

## **BILL ANALYSIS**

Senate Research Center

S.B. 1821  
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Jurisprudence  
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As Filed

### **DIGEST**

Currently, the law allows only the state and the alleged violator to participate in environmental enforcement proceedings. Under federal laws, citizens and local governments can bring environmental enforcement actions in federal courts, independent of other government action. This bill will provide for the recovery of attorney's fees in certain nuisance actions and for intervention by certain persons in the enforcement of environmental laws.

### **PURPOSE**

As proposed, S.B. 1821 provides regulations regarding nuisance actions under the Civil Practice and Remedies Code, and for intervention by certain persons in the enforcement of environmental laws.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 38.001, Civil Practice and Remedies Code, to authorize a person to recover reasonable attorney's fees from an individual or corporation, in addition to the amount of a valid claim and costs, if the claim is for a nuisance resulting from a condition of air pollution, water pollution, or a public health nuisance.

SECTION 2. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 144, as follows:

#### **CHAPTER 144. PARTICIPATION IN ENFORCEMENT OF ENVIRONMENTAL LAWS**

Sec. 144.001. DEFINITION. Defines "commission."

Sec. 144.002. RIGHT OF INTERVENTIONS BY AFFECTED PERSONS IN ACTIONS BY THE ATTORNEY GENERAL. Provides that, in a civil enforcement action brought by the attorney general at the request of the Texas Natural Resource Conservation Commission (TNRCC) under Chapter 26 or 27, Water Code, or Chapter 361, 382, or 401, Health and Safety Code, a person who may be affected by acts that are the subject matter of the enforcement action has a right to intervene in the enforcement action. Authorizes the court to align the parties or otherwise provide for the efficient use of the resources of the court and the parties. Provides that this section does not apply to enforcement actions brought against an agency of the state.

Sec. 144.003. INVESTIGATION AND PROSECUTION OF CERTAIN VIOLATIONS. Sets forth regulations regarding the investigation and prosecution of certain violations.

Sec. 144.004. ASSISTANCE TO LOCAL GOVERNMENTS BY THE ATTORNEY GENERAL. Requires the attorney general, when requested to assist local governments in bringing enforcement actions under Section 144.003 of this chapter and under the provisions for local government enforcement in Chapter 26 or 27, Water Code, and Chapter 361, 382, or 401, Health and Safety Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Emergency clause.  
Effective date: upon passage.