

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 11, 2015**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources & Economic Development

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB1794** by Geren (Relating to suits brought by local governments for violations of certain laws under the jurisdiction of, or rules adopted or orders or permits issued by, the Texas Commission on Environmental Quality; affecting civil penalties.), **As Engrossed**

**The fiscal implications of the bill cannot be determined. The bill could result in an increase in civil penalty revenues to the state and a corresponding decrease in civil penalty collections by local governments; however, the amount of civil penalties that will be assessed can not be determined.**

The bill would stipulate that for violations of Water Code, Chapter 28, and Health and Safety Code, Chapter 401, the first \$4.3 million of an amount recovered shall be divided equally between the state and local government that brought the lawsuit. Any amount in excess of \$4.3 million would be awarded to the state.

The bill would limit civil penalty amounts that can be assessed in necessary and indispensable party (NIP) suits brought against a person under Water Code, Subchapter H, to not less than \$50 and not more than \$25,000 for each day of each violation, provided that the total assessed does not exceed \$4.3 million. The bill specifies that the state's authority to pursue civil penalty under Water Code, Chapter 7, would not be limited by this provision. The bill provides local governments consider certain factors when determining the amount of civil penalties to be assessed, and it would require that civil penalty suits be brought forth no later than five years after the violation was committed.

The bill would limit the amount that a local government can receive from certain lawsuits to one-half of \$4.3 million or \$2,150,000 per lawsuit. Under current law, the state and local government share equally in such lawsuit awards. Upon enactment of the bill, in the case of a lawsuit with an award in excess of \$4.3 million, the state would receive additional revenues, while a local government would receive less revenue. Because there is no way to determine the amount of lawsuit awards that would be affected by the bill's provisions, the fiscal impact cannot be estimated.

The TCEQ reports that with the enactment of the bill's civil penalty maximums under Water Code, Subchapter H, civil penalty revenues could decrease. Since civil penalty payments are split equally between the state and local governments, with the state portion being deposited to the General Revenue Fund, there could be some loss in General Revenue to the state. The loss would depend on the number of NIP cases in a given year and whether penalties in such cases would otherwise exceed the civil penalty maximums proposed by the bill. Based on the information

provided by the TCEQ, any revenue loss from the bill's provision limiting would not be significant.

The bill would take effect September 1, 2015.

### **Local Government Impact**

There may be an impact to local governments resulting from civil penalties, however, as the number of cases and associated penalties awarded are unknown, their fiscal impacts cannot be determined.

**Source Agencies:** 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

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