

## **BILL ANALYSIS**

Senate Research Center  
83R24858 NC-D

C.S.S.B. 1087  
By: Campbell  
Intergovernmental Relations  
4/29/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The City of San Antonio is highly prone to flash floods. Flood events in 1998 and 2002 caused tremendous damage and, in their aftermath, the community invested millions of dollars in storm water management strategies. Under current law, it is not clear whether a city may bring a civil action when enforcing a local ordinance regarding floodplain violations (e.g., non-permitted construction or fill placed in the floodplain).

C.S.S.B. 1087 amends current law relating to the authority of certain municipalities to file a lien for the costs of abatement of a floodplain ordinance violation, and provides a civil penalty.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 54.012, Local Government Code, as follows:

Sec. 54.012. CIVIL ACTION. (a) Creates this subsection from existing text. Makes no further change to this subsection.

(b) Authorizes a municipality that contains more than 75 percent of the population of a county with a population of 1.5 million or more to bring a civil action for the enforcement of an ordinance relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain.

SECTION 2. Amends Subchapter B, Chapter 54, Local Government Code, by adding Section 54.020, as follows:

Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION IN CERTAIN MUNICIPALITIES; LIEN. (a) Provides that this section applies only to a municipality that contains more than 75 percent of the population of a county with a population of 1.5 million or more.

(b) Authorizes a municipality, in addition to any necessary and reasonable actions authorized by law, to abate a violation of a floodplain management ordinance by causing the work necessary to bring real property into compliance with the ordinance, including the repair, removal, or demolition of a structure, fill, or other material illegally placed in the area designated as a floodplain, if the municipality gives the owner reasonable notice and opportunity to comply with the ordinance and the owner of the property fails to comply with the ordinance.

(c) Authorizes the municipality to assess the costs incurred by the municipality under Subsection (a) against the property. Provides that the municipality has a lien on the property for the costs incurred and for interest accruing at the annual rate of 10 percent on the amount due until the municipality is paid.

(d) Authorizes the municipality to perfect the lien by filing written notice of the lien with the county clerk of the county in which the property is located. Requires that the notice of the lien be in recordable form and state the name of each property owner, if known, the legal description of the property, and the amount due.

(e) Provides that the municipality's lien is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the municipality's lien attaches, if the mortgage lien was filed for record before the date the municipality files the notice of lien with the county clerk. Provides that the municipality's lien is superior to all other previously recorded judgment liens.

SECTION 3. Effective date: September 1, 2013.