tax Code, as applicable, as of the date
25 the judgment resolving the action is signed.

26 SECTION 2. Subchapter E, Chapter 402, Government Code, as
27 added by this Act, applies only to an alleged violation of law that

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1 occurs on or after the effective date of this Act.

2 SECTION 3. This Act takes effect on the 91st day after the
3 last day of the legislative session.