

By: Leach

H.B. No. 5082

A BILL TO BE ENTITLED

AN ACT

relating to municipal and county enforcement of drug laws;
providing civil penalties.

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

SECTION 1. Section 9.003(a), Local Government Code, is
amended to read as follows:

(a) Except as provided by Sections [~~Section~~] 9.0045 and
9.0046, the charter prepared by the charter commission shall be
submitted to the qualified voters of the municipality at an
election to be held on the first authorized uniform election date
prescribed by the Election Code that allows sufficient time to
comply with other requirements of law and that occurs on or after
the 40th day after the date the charter commission completes its
work. The governing body of the municipality shall provide for the
submission of the charter at the election to the extent that the
provisions for submission are not prescribed by general law.

SECTION 2. Section 9.004(a), Local Government Code, is
amended to read as follows:

(a) Except as provided by Sections [~~Section~~] 9.0045 and
9.0046, the governing body of a municipality on its own motion may
submit a proposed charter amendment to the municipality's qualified
voters for their approval at an election. The governing body shall
submit a proposed charter amendment to the voters for their
approval at an election if the submission is supported by a petition

1 signed by a number of qualified voters of the municipality equal to
2 at least five percent of the number of qualified voters of the
3 municipality or 20,000, whichever number is the smaller.

4 SECTION 3. Chapter 9, Local Government Code, is amended by
5 adding Section 9.0046 to read as follows:

6 Sec. 9.0046. CHARTER PROVISION INCONSISTENT WITH STATE OR
7 FEDERAL DRUG LAW. A municipality may not hold an election for voter
8 approval of a proposed charter or an amendment to a charter that
9 violates Section 370.003.

10 SECTION 4. Subchapter A, Chapter 51, Local Government Code,
11 is amended by adding Section 51.0021 to read as follows:

12 Sec. 51.0021. PROVISION INCONSISTENT WITH STATE OR FEDERAL
13 DRUG LAW. Notwithstanding Section 51.001, the governing body of a
14 municipality may not adopt, publish, enforce, repeal, maintain, or
15 amend an ordinance, order, policy, rule, or regulation that
16 violates Section 370.003.

17 SECTION 5. Chapter 370, Local Government Code, is amended
18 by adding Section 370.002 to read as follows:

19 Sec. 370.002. COMPLAINT; EQUITABLE RELIEF. (a) A citizen
20 residing in this state may file a complaint with the attorney
21 general if the citizen asserts facts supporting an allegation that
22 an entity described by Section 370.003 has violated that section.
23 The citizen must include a sworn statement with the complaint
24 stating that to the best of the citizen's knowledge all of the facts
25 asserted in the complaint are true and correct.

26 (b) If the attorney general determines that a complaint
27 filed under Subsection (a) against an entity is valid, the attorney

1 general may file a petition for a writ of mandamus or apply for
2 other appropriate equitable relief in a district court in Travis
3 County, in a county that is represented by or is served in whole or
4 in part by the entity, or in a county that borders a county that is
5 represented by or is served in whole or in part by the entity to
6 compel the entity that is suspected of violating Section 370.003 to
7 comply with that section.

8 (c) If the action is brought by the attorney general in a
9 venue authorized by this section, the action may not be transferred
10 to a different venue without the written consent of the attorney
11 general.

12 (d) The attorney general shall develop a form that a citizen
13 residing in this state may use for the submission of a complaint
14 under Subsection (a) and shall post the complaint form on the
15 attorney general's website.

16 (e) An appeal of a suit brought under Subsection (b) is
17 governed by the procedures for accelerated appeals in civil cases
18 under the Texas Rules of Appellate Procedure. The appellate court
19 shall render its final order or judgment with the least possible
20 delay.

21 SECTION 6. Section 370.003, Local Government Code, is
22 amended to read as follows:

23 Sec. 370.003. MUNICIPAL OR COUNTY PROVISION [~~POLICY~~]
24 REGARDING ENFORCEMENT OF DRUG LAWS. (a) The governing body of a
25 municipality, the commissioners court of a county, or a sheriff,
26 constable, municipal police department, municipal attorney, county
27 attorney, district attorney, or criminal district attorney may not

1 adopt, publish, enforce, repeal, maintain, or amend a policy,
2 ordinance, order, rule, regulation, charter, or charter amendment
3 under which the entity will not fully enforce laws relating to
4 drugs, including Chapters 481 and 483, Health and Safety Code, and
5 federal law.

6 (b) An entity described by Subsection (a) may not place an
7 item on a ballot or vote on an item if the item provides that the
8 entity will not fully enforce laws relating to drugs.

9 (c) An entity that is found by a court to have knowingly
10 violated Subsection (a) is subject to a civil penalty in an amount:

11 (1) not less than \$25,000 for the first violation; and
12 (2) not less than \$50,000 for each subsequent
13 violation.

14 (d) An entity that is found by a court to have knowingly
15 placed an item on a ballot in violation of Subsection (b) is subject
16 to a civil penalty for each day the item appears on the ballot in an
17 amount:

18 (1) not less than \$25,000 for the first violation; and
19 (2) not less than \$50,000 for each subsequent
20 violation.

21 (e) Each day of a continuing violation of Subsection (a) or
22 (b) constitutes a separate violation for the civil penalty under
23 this section. An entity that violates this section may incur a
24 penalty under both Subsections (a) and (b). A violation continues
25 unless an entity proves by clear and convincing evidence that the
26 violation has been remedied.

27 (f) The court that hears an action under this section shall

1 determine the amount of any civil penalty in the action.

2 (g) A civil penalty collected under this section shall be
3 deposited to the credit of the compensation to victims of crime fund
4 established under Subchapter J, Chapter 56B, Code of Criminal
5 Procedure.

6 (h) Sovereign immunity and governmental immunity of a
7 county and municipality to a suit are waived and abolished to the
8 extent of liability created by this section.

9 (i) In addition to any civil penalty awarded under this
10 section, the attorney general is entitled to recover court costs
11 and attorney's fees from an entity found civilly liable under this
12 section.

13 (j) The attorney general may seek a civil penalty for a
14 violation of this section regardless of whether a citizen submitted
15 a complaint to the attorney general under Section 370.002.

16 SECTION 7. Section 370.002, Local Government Code, as added
17 by this Act, and Section 370.003, Local Government Code, as amended
18 by this Act, apply only to a cause of action that accrues on or after
19 the effective date of this Act.

20 SECTION 8. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2025.