

BILL ANALYSIS

C.S.H.B. 147
By: Phillips
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 7 of the Water Code gives the Texas Commission on Environmental Quality (TCEQ) the authority to levee administrative penalties against municipally owned utilities for deficiencies in the municipality's utility facilities. Many small municipalities in Texas have aging utility systems. Given the very limited budgets of these municipalities, these penalty amounts could often be more effectively used to ameliorate the violation for which the penalty was imposed.

C.S.H.B. 147 allows TCEQ to defer part or all of the administrative penalty if the municipality agrees to spend the penalty amount on fixing the deficiency or to address other deficiencies.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Adds §7.034 to the Water Code to give the commission the authority defer all or part of an administrative penalty imposed under Subchapter C for a violation on the condition that the entity complies with all provisions for corrective action in a commission order to address the violation. The commission is required to consider the entity's ability to pay the costs of corrective action; the risks to public health and the environment of any delay in addressing the corrective actions as a result of limited financial resources; alternatives reasonably available to the entity for paying both the costs of corrective action and the penalty; and the effects of the payment of the penalty on other essential municipal public health and safety services. At the discretion of the commission, any penalty deferred under this section becomes due and payable on a commission determination that the entity is not in compliance with a provision for corrective action in a commission order to address the violation.

SECTION 2. Provides that §7.034 applies only to a violation that occurs on or after the effective date of the Act.

SECTION 3. This Act takes effect September 1, 2007

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original allowed the commission to waive or not assess the fee altogether if certain actions were taken by the municipally-owned utility. The substitute gives the commission the discretion to defer part or all of the penalty depending on the utility's ability to pay costs of the corrective action, risks to public health and the environment if action is delayed; alternatives available to paying for corrective action and penalty; and the effects of the penalty on other essential municipal services.