

SUBJECT: Enforcement of animal shelter standards and civil penalties for violations

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Gonzales, Laubenberg,
McReynolds, Zerwas

0 nays

1 present not voting — Truitt

2 absent — Hopson, S. King

WITNESSES: (*On original version:*)

For — Dawn Blackmar, Harris County Public Health and Environmental Services - Veterinary Public Health; (*Registered, but did not testify:* Elizabeth Love, Harris County; Robert L. Trimble, Texas Humane Legislation Network; Stephen Williams, Texas Association of Local Health Officials, City of Houston)

Against — None

On — (*Registered, but did not testify:* Thomas Sidwa, Department of State Health Services)

BACKGROUND: Health and Safety Code, ch. 823 provides standards for the operation of animal shelters and allows the Department of State Health Services (DSHS) to oversee compliance. Section 823.001 defines "animal shelter" as a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals.

A person commits a class C misdemeanor (maximum fine of \$500) if he substantially violates the standards. Any person can petition for an injunction against a substantial violation of the standards.

DIGEST: CSHB 3304 would allow a county to enforce compliance with animal shelter standards established by Health and Safety Code, ch. 823. A county could not establish new standards, nor could it enforce standards at a shelter operated by a municipality.

The bill would prohibit causing or allowing violations of the standards and assess a civil penalty of at least \$100 and no more than \$500 for each violation for each day a violation continued.

If it appeared a person had committed, was currently committing, or was threatening to commit a violation, a county or a municipality could institute a civil suit in district court for injunctive relief, a civil penalty, or both, and be awarded reasonable attorney's fees, costs of investigation, and court costs. A bond would not be required in such a suit.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

By allowing counties to enforce animal shelter standards, CSHB 3004 would ensure better compliance with those standards. Poorly managed shelters can result in overcrowded, unsanitary conditions that pose a danger to the animals as well as to shelter workers and volunteers. By allowing civil penalties and civil suits, the bill would provide additional sanctions against violators, and alternatives to criminal prosecution.

Authorizing counties to inspect municipal shelters would be inappropriate because counties have no jurisdiction over municipalities.

CSHB 3005 would be permissive and would not require counties to be responsible for enforcement.

**OPPONENTS
SAY:**

In disallowing counties from inspecting municipal shelters, CSHB 3004 would not provide enough oversight. DSHS generally only inspects quarantine facilities, though they are authorized to inspect both quarantine and impoundment facilities. Though this bill is a positive step, counties should be allowed to fill this gap in oversight and inspect municipal impoundment shelters that currently are overlooked.

NOTES:

The committee substitute differs from the bill as filed by adding a provision to prohibit a county from enforcing the statute at a shelter operated by a municipality, and removing a provision that would have allowed the Department of State Health Services to institute a civil suit in district court.

The companion bill, SB 1860 by Jackson, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee on March 17 and was recommended for the Local and Uncontested Calendar.