

By: Springer

H.B. No. 3222

A BILL TO BE ENTITLED

AN ACT

relating to the factors to be considered in determining the amount of certain administrative penalties imposed by the Texas Commission on Environmental Quality.

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

Section 7.053, Water Code, is amended to read as follows:

Sec. 7.053. FACTORS TO BE CONSIDERED IN DETERMINATION OF PENALTY AMOUNT. (a) In determining the amount of an administrative penalty, the commission shall consider:

(1) the nature, circumstances, extent, duration, and gravity of the prohibited act, with special emphasis on the impairment of existing water rights or the hazard or potential hazard created to the health or safety of the public;

(2) the impact of the violation on:

(A) air quality in the region;

(B) a receiving stream or underground water reservoir;

(C) instream uses, water quality, aquatic and wildlife habitat, or beneficial freshwater inflows to bays and estuaries; or

(D) affected persons;

(3) with respect to the alleged violator:

(A) the history and extent of previous violations;

1 (B) the degree of culpability, including whether  
2 the violation was attributable to mechanical or electrical failures  
3 and whether the violation could have been reasonably anticipated  
4 and avoided;

5 (C) the demonstrated good faith, including  
6 actions taken by the alleged violator to rectify the cause of the  
7 violation and to compensate affected persons;

8 (D) economic benefit gained through the  
9 violation; and

10 (E) the amount necessary to deter future  
11 violations; and

12 (4) any other matters that justice may require.

13 (b) For a penalty imposed against a municipality or county,  
14 the commission shall develop a penalty schedule that takes into  
15 account the population of the municipality or county, charging all  
16 municipalities and counties proportionally equal.

17 SECTION 1. This Act takes effect September 1, 2013.