

1-1 By: Geren, Fallon (Senate Sponsor - Estes) H.B. No. 2533  
 1-2 (In the Senate - Received from the House May 10, 2017;  
 1-3 May 10, 2017, read first time and referred to Committee on Natural  
 1-4 Resources & Economic Development; May 18, 2017, reported  
 1-5 adversely, with favorable Committee Substitute by the following  
 1-6 vote: Yeas 6, Nays 5; May 18, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9				
1-10		X		
1-11	X			
1-12		X		
1-13	X			
1-14		X		
1-15	X			
1-16		X		
1-17		X		
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 2533 By: Estes

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to civil suits brought by local governments or certain  
 1-24 other persons for violations of certain laws under the jurisdiction  
 1-25 of, or rules adopted or orders or permits issued by, the Texas  
 1-26 Commission on Environmental Quality.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 7.351, Water Code, is amended to read as  
 1-29 follows:

1-30 Sec. 7.351. CIVIL SUITS. (a) Subject to Section 7.3511, if  
 1-31 ~~[If]~~ it appears that a violation or threat of violation of Chapter  
 1-32 16, 26, or 28 of this code, Chapter 361, 371, 372, or 382, Health and  
 1-33 Safety Code, a provision of Chapter 401, Health and Safety Code,  
 1-34 under the commission's jurisdiction, or Chapter 1903, Occupations  
 1-35 Code, or a rule adopted or an order or a permit issued under those  
 1-36 chapters or provisions has occurred or is occurring in the  
 1-37 jurisdiction of a local government, the local government or, in the  
 1-38 case of a violation of Chapter 401, Health and Safety Code, a person  
 1-39 affected as defined in that chapter, may institute a civil suit  
 1-40 under Subchapter D in the same manner as the commission in a  
 1-41 district court by its own attorney for the injunctive relief or  
 1-42 civil penalty, or both, as authorized by this chapter against the  
 1-43 person who committed, is committing, or is threatening to commit  
 1-44 the violation.

1-45 (b) Subject to Section 7.3511, if ~~[If]~~ it appears that a  
 1-46 violation or threat of violation of Chapter 366, Health and Safety  
 1-47 Code, under the commission's jurisdiction or a rule adopted or an  
 1-48 order or a permit issued under that chapter has occurred or is  
 1-49 occurring in the jurisdiction of a local government, an authorized  
 1-50 agent as defined in that chapter may institute a civil suit under  
 1-51 Subchapter D in the same manner as the commission in a district  
 1-52 court by its own attorney for the injunctive relief or civil  
 1-53 penalty, or both, as authorized by this chapter against the person  
 1-54 who committed, is committing, or is threatening to commit the  
 1-55 violation.

1-56 SECTION 2. Subchapter H, Chapter 7, Water Code, is amended  
 1-57 by adding Section 7.3511 to read as follows:

1-58 Sec. 7.3511. PROCEDURE FOR CIVIL PENALTY; REQUIRED NOTICE.

1-59 (a) In this section:

1-60 (1) "Authorized agent" has the meaning assigned by

2-1 Section 366.002, Health and Safety Code.  
2-2 (2) "Person affected" has the meaning assigned by  
2-3 Section 401.003, Health and Safety Code.

2-4 (b) This section applies only to a civil suit under this  
2-5 subchapter that seeks a civil penalty for a violation of a statute,  
2-6 rule, order, or permit described by Section 7.351.

2-7 (c) Before instituting any claim in a suit described by  
2-8 Subsection (b), a local government, a person affected, or an  
2-9 authorized agent shall provide to the attorney general and the  
2-10 executive director of the commission written notice of each alleged  
2-11 violation, the facts in support of the claim, and the specific  
2-12 relief sought.

2-13 (d) A local government, a person affected, or an authorized  
2-14 agent may institute a suit described by Subsection (b) on or after  
2-15 the 90th day after the date the attorney general and the executive  
2-16 director of the commission receive the notice required by  
2-17 Subsection (c) unless before the 90th day after the date the notice  
2-18 is received the commission has commenced a proceeding under  
2-19 Subchapter C or the attorney general has commenced a civil suit  
2-20 under Subchapter D concerning at least one of the alleged  
2-21 violations set forth in the notice.

2-22 (e) If a local government, a person affected, or an  
2-23 authorized agent discovers a violation that is within 120 days of  
2-24 the expiration of the limitations period described in Section  
2-25 7.360, the local government, person affected, or authorized agent  
2-26 may institute a suit described by Subsection (b) on or after the  
2-27 45th day after the date the attorney general and the executive  
2-28 director of the commission receive the notice required by  
2-29 Subsection (c) unless before the 45th day after the date the notice  
2-30 is received the commission has commenced a proceeding under  
2-31 Subchapter C or the attorney general has commenced a civil suit  
2-32 under Subchapter D concerning at least one of the alleged  
2-33 violations set forth in the notice. In the circumstances described  
2-34 by this subsection, in addition to providing the notice required by  
2-35 Subsection (c), the local government, person affected, or  
2-36 authorized agent must:

2-37 (1) provide a copy of the notice by certified mail or  
2-38 hand delivery to the chief of the division of the attorney general's  
2-39 office responsible for handling environmental enforcement claims;  
2-40 and

2-41 (2) include with the copy of the notice under  
2-42 Subdivision (1) a statement providing that the copy of the notice is  
2-43 being provided pursuant to this subsection.

2-44 SECTION 3. Section 7.357, Water Code, is repealed.

2-45 SECTION 4. The changes in law made by this Act apply only to  
2-46 a violation that occurs on or after the effective date of this Act.  
2-47 A violation that occurs before the effective date of this Act is  
2-48 governed by the law in effect on the date the violation occurred,  
2-49 and the former law is continued in effect for that purpose.

2-50 SECTION 5. This Act takes effect September 1, 2017.

2-51 \* \* \* \* \*