86R5406 JRR-D

By:  Thompson of Brazoria H.B. No. 1330

A BILL TO BE ENTITLED

AN ACT

relating to the factors to be considered in determining the amount of an administrative penalty assessed by the Texas Commission on Environmental Quality.

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

SECTION 1.  Section 7.053, Water Code, is amended to read as follows:

Sec. 7.053.  FACTORS TO BE CONSIDERED IN DETERMINATION OF PENALTY AMOUNT. 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:

(A)  the impairment of existing water rights;

(B)  [~~or~~] the hazard or potential hazard created to the health or safety of the public; or

(C)  whether the prohibited act created or is a public nuisance;

(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;

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

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

(D)  economic benefit gained through the violation; and

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

(4)  any other matters that justice may require.

SECTION 2.  The change in law made by this Act applies only to the assessment of an administrative penalty for a violation that occurs on or after the effective date of this Act. The assessment of an administrative penalty for a violation that occurred before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.