

AN ACT

relating to the deferral of an administrative penalty imposed by the Texas Commission on Environmental Quality against certain utilities and districts.

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

SECTION 1. Subchapter B, Chapter 7, Water Code, is amended by adding Section 7.034 to read as follows:

Sec. 7.034. DEFERRAL OF PENALTY FOR CERTAIN UTILITY FACILITIES. (a) In this section:

(1) "District" means any district or authority created under either Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law or any conservation and reclamation district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that Chapter 49 applies to the district.

(2) "Municipally owned utility" and "water supply or sewer service corporation" have the meanings assigned by Section 13.002.

(b) The commission may allow a municipally owned utility, a water supply or sewer service corporation, or a district to defer the payment of all or part of an administrative penalty imposed under Subchapter C for a violation on the condition that the entity

1 complies with all provisions for corrective action in a commission
2 order to address the violation.

3 (c) In determining whether deferral of a penalty under this
4 section is appropriate, the commission shall consider the factors
5 to be considered under Section 7.053 and the following factors:

6 (1) the financial position of the entity and its
7 ability to reasonably pay the costs of corrective action under the
8 terms of a commission order;

9 (2) risks to public health and the environment of any
10 delay in addressing the corrective actions as a result of limited
11 financial resources;

12 (3) alternatives reasonably available to the entity
13 for paying both the costs of corrective action and the penalty; and

14 (4) potential effects of the payment of the penalty on
15 other essential public health and safety services for which the
16 entity is responsible.

17 (d) At the discretion of the commission, any penalty
18 deferred under this section becomes due and payable on a commission
19 determination that the entity is not in compliance with a provision
20 for corrective action in a commission order to address the
21 violation.

22 SECTION 2. Section 7.034, Water Code, as added by this Act,
23 applies only to a violation that occurs on or after the effective
24 date of this Act. A violation that occurs before the effective date
25 of this Act is covered by the law in effect on the date the violation
26 occurred, and the former law is continued in effect for that
27 purpose.

1 SECTION 3. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 147 was passed by the House on May 8, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 147 on May 25, 2007, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 147 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor