

By: Geren, Harless, Burkett, Longoria,
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H.B. No. 1794

A BILL TO BE ENTITLED

1 AN ACT
2 relating to suits brought by local governments for violations of
3 certain laws under the jurisdiction of, or rules adopted or orders
4 or permits issued by, the Texas Commission on Environmental
5 Quality; affecting civil penalties.

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

7 SECTION 1. Section 7.107, Water Code, is amended to read as
8 follows:

9 Sec. 7.107. DIVISION OF CIVIL PENALTY. Except in a suit
10 brought for a violation of Chapter 28 of this code or of Chapter
11 401, Health and Safety Code, a civil penalty recovered in a suit
12 brought under this subchapter by a local government shall be
13 ~~equally~~ divided as follows ~~between~~:

14 (1) the first \$4.3 million of the amount recovered
15 shall be divided equally between:

16 (A) the state; and

17 (B) ~~(2)~~ the local government that brought the
18 suit; and

19 (2) any amount recovered in excess of \$4.3 million
20 shall be awarded to the state.

21 SECTION 2. Subchapter H, Chapter 7, Water Code, is amended
22 by adding Sections 7.359, 7.360, and 7.361 to read as follows:

23 Sec. 7.359. LIMITATION ON CIVIL PENALTY. (a) Except as
24 provided by Subsection (b), in a suit brought by a local government

1 under this subchapter, a person may be assessed a civil penalty of
2 not less than \$50 and not more than \$25,000 for each day of each
3 violation, provided that the amount assessed may not exceed \$4.3
4 million.

5 (b) This section does not limit the state's authority to
6 pursue the assessment of a civil penalty under this chapter.

7 Sec. 7.360. FACTORS TO BE CONSIDERED IN DETERMINING AMOUNT
8 OF CIVIL PENALTY. In determining the amount of a civil penalty to
9 be assessed in a suit brought by a local government under this
10 subchapter, the trier of fact shall consider the factors described
11 by Section 7.053.

12 Sec. 7.361. LIMITATIONS. A suit for a civil penalty that is
13 brought by a local government under this subchapter must be brought
14 not later than the fifth anniversary of the earlier of the date the
15 person who committed the violation:

16 (1) notifies the commission in writing of the
17 violation; or

18 (2) receives a notice of enforcement from the
19 commission with respect to the alleged violation.

20 SECTION 3. The changes in law made by this Act apply only to
21 a violation that occurs on or after the effective date of this Act.
22 A violation that occurs before the effective date of this Act is
23 governed by the law in effect on the date the violation occurred,
24 and the former law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect September 1, 2015.