

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-26-17

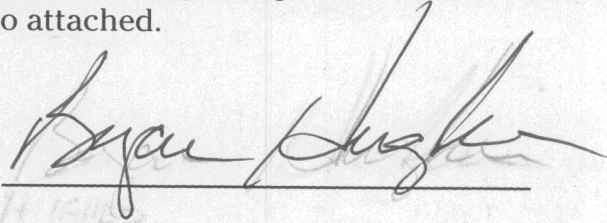
Date

Honorable Dan Patrick  
President of the Senate

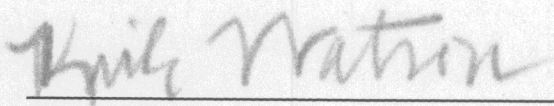
Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

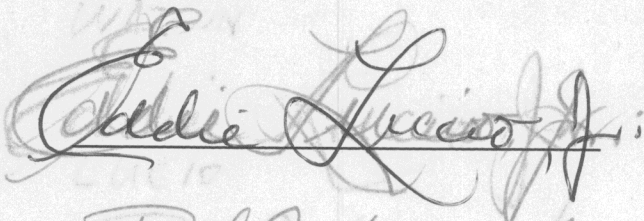
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 813 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



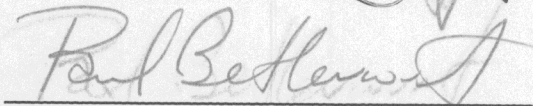


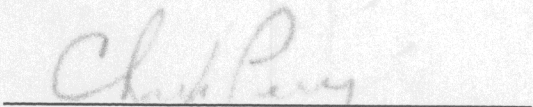












On the part of the Senate



On the part of the House

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 813

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 105. FRIVOLOUS CLAIM OR REGULATORY ACTION BY STATE AGENCY

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

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

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

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

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

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

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.

**Senate Bill 813**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

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

CHAPTER 105. FRIVOLOUS CLAIM OR REGULATORY ACTION BY STATE AGENCY

SECTION 2. The heading to Section 105.002, Civil Practice and Remedies Code, is amended.

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

Sec. 105.005. CAUSE OF ACTION FOR FRIVOLOUS REGULATORY ACTION.

(a) A claimant may bring an action against a state agency if the state agency takes a regulatory action against the claimant that is frivolous, unreasonable, or without foundation.

(b) In an action brought under this section, a claimant may recover, in addition to all other costs allowed by law or rule, the damages caused by the state agency's frivolous regulatory action, reasonable attorney's fees, and court costs.

Sec. 105.006. RECOVERY OF ATTORNEY'S FEES AND COSTS IN FRIVOLOUS REGULATORY ACTION.

HOUSE VERSION (IE)

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

CHAPTER 105. FRIVOLOUS CLAIM OR REGULATORY ACTION BY STATE AGENCY OR POLITICAL SUBDIVISION [FA2(1)]

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version except as follows:

Sec. 105.005.

(a) Same as Senate version except also authorizes a claimant to bring an action against a *political subdivision* that takes a regulatory action against the claimant that is frivolous, unreasonable, or without foundation.[FA2(2)-(3)]

( ) A claimant may bring an action under this section only after the claimant has exhausted the claimant's administrative remedies with respect to the regulatory action against the claimant. [FA1]

(b) Same as Senate version except makes a conforming change. [FA2(4)]

Sec. 105.006. Same as Senate version except makes a conforming change. [FA2(5)]

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version except as follows:

(b) Same as House version.

**Senate Bill 813**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION (IE)	CONFERENCE
SECTION 4. Savings provision.	SECTION 4. Same as Senate version.	SECTION 4. Same as Senate version.
SECTION 5. Effective date.	SECTION 5. Same as Senate version.	SECTION 5. Same as Senate version.

**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**

<b>No significant fiscal implication to the State is anticipated.</b>
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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