

1-1 By: Phillips (Senate Sponsor - Seliger) H.B. No. 147  
1-2 (In the Senate - Received from the House May 9, 2007;  
1-3 May 10, 2007, read first time and referred to Committee on Natural  
1-4 Resources; May 17, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;  
1-6 May 17, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 147 By: Seliger

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the deferral of an administrative penalty imposed by  
1-11 the Texas Commission on Environmental Quality against certain  
1-12 utilities and districts.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter B, Chapter 7, Water Code, is amended  
1-15 by adding Section 7.034 to read as follows:

1-16 Sec. 7.034. DEFERRAL OF PENALTY FOR CERTAIN UTILITY  
1-17 FACILITIES. (a) In this section:

1-18 (1) "District" means any district or authority created  
1-19 under either Article III, Section 52, or Article XVI, Section 59, of  
1-20 the Texas Constitution, regardless of how created. The term  
1-21 "district" shall not include any navigation district or port  
1-22 authority created under general or special law or any conservation  
1-23 and reclamation district governed by Chapter 36 unless a special  
1-24 law creating the district or amending the law creating the district  
1-25 states that Chapter 49 applies to the district.

1-26 (2) "Municipally owned utility" and "water supply or  
1-27 sewer service corporation" have the meanings assigned by Section  
1-28 13.002.

1-29 (b) The commission may allow a municipally owned utility, a  
1-30 water supply or sewer service corporation, or a district to defer  
1-31 the payment of all or part of an administrative penalty imposed  
1-32 under Subchapter C for a violation on the condition that the entity  
1-33 complies with all provisions for corrective action in a commission  
1-34 order to address the violation.

1-35 (c) In determining whether deferral of a penalty under this  
1-36 section is appropriate, the commission shall consider the factors  
1-37 to be considered under Section 7.053 and the following factors:

1-38 (1) the financial position of the entity and its  
1-39 ability to reasonably pay the costs of corrective action under the  
1-40 terms of a commission order;

1-41 (2) risks to public health and the environment of any  
1-42 delay in addressing the corrective actions as a result of limited  
1-43 financial resources;

1-44 (3) alternatives reasonably available to the entity  
1-45 for paying both the costs of corrective action and the penalty; and

1-46 (4) potential effects of the payment of the penalty on  
1-47 other essential public health and safety services for which the  
1-48 entity is responsible.

1-49 (d) At the discretion of the commission, any penalty  
1-50 deferred under this section becomes due and payable on a commission  
1-51 determination that the entity is not in compliance with a provision  
1-52 for corrective action in a commission order to address the  
1-53 violation.

1-54 SECTION 2. Section 7.034, Water Code, as added by this Act,  
1-55 applies only to a violation that occurs on or after the effective  
1-56 date of this Act. A violation that occurs before the effective date  
1-57 of this Act is covered by the law in effect on the date the violation  
1-58 occurred, and the former law is continued in effect for that  
1-59 purpose.

1-60 SECTION 3. This Act takes effect September 1, 2007.

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