

SUBJECT: Civil penalties in cities for water conservation and animal care violations

COMMITTEE: Urban Affairs —favorable, without amendment

VOTE: 5 ayes — Dutton, Alvarado, Elkins, Leach, J.Rodriguez

0 nays

2 absent — Anchia, Sanford

WITNESSES: For — Kathy Davis, City of San Antonio, Animal Care Services; Catherine McManus, City of Dallas; Ethel Strother, Texas Animal Control Association; Robert "Skip" Trimble, Texas Humane Legislation Network; (*Registered, but did not testify*: Heather Cooke, City of Austin, Water Utility; Anna Holmes, City of Dallas; Ken Kramer, Sierra Club - Lone Star Chapter; Luke Metzger, Environment Texas; TJ Patterson, City of Fort Worth; Kwame Walker, City of Dallas)

Against — Elizabeth Choate, Texas Veterinary Medical Association; (*Registered, but did not testify*: Read King)

BACKGROUND: Local Government Code, sec. 54.012, provides a list of activities regarding which a municipality may bring civil action against a person or business, including items related to public health, zoning, and dangerous structures. Sec 54.032, provides a list of activities regarding which a city can bring a quasi-judicial action against a person or business such as items related to construction, fire safety, and dilapidated buildings.

DIGEST: HB 1509 would amend the list of civil actions under Local Government Code, sec. 54.012, regarding which a municipality could bring an action to include those relating to animal care and control and water conservation measures, including watering restrictions.

The bill also would amend the list of ordinances under Government Code, sec. 54.032, regarding which a municipality could bring a quasi-judicial action to include actions relating to animal care and control or water conservation measures, including watering restrictions.

The bill would take effect September 1, 2013, and would apply only to a

violation of a municipal ordinance that occurred on or after that date.

**SUPPORTERS
SAY:**

HB 1509 would allow cities to pursue some violations of animal care and water conservation practices in the city civil courts and under ordinance, giving the cities greater flexibility to work out long-term solutions with individuals violating a particular ordinance.

HB 1509 would save cities time and money and increase compliance. Currently, an individual violating a watering restriction or animal care ordinance could be subject to a criminal court procedure instead of a civil one. To obtain a conviction under the criminal procedure is costly. It requires a city to remove staff from the field and prepare them for court. Often criminal court cases are thrown out because of technicalities, costing the city additional lost staff time.

The bill would provide clarity to cities. Some cities believe that state law already provides the authority to pursue violators under civil action. HB 1509 would provide assurance to those cities that already use civil action.

HB 1509 would in no way prohibit law enforcement officials from pursuing criminal action defined by state statute.

**OPPONENTS
SAY:**

Some veterinarians are concerned that HB 1509 would deprive them of their rights by making enforcement too easy for certain violations. Some veterinarians disagree with city pet registration and vaccination requirements, especially those that compel them to turn over records.

Criminal procedures provide a higher standard for enforcement and are more protective of individuals. Some veterinarians are concerned that under civil action, cities could pass ordinances aimed at veterinarians that could provide large fines in a civil court. Veterinarians would have greater protection provided under the criminal standard.