

AN ACT

1  
2 relating to recovery of damages, attorney's fees, and costs related  
3 to frivolous regulatory actions by state agencies.

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

5 SECTION 1. The heading to Chapter 105, Civil Practice and  
6 Remedies Code, is amended to read as follows:

7 CHAPTER 105. FRIVOLOUS CLAIM OR REGULATORY ACTION BY STATE AGENCY

8 SECTION 2. The heading to Section 105.002, Civil Practice  
9 and Remedies Code, is amended to read as follows:

10 Sec. 105.002. RECOVERY OF FEES, EXPENSES, AND ATTORNEY'S  
11 FEES FOR FRIVOLOUS CLAIM.

12 SECTION 3. Chapter 105, Civil Practice and Remedies Code,  
13 is amended by adding Sections 105.005 and 105.006 to read as  
14 follows:

15 Sec. 105.005. CAUSE OF ACTION FOR FRIVOLOUS REGULATORY  
16 ACTION. (a) A claimant may bring an action against a state agency  
17 if the state agency takes a regulatory action against the claimant  
18 that is frivolous, unreasonable, or without foundation.

19 (b) A claimant may bring an action under this section only  
20 after the claimant has exhausted the claimant's administrative  
21 remedies with respect to the regulatory action against the  
22 claimant.

23 (c) In an action brought under this section, a claimant may  
24 recover, in addition to all other costs allowed by law or rule, the

S.B. No. 813

1 damages caused by the state agency's frivolous regulatory action,  
2 reasonable attorney's fees, and court costs.

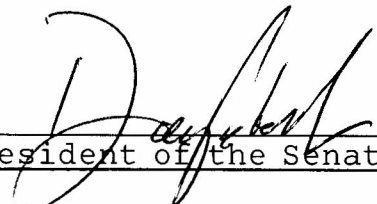
3 Sec. 105.006. RECOVERY OF ATTORNEY'S FEES AND COSTS IN  
4 FRIVOLOUS REGULATORY ACTION. A person may recover, in addition to  
5 all other costs allowed by law or rule, reasonable attorney's fees  
6 and costs incurred in defending against a frivolous regulatory  
7 action during an administrative proceeding and judicial review of  
8 that proceeding if:

9 (1) the person prevails in the judicial review of an  
10 administrative proceeding; and

11 (2) the state agency is unable to demonstrate that the  
12 agency has good cause for the regulatory action.

13 SECTION 4. The change in law made by this Act applies only  
14 to a regulatory action taken on or after the effective date of this  
15 Act. A regulatory action taken before the effective date of this  
16 Act is governed by the law applicable to the regulatory action  
17 immediately before the effective date of this Act, and that law is  
18 continued in effect for that purpose.

19 SECTION 5. This Act takes effect September 1, 2017.

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 813 passed the Senate on April 12, 2017, by the following vote: Yeas 28, Nays 3; May 25, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2017, House granted request of the Senate; May 27, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 27, Nays 4. \_\_\_\_\_

  
\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 813 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 131, Nays 7, two present not voting; May 26, 2017, House granted request of the Senate for appointment of Conference Committee; May 27, 2017, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting. \_\_\_\_\_


  
\_\_\_\_\_  
Chief Clerk of the House

Approved:

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK

JUN 15 2017  
  
\_\_\_\_\_  
Secretary of State

**PROCLAMATION**  
BY THE  
**Governor of the State of Texas**  
**41-3537**

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TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 813 as passed by the Eighty-Fifth Texas Legislature, Regular Session, because of the following objections:

State agencies should be held accountable when they abuse their authority. There are many ways to accomplish that goal other than by enticing trial lawyers to sue the taxpayers for damages. Senate Bill 813 is well-intentioned, but it subjects the State to the possibility of extensive financial liability. Under the bill, taxpayer liability would be triggered any time a judge decides the State's action is "unreasonable," a vague and broad standard that varies with the eye of the beholder. This financial liability would be borne by the taxpayers, not by the bureaucrats who caused the problem. The bill was inspired by legitimate concerns about regulatory overreach, but exposing the State fisc to limitless jury verdicts is not the right solution.

Since the Eighty-Fifth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2017.

  
GREG ABBOTT  
Governor of Texas

ATTESTED BY:



ROLANDO B. PABLOS  
Secretary of State

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
3 PM O'CLOCK  
JUN 15 2017

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 26, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB813 by Hughes (Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.), **Conference Committee Report**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Civil Practice and Remedies Code to expand the scope of an existing cause of action to allow for recovery of damages, reasonable attorney's fees, and court costs for any regulatory action where the private party prevailed in judicial review of the contested regulatory action if the agency fails to demonstrate good cause for that action in certain circumstances. Based on the analysis of the Office of Court Administration and the Office of the Attorney General, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, LBO, AG, MW, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 22, 2017**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB813 by Hughes (Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Civil Practice and Remedies Code to expand the scope of an existing cause of action to allow for recovery of damages, reasonable attorney's fees, and court costs for any regulatory action where the private party prevailed in judicial review of the contested regulatory action if the agency or political subdivision fails to demonstrate good cause for that action in certain circumstances. Based on the analysis of the Office of Court Administration and the Office of the Attorney General, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, LBO, AG, MW, GDz

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 8, 2017**

**TO:** Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB813** by Hughes (Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Civil Practice and Remedies Code to expand the scope of an existing cause of action to allow for recovery of damages, reasonable attorney's fees, and court costs for any regulatory action where the private party prevailed in judicial review of the contested regulatory action if the agency fails to demonstrate good cause for that action. Based on the analysis of the Office of Court Administration and the Office of the Attorney General, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** UP, LBO, AG, MW, GDz

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 26, 2017**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB813 by Hughes (Relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Civil Practice and Remedies Code to expand the scope of an existing cause of action to allow for recovery of damages, reasonable attorney's fees, and court costs for any regulatory action where the private party prevailed in judicial review of the contested regulatory action if the agency fails to demonstrate good cause for that action. Based on the analysis of the Office of Court Administration and the Office of the Attorney General, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

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