

By: Hinojosa

S.B. No. 2428

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the use of Supplemental Environmental Projects to  
3 protect lands of significant natural resource and hazard mitigation  
4 value.

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

6 SECTION 1. Section 7.067 Water Code, is amended to by  
7 amending Subsection (a) to read as follows:

8 SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The commission  
9 may compromise, modify, or remit, with or without conditions, an  
10 administrative penalty imposed under this subchapter. In  
11 determining the appropriate amount of a penalty for settlement of  
12 an administrative enforcement matter, the commission may consider a  
13 respondent's willingness to contribute to supplemental  
14 environmental projects that are approved by the commission, giving  
15 preference to projects that benefit the community in which the  
16 alleged violation occurred. The commission may encourage the  
17 cleanup of contaminated property through the use of supplemental  
18 environmental projects. The commission may approve a supplemental  
19 environmental project with activities in territory of the United  
20 Mexican States if the project substantially benefits territory in  
21 this state in a manner described by Subsection (b). The commission,  
22 as a response to and in an effort to the prevent loss of human life,  
23 the significant damage to property, and the substantial public and  
24 private cleanup costs associated with natural disasters caused by

1 flooding and storm surges, shall develop supplemental  
2 environmental project guidance that encourages projects to acquire  
3 lands that provide both significant natural resource and hazard  
4 mitigation value against future natural catastrophe. In  
5 implementing the effort to acquire and protect property with  
6 significant natural resource and hazard mitigation value, the  
7 commission may not restrict participation in a supplemental  
8 environmental project due to the environmental media or program  
9 under which the enforcement action or violation occurred.

10       The commission may not approve a project that is necessary to  
11 bring a respondent into compliance with environmental laws, that is  
12 necessary to remediate environmental harm caused by the  
13 respondent's alleged violation, or that the respondent has already  
14 agreed to perform under a preexisting agreement with a governmental  
15 agency.

16       SECTION 2. No later than 120 days after the effective date  
17 of this Act, the Texas Commission of Environmental Quality will  
18 publish program guidance to conform with this Act.

19       SECTION 3. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2009.